

CODIFIED ORDINANCES OF TRAVERSE CITY
PART THIRTEEN
TITLE TWO - ZONING CODE

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CHAPTER 1320

General Provisions and Definitions

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CROSS REFERENCES

Zoning and planning in home rule cities - MCLA 117.4i
 Regulation of location of trades, building and uses by local authorities - MCLA 125.581
 Regulation of buildings; authority to zone - MCLA 125.582
 Regulation of congested areas - MCLA 125.583
 Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
 Application of Zoning Code to signs - B & H 1476.15

1320.01 TITLE.

This Title One of Part Thirteen - the Planning and Zoning Code, shall be known and may be cited as the "Zoning Ordinance" or the "Zoning Code."

1320.02 PURPOSE.

This Zoning Code is enacted for the public health, safety and welfare.

1320.03 INTERPRETATION; CONFLICT OF LAWS.

This Zoning Code is the minimum requirement for promoting the public health, safety and general welfare. If it imposes more restrictions than State law or other City ordinances, the provisions of this Zoning Code shall govern. If the *State Housing Law* (MCL 124.401 et seq; MSA 5.2771, et seq) or the *Airport Zoning Act* (MCL 259.431, et seq; MSA 5.3475) or other statutes or ordinances have stricter regulations, the provisions of the statute or other ordinance shall govern. This Zoning Code is not intended to interfere with or annul any easement, covenant or other agreement between parties. Section titles or headings and any entire section entitled "Purpose" shall be interpretive aids only and shall not be construed to impose any substantive or procedural requirement.

1320.04 CHANGES AND AMENDMENTS.

(A) **Procedure.** The City Commission, on its own motion or on petition, may amend or repeal zoning boundaries or regulations after submitting them to the Planning Commission for its recommendation, report and public hearing. The City Commission may also hold a public hearing with the notice it deems advisable. A hearing before the

Planning Commission shall be granted a person interested at the time of its public hearing. The procedure for the Planning Commission public hearing shall be as follows:

- (1) At least 15 days notice of the public hearing shall be given in an official newspaper of general circulation in the City.
 - (2) At least 15 days notice of the time and place of the public hearing shall be mailed to each airport manager, electric, gas, pipeline, telephone, telecommunications provider, public utility company and to each railroad company owning or operating any public utility or railroad within the districts affected that registers its name and mailing address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
 - (3) After the ordinance and maps have first been approved by the City Commission, if an individual property or several adjacent properties are proposed for rezoning, notice of the proposed rezoning and hearing shall be given at least 15 days before the hearing to:
 - (a) The owners of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and All persons to whom real property is assessed within 300 feet of the boundary of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and
 - (b) All persons to whom real property is assessed within 300 feet of the boundary of the property in question, unless 11 or more adjacent properties are proposed for rezoning; and
 - (c) At least one occupant of each dwelling unit or spatial area owned or leased by different persons within 300 feet of the boundary of the property in question. Where a single structure contains more than four dwelling units or distinct spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. The occupants of all structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, the term "occupant" may be used in making notification unless 11 or more adjacent properties are proposed for rezoning.
- (B) **Notice.** The notice shall contain the following:
- (1) A description of the proposed zoning;
 - (2) A description of the subject property including a listing of all existing street addresses within the property where they exist, unless 11 or more adjacent properties are proposed for rezoning;
 - (3) The time and place of the public hearing; and
 - (4) When and where written comments will be received.
- (C) **Protest.** If a protest of the proposed amendment is presented to the City Commission at or before final action on the amendment and it is properly signed by the owners of at least 20 percent of the area of land included in the proposed change, excluding publicly owned land, or by the owners of at least 20 percent of the area of and included within an area extending out 100 feet from any point on the boundary of land included in the proposed change, excluding publicly owned land, then such amendment shall be passed only upon five affirmative votes of the City Commission.
- (D) **Hearing Request.** The City Commission shall grant a hearing on a proposed ordinance

provision to a property owner who requests a hearing by certified mail, addressed to the City Clerk.

- (E) **Publication.** Following the adoption of a zoning ordinance or amendment by the City Commission, a notice of adoption shall be published in a newspaper of general circulation in the City within 15 days after adoption. The notice shall include the following information:
 - (1) In the case of a newly adopted zoning ordinance, the following statement: "A zoning ordinance regulating the development and use of land has been adopted by the City Commission of the City of Traverse City;"
 - (2) In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;
 - (3) The effective date of the ordinance;
 - (4) The place and time where a copy of the ordinance may be purchased or inspected.
- (F) **Court Decree.** An amendment for the purpose of conforming a provision of the Zoning Ordinance to a decree of a court of competent jurisdiction may be adopted by the City Commission and the notice of the adopted amendment published without referring the amendment to the Planning Commission.

(Ord. 718. Passed 2-5-07. Ord. 749. Passed 5-21-07.)

1320.05 APPLICATION OF CODE; COMPLIANCE REQUIRED.

Except as otherwise allowed by this Zoning Code:

- (A) No building or structure shall be built, rebuilt, converted, enlarged, moved or structurally altered, and no building or land shall be used, except for a use allowed in that district.
- (B) No building or structure shall be built, rebuilt, converted, enlarged, or structurally altered except in conformity with the height, setback, bulk and other dimensional limits for that district.
- (C) No land shall be cleared, no building or structure shall be built or rebuilt, converted, enlarged or structurally altered, and no parking area built or enlarged except after applying for and receiving a land use permit.
- (D) No building shall be built or increased in area except in conformity with the off-street parking and loading regulations of the district in which such building is located unless it receives a special land use permit or planned unit development permit or parking waiver that changes these regulations.
- (E) The minimum setbacks, parking spaces and other open spaces, including lot area per dwelling, required by this Zoning Code for any building hereafter built or structurally altered, shall not be encroached upon or considered as parking, setback, open space or lot area requirement for any other building, nor shall any lot area be reduced beyond the district requirements of this Zoning Code.
- (F) No setback or lot shall be reduced in dimensions or area below the minimum requirements set forth herein except as a result of governmental action. Lots created after the effective date of this Zoning Code shall meet at least the minimum requirements of this Code.
- (G) No lot, once established or improved with a building or structure shall be divided unless each lot resulting from the division conforms with all of the requirements of this Code.
- (H) Conditional Rezoning.

- (1) Purpose. It is the intent of this Section to provide a process by which an applicant seeking a rezoning of land may propose a Conditional Zoning Offer, with conditions and commitments attached thereto, as part of the application for a requested rezoning pursuant to MCL 125.3405. These provisions shall be in accord with the provisions of the Zoning Act.
- (2) Zoning District. An applicant requesting a rezoning may offer a Conditional Zoning Offer, as defined in this Section. The required application and process shall be the same as for rezoning requests, except as modified by the requirements of this Section.
- (3) Definitions. The following definitions shall apply to this Section.
 - (a) “Conditional Rezoning Offer” means conditions voluntarily proposed by a landowner for the use and development of land in exchange for the rezoning of the land. These conditions shall constitute requirements for, and in connection with, the development or use of the property approved under a Zoning Agreement.
 - (b) “Zoning Agreement” means a written agreement offered by the landowner and approved and executed by the landowner and the City and recorded with the Register of Deeds in the county where the property covered by the Zoning Agreement is located, incorporating the Conditional Rezoning Offer along with any requirements necessary to implement the Conditional Rezoning Offer. When necessary, the Zoning Agreement shall also include and incorporate, by reference, a Site Plan that illustrates the implementation of the Conditional Rezoning Offer. This Site Plan and Zoning Agreement shall not replace the requirement for a Site Plan as provided by the Zoning Ordinance.
- (4) Eligibility.
 - (a) A landowner may submit a proposed Conditional Rezoning Offer and Zoning Agreement with an application for a rezoning or at any time during the rezoning process.
 - (b) To be eligible, an applicant shall propose a Zoning District for the parcel at issue to be rezoned to and voluntarily offer use and development conditions for the affected parcel to be set forth in a Zoning Agreement, which are equally or more restrictive than the regulations that would otherwise apply under the proposed Zoning District.
- (5) Conditional Zoning Offer.
 - (a) The Conditional Rezoning Offer shall bear a reasonable and rational relationship or benefit to the property in question.
 - (b) The Conditional Rezoning Offer may not offer uses or developments of greater intensity or density, or that are not permitted in the proposed rezoned Zoning District.
 - (c) Any use or development proposed that would require a variance from height, area, setback or similar dimensional requirements in the Zoning Chapter will not be allowed unless and until a variance is granted by the Board of Zoning Appeals pursuant to the requirements of Chapter 1324.
 - (d) Any use or development proposed that would require approval of a Special Land Use or Site Plan Review will not be allowed unless approved

- as required by the Zoning Ordinance prior to establishment or commencement of development of the use.
- (e) The Conditional Rezoning Offer may be amended during the process of rezoning consideration provided that any amended or additional conditions are offered voluntarily by the landowner. A landowner may withdraw part of or amend its Conditional Zoning Offer any time prior to the final rezoning action of the City Commission by amendment of the application and Zoning Agreement. If such withdrawal or amendment occurs following the Planning Commission's public hearing on the original rezoning request, the amended application shall be referred to the Planning Commission for a new public hearing.
 - (f) A landowner may entirely withdraw its Conditional Rezoning Offer at any time prior to the adoption of the rezoning and Zoning Agreement by the City Commission.
- (6) Zoning Agreement. The Zoning Agreement shall incorporate the Conditional Rezoning Offer and shall include additional terms as necessary to implement the Zoning Agreement. In addition, the Zoning Agreement shall include the following:
- (a) That the Zoning Agreement and the Conditional Rezoning Offer were proposed voluntarily by the landowner, and that the City relied upon and granted the rezoning request in consideration of the Zoning Agreement and the Conditional Rezoning Offer.
 - (b) That the Zoning Agreement and its terms and conditions are authorized by all applicable state and federal law and that the Zoning Agreement is valid.
 - (c) That the property shall be developed or used in a manner that conforms to the requirements of the rezoned Zoning District and the Zoning Agreement.
 - (d) That the Zoning Agreement shall be binding upon and inure to the benefit of the landowner and the City, and their respective heirs, successors, assigns, receivers or transferees.
 - (e) That, if the rezoning becomes void under this Section, no development shall take place and no permits shall be issued unless and until a new Zoning District classification for the property has been established or a new rezoning been approved.
 - (f) That each of the requirements and conditions in the Zoning Agreement are necessary and reasonably related and roughly proportional in nature and extent to the impact created by the uses or activities authorized in the Zoning Agreement.
 - (g) That no part of the Zoning Agreement shall permit any activity, use, or condition that would otherwise be prohibited in the Zoning District to which the property is rezoned.
 - (h) The Zoning Agreement shall also contain a provision authorizing and providing a fund for the City to maintain proposed privately owned common areas within the development in the event that the property owner(s) fail(s) to timely perform necessary maintenance.

(7) Application Procedure.

- (a) An application for Conditional Rezoning shall include a Conditional Rezoning Offer, the proposed Zoning Agreement in a recordable format acceptable to the City, and any plans necessary to illustrate the Conditional Rezoning Offer. The Planning Director shall determine the adequacy of any submitted plan and may request additional detail if deemed necessary to properly demonstrate the extent of the proposed Offer(s).
- (b) The application may be amended during the process of consideration, provided that any amended or additional Conditional Rezoning Offers are proposed and entered voluntarily by the applicant.
- (c) The Zoning Agreement shall be reviewed by the City Attorney prior to the required Planning Commission public hearing to confirm that the Zoning Agreement is in a form acceptable for recording with the Register of Deeds in the county in which the property covered by the Zoning Agreement is located.

(8) Review Procedures.

- (a) Application Completeness. Upon submittal of a completed application in the proper form, the Planning Director shall assign the application a public hearing date and time.
- (b) Official Review. The Planning Director shall circulate site plans to the relevant agencies or officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the application is recommended.
- (c) Planning Commission Review. The Planning Commission shall undertake a study of the proposed rezoning and set the matter for a public hearing in accordance with the requirements of the Zoning Act and the Planning Commission Rules of Procedure for consideration of any rezoning request.
- (d) Review Standards. The Planning Commission shall consider whether the proposed Zoning Agreement and Conditional Rezoning offer meet the standards in MCL 125.3201(1).
- (e) Recommendation to City Commission. The Planning Commission may recommend approval or denial of the Conditional Rezoning and Zoning Agreement.
- (f) City Commission Decision. Upon receipt of the Planning Commission's recommendations, the City Commission shall approve or deny the Conditional Rezoning and Zoning Agreement.

(9) Implementation and Effective Date.

- (a) Upon adoption of a rezoning and Zoning Agreement, notice of adoption shall be published in accordance with the requirements of the Zoning Act.
- (b) The Zoning Map shall be amended to specify the Zoning District to which the property is rezoned, plus the letter "A" to indicate that the property is subject to a Zoning Agreement. The City Clerk shall maintain a listing of all properties subject to Zoning Agreements and shall provide copies of the Agreements upon request.
- (c) The applicant shall record the approved Zoning Agreement with the

Register of Deeds in the county in which the property covered by the Zoning Agreement lies within thirty (30) business days following approval by the City Commission. Evidence of recording shall be provided to the City Clerk within forty-five (45) business days of approval by the City Commission.

- (d) The rezoning and Zoning Agreement shall commence and be in full force thirty-one (31) calendar days after the date the City Commission adopted the amendment and authorized the Agreement, unless otherwise provided by the City Commission.
 - (e) The use and development of the property(ies) shall conform to all of the requirements regulating use and development within the new Zoning District and the requirements of the Zoning Agreement. In the event of a conflict, the Zoning Agreement's requirements shall prevail.
 - (f) Prior to development, any other applicable zoning approval or other approval requirement imposed by this Chapter or other City ordinances shall be met.
- (10) Duration of Approval.
- (a) Unless extended by the City Commission for good cause, the Rezoning and Zoning Agreement shall expire and be void and of no effect two (2) years after adoption of the Conditional Rezoning and Zoning Agreement, unless the development set forth in the Zoning Agreement is at least 75 percent completed, and after 36 months if not 100 percent completed. Completion percentages shall be determined in the sole discretion of the Planning Director, subject to appeal to the Board of Zoning Appeals.
 - (b) Should the Rezoning and Zoning Agreement expire, all development on the subject property shall cease, and no further development shall be permitted. Until action satisfactory to the City is taken to bring the property into compliance with the Zoning Agreement, the City may withhold or, following notice and an opportunity to be heard, revoke permits and certificates, in addition to or in lieu of any other lawful action to achieve compliance.
 - (c) Notwithstanding the above, if the property owner applies in writing for an extension of the Zoning Agreement at least 60 days prior to the expiration date, the City Commission may, after recommendation by the Planning Commission, grant an extension of up to one (1) year. The extension may be granted if the property owner is able to demonstrate that the reasons for the extension were reasonably beyond his or her control and that the project has a reasonable expectation of proceeding. No further extensions shall be granted.
 - (d) Nothing in the Zoning Agreement, nor any statement or other provision shall prohibit the City from rezoning all or any portion of the property that is part of the Agreement to another Zoning District. Any rezoning shall be conducted in compliance with the Zoning Ordinance and the Zoning Act.
- (11) Continuation of Approval.
- (a) Provided that all development or use of the property in question is in compliance with the Zoning Agreement, a use or development authorized

thereunder may continue indefinitely.

- (b) Failure to comply with the Zoning Agreement at any time after approval shall constitute a violation of this Zoning Ordinance and may constitute a breach of the Zoning Agreement, and further use of the property may be subject to legal remedies available to the City, including the Zoning Agreement becoming void.
- (12) Reversion or Rezoning.
- (a) If the Zoning Agreement becomes void as provided in this Section, then the land shall revert to the former Zoning District, as required by the Zoning Act. The reversion process shall be initiated by the Planning Commission pursuant to the rezoning procedure set forth in the Zoning Ordinance and the Michigan Zoning Enabling Act.
 - (b) Upon reversion, the City Clerk shall record with the Register of Deeds in the county in which the property covered by the Zoning Agreement lies-a notice that the Zoning Agreement is no longer in effect.

Ord. 905. Passed 2-7-11. Ord. 922, Passed 8-15-11

1320.06 SEVERABILITY.

If any provision of this Zoning Code is declared invalid by a court, such decision shall not affect the validity of this Zoning Code or any part other than the part declared to be invalid.

1320.07 DEFINITIONS.

As used in this Chapter:

Abutting means a lot or parcel which shares a common border with the subject lot or parcel.

Accessory building means a building or structure customarily incidental and subordinate to the principal building and located on the same lot as and spatially separated from the principal building.

Accessory dwelling unit means a smaller, secondary home on the same lot as a principal dwelling. Accessory dwelling units are independently habitable and provide the basic requirements of shelter, heating, cooking and sanitation. There are two types of accessory dwelling units:

- a. Accessory dwelling in an accessory building (examples include converted garages or new construction)
- b. Accessory dwelling that is attached or part of the principal dwelling (examples include converted living space, attached garages, basements or attics; additions; or a combination thereof).

Accessory use means a use customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.

Adult Foster Care Family Home means a private residence with the approved capacity to receive not more than 6 adults who shall be provided foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home State licensee shall be a member of the household and an occupant of the residence.

Adult foster care small group home means a State licensed adult foster care facility with the approved capacity for not more than 12 adult residents to be provided foster care.

Affordable housing means housing units for eligible low-income households where the occupant is paying no more than 30% of gross income for housing costs.

Aggrieved person means a person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated, and who has actively opposed the decision in question.

Airport terminal means the main passenger location of an airport and includes all office, hotel and retail uses commonly occurring at such locations.

Alley means a way which functions primarily as a service corridor and provides access to properties abutting thereon. "Alley" does not mean "street".

Alteration means any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders.

Basement means that portion of a building which is partly or wholly below finished grade, but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement, as defined herein, shall not be counted as a story (see Figure 1-1). A cellar is a basement.

Berm means a constructed mound of earth rising to an elevation above the adjacent ground level of the site where located which contributes to the visual screening of the area behind the berm.

Block means a unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity of development.

Block, face. "Face block" means that portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

Boat house means an enclosed or partially enclosed structure designed for the use and storage of private watercraft and marine equipment.

Boat livery means any structure, site or tract of land utilized for the storage, servicing, docking or rental of watercraft for a fee.

Brew pub means a facility as defined such by the State of Michigan.

Building means any structure designed or built for the enclosure, shelter or protection of persons, animals, chattels or property of any kind.

Building, height of. See "Height of building".

Building, principal. "Principal building" means a building within which is conducted the main or principal use of the lot upon which it is located.

Cemetery means property, including crematories, mausoleums, and/or columbariums, used or intended to be used solely for the perpetual interment of deceased human beings or household pets.

Clinic means an establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians or dentists or similar professions.

Club means an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, agriculture or similar activities, but not operated for profit and open only to members and not the public.

Cluster means a development design technique that concentrates building on a portion of the site to allow the remaining land to be used for recreation, common open space and preservation of environmentally sensitive features.

Communication Antenna means a device, dish or array used to transmit or receive telecommunications signals mounted on a communication tower, building or structure that is greater than one square meter in a residential district or two square meters in a non-residential district. Antenna does not include federally-licensed amateur radio station, television or radio receive-only antennas or antennas used solely for personal use. Communication antennas are not

“essential services,” public utilities or private utilities.

Communication tower or tower means any structure that is primarily designed and constructed for the purpose of supporting one or more antennas for telecommunications, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

Communication towers are not “essential services,” public utilities or private utilities.

Community Garden means a parcel gardened collectively by a group of people.

Convenience store means a retail establishment offering for sale prepackaged food products, household items and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

Country club. See "golf course".

Crematories means a building or structure, or room or space in a building or structure, for the cremation of deceased persons or deceased household pets.

Critical root zone means a circular area surrounding a tree, the radius of which is measured outward from the trunk of a tree one foot for each one inch of diameter at breast height. The critical root zone shall also extend to a depth of four feet below the natural surface ground level.

Cultural facilities means facilities for activities for the preservation and enhancement for the cultural well-being of the community.

Development means all structures and other modifications of the natural landscape above and below ground or water on a particular site.

Diameter at breast height means the diameter of a tree trunk in inches measured by diameter at four and one-half feet (4.5') above the ground.

District means a section of the City for which the zoning regulations governing the use of buildings and premises, the height of buildings, setbacks and the intensity of use are uniform.

Drive-in means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive services or obtain goods while remaining in their motor vehicles.

Drive-through means an establishment which by design, physical facilities, service, or by packaging procedures encourages or permits customers to receive service or obtain goods intended to be consumed off-premises.

Dripline means an imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Driveway means a means of access for vehicles from a street, approved alley, across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot.

Driveway, Service means a point of access solely for the use of vehicles designed to load and unload trash receptacles three cubic yards or more in size.

Dwelling means any building or portion thereof which is designed for or used exclusively for residential purposes and containing one or more dwelling units.

Dwelling, multiple family. "Multiple family dwelling" means a building or portion thereof containing three or more dwelling units and designed for or occupied as the home of three or more families living independently of each other.

Dwelling, single-family. "Single-family dwelling" means a detached building containing one dwelling unit and designed for or occupied by only one family.

Dwelling, two-family. "Two-family dwelling" means a building designed for or occupied exclusively by two families living independently of each other.

Dwelling unit means one or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes. The existence of a food preparation area within a room or rooms shall be evidence of the existence of a dwelling unit.

Eligible household means a household meeting the income criteria included in Chapter 1376, with income determined in a manner consistent with determinations of lower-income households and area median income under Section 8 of the U.S. Housing Act of 1937, as amended (Section 8 Housing Program).

Eligible housing nonprofit means a 501(c)3 nonprofit housing organization with the means and capacity to guarantee and enforce long-term affordability of affordable housing units meeting the requirements of Chapter 1376.

Emergency shelter means a facility operated by a governmental or nonprofit agency where supportive services and shelter are offered to homeless persons.

Erected means built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like, shall be considered a part of erection when done in conjunction with a structure.

Essential services means the installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface or overhead telephone, electrical, gas, steam, fuel, or water distribution systems, collections, supply or disposal systems, streets, alleys, sidewalks, or trails, including pavement, traffic control devices, signs, poles, wires, mains, drains, sewers, pipes, conduits, cables, padmount transformers, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or governmental agencies for the general public health, safety, convenience or welfare. "Essential services" do not include communication antennas and communication towers.

Essential service-structures. The erection, construction, alteration or maintenance by public utilities or governmental agencies of structures not in the right-of-way over 800 cubic feet in area including, but not limited to, towers, transmission and subtransmission facilities, or buildings related to essential services in all districts.

Facade means the exterior wall of a building exposed to public view.

Family means one or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from persons occupying a boarding house, lodging house or hotel.

Fence means a constructed barrier made of wood, metal, stone, brick or any manufactured materials erected for the enclosure of yard areas.

Flood plain, 100 year. "100 year flood plain" means the lowland areas adjoining inland and coastal waters which are identified on Floodway Maps produced by FEMA (Federal Emergency Management Agency) and which are estimated to have a one per cent chance of flooding in a given year.

Floor area. See Δ Gross Floor Area@.

Frontage means the total continuous width of the front lot line.

Golf course/country club means any golf course, public or private, where the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges and miniature golf courses as a principal use.

Grade means

1. **For buildings having walls adjoining one street only:** the elevation of the public

sidewalk, top of curb, or centerline of the street right-of-way, whichever is closest to the building, where a building wall adjoins a street.

2. **For buildings having walls adjoining more than one street:** the average elevation of the sidewalks, curbs or centerlines of streets, whichever is closest to the building walls adjoining the streets.
3. **For buildings having no wall adjoining the street:** the average of the lowest and highest ground surface elevations in an area within six feet of the foundation line of a building or structure. Any building or structure wall within 35 feet of a public or private street shall be considered as adjoining the street. (See Figure 1-2.)

Greenbelt means a strip of land of definite width and location upon which existing vegetation is preserved or an area is reserved for the planting of living plant materials to serve as an obscuring screen or buffer strip in carrying out the requirements of this Code.

Grocery store means a retail establishment primarily selling prepackaged and perishable food as well as other convenience and household goods.

Gross floor area (GFA) means the sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

Height of building means the vertical distance from the grade to the highest point on a mansard or flat roof or to the median height between the eaves and the ridge for gable, hip and gambrel roofs. (See Figure 1-3).

Home occupation means an accessory use of a dwelling unit for business purposes.

Impervious surface means any material which prevents, impedes or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation bearing soils, including building, asphalt, concrete, gravel and other surfaces.

Impervious surface ratio means the area of impervious surface less those areas used exclusively for pedestrian circulation or outdoor recreational facilities divided by the gross site area.

Kennel means any lot or premises used for the sale, boarding, or breeding of dogs, cats or other household pets or the keeping of five or more dogs or cats in any combination over the age of six months.

Land clearing means:

1. The clearing of over 8,000 square feet of vegetation from any site, or
2. The removal of more than 20 trees more than 6 inches in diameter at breast height within 50 feet of a public or private street or river.

Mowing, trimming or pruning of vegetation to maintain it in a healthy, viable condition is not considered land clearing.

Landing area means a landing pad, area, strip, deck or building roof used to launch or receive aircraft, including, but not limited to, power-driven winged or delta-winged aircraft, gliders, balloons and helicopters.

Landscaping means some combination of planted trees, vines, ground cover, flowers or turf so long as a minimum of 80 per cent of the landscape area is covered by living plant material. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences and benches.

Laundromat means a business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises or operated for the benefit of retail customers who bring in and call for laundry.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this Zoning Code, including one principal building together with accessory buildings, open spaces and parking areas required by this Zoning Code, and having its principal frontage upon a street or upon an officially approved private street. The word "lot" includes the words "plot", "tract" or "parcel".

Lodging Facility means a commercial establishment with one or more buildings whose primary use is to provide temporary overnight accommodations within individual guest rooms or suites to the general public for compensation. Accessory uses may include eating places, meeting rooms and other similar uses.

Lot, corner. "Corner lot" means a lot which has at least two contiguous sides abutting on and at the intersection of two or more streets.

Lot of record means a lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat.

Lot, through. "Through lot" means an interior lot having frontage on two more or less parallel streets.

Lot width means the horizontal distance between side lot lines measured parallel to the front lot line at the minimum required front setback line.

Manufacturing means the production of articles for use from raw or prepared materials by giving these materials new forms, qualities, properties or combinations, whether by hand labor or machine.

Marina means a commercial mooring, berthing, or docking facility for watercraft with or without provisions for launching, haulout, servicing, fueling or sales of accessory supplies.

Medical Marihuana means marihuana as defined by the Michigan Medical Marihuana Act., MCL 333.26421 et seq. grown, used, or transferred for "medical use" as defined by the Michigan Medical Marihuana Act., MCL 333.26421 et seq.

Medical Marihuana Collective means a use where Medical Marihuana is transferred, pursuant to the Michigan Medical Marihuana Act., MCL 333.26421 et seq.

Medical Marihuana Cultivation means a use where Medical Marihuana is grown as permitted by the Michigan Medical Marihuana Act., MCL 333.26421 et seq.

Medical Marihuana Cultivation Facility means a use where more than 72 plants are being cultivated on a Parcel.

Microbrewery means a facility as defined as such by the State of Michigan.

Non-conforming use means a lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

Nursing home. See "Residential care and treatment facility".

Open space, common. "Common open space" means land within or related to a development, not individually owned that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate.

Operator of Medical Marihuana Collective means any person who is employed by or otherwise involved in the operation of a Medical Marihuana Collective.

Ordinary high water mark means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is identified along Grand Traverse Bay and the lower Boardman River as elevation 581.04 feet

USGS.

Owner means any person having an ownership interest in a premises as shown on the latest Traverse City tax records.

Parcel. See a "lot".

Parking area means any public or private area, under or outside of a building or structure, designed and used for parking motor vehicles, including parking lots, driveways and legally designated areas of public streets.

Parking area, commercial. "Commercial parking area" means a tract of land which is used for the storage of motor vehicles, which is not accessory to any other use on the same or any other lot and which contains parking space rented to the general public or reserved for individuals by the hour, day, week or month.

Parking area, off-street. "Off street parking area" means a land surface or facility providing vehicular parking spaces off of a street together with drives and maneuvering lanes so as to provide access for entrance and exit for the parking of motor vehicles.

Parking area, private. "Private parking area" means a parking area for the exclusive use of the owners, tenants, lessees, or occupants of the lot on which the parking area is located or their customers, employees, or whomever else they permit to use the parking area.

Parking area, public. "Public parking area" means a publicly owned or controlled parking area available to the public, with or without payment of a fee.

Parking space means an area of land provided for vehicles exclusive of drives, aisles, or entrances giving access thereto, which is fully accessible for parking of permitted vehicles.

Parking structure means a building or structure consisting of more than one level and used to store motor vehicles.

Pavement. "Pavement" and "paved" mean permanent and completely covered with concrete, a bituminous surface, brick or other surface approved by the Planning Director.

Pedestrian scale means design and construction considerations based upon the scale of a human being which imbue occupants and users of the built environment with a sense of comfort and security.

Person means a corporation, association, partnership, trust, firm or similar activity as well as an individual.

Place of worship means a building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Planning director means the head of the City Planning and Zoning Department or the designee of that person.

Plat means a map of a subdivision of and recorded with the Register of Deeds pursuant to State statute

Primary Caregiver means a primary caregiver with a registry identification card as defined by the Michigan Medical Marihuana Act., MCL 333.26421 et seq.

Principal use means the main use of land or structures as distinguished from a secondary or accessory use.

Public utility means any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under federal, state or municipal regulations to the public; gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation or water.

Qualifying Patient means a qualifying patient with a registry identification card as defined by

the Michigan Medical Marihuana Act., MCL 333.26421 et seq.

R-District means a residence district, namely an RC, R-1a, R-1b, R-2, R-9, R-15, and R-29 district.

Recreational facilities means buildings, or grounds, excluding amusement parks, where a variety of sport or exercise activities are offered.

Recreational vehicle means a vehicle primarily designed and used as a temporary living quarters for recreational, camping, or travel purposes including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle.

Residential Care and Treatment Facility means a facility providing:

1. Services, programs and temporary shelter for residents who are undergoing alcohol or substance abuse rehabilitation;
2. Temporary emergency shelter and services for battered individuals and their children in a residential structure.

Restaurant, family means an establishment where food and drink are prepared and served to seated customers. Customer turnover rates are typically less than one hour. Generally, these establishments serve breakfast, lunch, and dinner and sometimes are open 24 hours a day. It may include cafeteria-style facilities.

Restaurant, fast food means an establishment where food and drink are served to customers at a counter. Such establishments may or may not have seating facilities. Generally, food and drink is ordered and taken to be consumed outside the restaurant building.

Restaurant, fine means an establishment where food and drink are prepared and served. Customer turnover rates are typically one hour or longer. Such establishments serve dinner but generally do not serve breakfast and may or may not serve lunch or brunch.

Right-of-way means a public or private street, alley or easement permanently established for the passage of persons or vehicles.

Rooming house means a residential building where rooms or suites of rooms are rented where the renters use common facilities, such as hallways and bathrooms. A rooming house shall not include lodging facilities, apartment houses, two and multi-family dwellings or fraternity and sorority houses.

School means an educational institution under the sponsorship of a private or public agency providing elementary or secondary curriculum, and accredited or licensed by the State of Michigan; but excluding profit-making private trade or commercial schools.

Screen means a structure providing enclosure and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structured, consisting of shrubs or other growing materials.

Screen, opaque means a masonry wall, fence sections, earthen berm, evergreen hedge or a combination of these elements which completely interrupt visual contact and provide spatial separation.

Setback means the distance required between a lot line and a building wall.

Setback, front. AFront setback@ means the minimum required distance, extending the full lot width, between the principal building and the front lot line.

Setback, rear. ARear setback@ means the minimum required distance, extending the full lot width, between the principal and accessory buildings and the lot line opposite the front line.

Setback, side. ASide setback@ means the minimum required distance, extending from the front setback to the rear setback, between the principal and accessory building and the side lot line.

Site diagram means a drawing, drawn to scale, showing the location of buildings and structures

on a lot, as well as driveways, curb cuts, alleys, streets, easements and utilities. See Appendix 1, Figure 1-4.

Site plan means a plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Code.

Stop work order means an administrative order which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Code.

Street means any public way, such as a public street, avenue or boulevard, at least 16 feet wide. Street does not mean "alley". See also "Private street".

Street, access. "Access street" means a street or alley designed primarily to provide access to properties.

Street, arterial. "Arterial street" means a street designed to carry high traffic volumes through the community.

Street, collector. "Collector street" means a street designed to carry moderately high traffic volumes from arterial and access streets.

Street, private. "Private street" means an officially approved thoroughfare, other than a public street or alley, permanently reserved as the principal means of access to abutting property.

Structural alterations means any change in a building requiring a building permit.

Structure means anything constructed or erected, the use of which requires a more or less permanent location on the ground or an attachment to something having a permanent location on the ground, including, but not limited to, freestanding signs, billboards, back stops for tennis courts and pergolas.

Tourist home means a single-family dwelling owned and occupied by a person renting out not more than three rooms for compensation to persons who do not stay for more than seven consecutive days.

Townhouse means a multiple dwelling in which each dwelling unit shares a common wall with at least one other dwelling unit and in which each dwelling unit has living space on the ground floor and has a separate ground-floor entrance.

Trailer means any enclosure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirtings, and which has been or reasonably may be equipped with wheels or devices for transporting the enclosure from place to place. "Trailer" includes motor homes, travel trailers and camper vans.

Transit center means a fixed location where passengers interchange from one route or vehicle to another that has significant infrastructure such as a waiting room, benches, restrooms, sales outlet, ticket or pass vending machines and other services.

Transitional housing means a facility which is operated by a government or a nonprofit agency providing interim sleeping and bath accommodations; interim eating and cooking facilities; and professional services to assist individuals or families in locating permanent housing.

Treelawn means the area of public right-of-way lying between the curb line of a curbed Street or developed travelway of a noncurbed street and the nearest private property line substantially parallel to said street.

Trip end means the total of all motor vehicle trips entering plus all motor vehicle trips leaving a designated land use or building over a given period of time.

Vacation Home Rental means a commercial use of a dwelling where the dwelling is rented or sold for any term less than 30 consecutive days.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise

provided in this Zoning Code.

Yard, front. "Front yard" means all land extending across the width of a property and lying between the building line and the front lot line.

Yard, rear. "Rear yard" means all land extending across the width of the property and lying between the building and the rear lot line.

Yard, side. "Side yard" means all land lying between a principal building and the side lot lines and extending from the front to the rear of the principal building.

Zoning Code means Part 13, Title One of the Code of Ordinances of the City of Traverse City and includes the text of this Zoning Code as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.

(Ord. 476. Passed 7-6-99. Ord. 557. Passed 2-4-02. Ord. 565. Passed 6-3-02. Ord. 630. Passed 3-15-04. Ord. 672. Passed 03-21-05. Ord. 723. Passed 3-19-07. Ord. 781. Passed 2-4-08. Ord. 773. Passed 3-17-08. Ord. 787. Passed 3-17-08. Ord. 820. Passed 1-05-09. Ord. 827. Passed 2-02-09. Ord. 843. Passed 8-3-09. Ord. 873. Passed 8-16-10. Ord. 892. Passed 12-6-10. Ord. 902. Passed 2-7-11. Ord. 998. Passed 7-7-14. Ord. 1010. Passed 9-2-14. Ord. 1021. Passed 4-6-15. Ord. 1025. Passed 9-8-15.)

1320.08 STANDARD INDUSTRIAL CLASSIFICATION.

The *Standard Industrial Classification Manual 1987*, Office of Management and Budget, United States Government, has been relied upon by the drafters of this Code for identification of and classification of economic activities. When questions of interpretation arise the *Standard Industrial Classification Manual 1987* may be relied upon as an aid.

(Ord. 476. Passed 7-6-99.)

1320.09 RULES OF CONSTRUCTION.

This chapter should be liberally construed to give effect to its purpose and the purposes of the Zoning

Enabling Act. If a definition is not provided, common dictionary definitions may be referred to as interpretive aids. Words used in the present tense include the future tense and the singular includes the plural unless the context clearly indicated the contrary. The term "shall" is always mandatory and not discretionary; the word "may" is permissive.

Ord. 476. Passed 7-6-99.)

1320.10 USES NOT MENTIONED.

When a use is not expressly mentioned in this Zoning Code, the Planning Director shall make an interpretation as to what district or districts should accommodate the use. The decision shall be based on the intent of each district, similar uses mentioned in a district, and recognized rules of interpretation. The Planning Director's decision shall be appealable to the Board of Zoning Appeals.

(Ord. 476. Passed 7-6-99.)

1320.11 TEMPORARY BUILDINGS.

Temporary buildings used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon the completion of the construction work.

(Ord. 476. Passed 7-6-99.)

1320.12 RECREATIONAL VEHICLES, HOUSEBOATS AND TRAILERS.

Recreational vehicles, houseboats and trailers shall not be used for living purposes in any district other than in a licensed trailer park.

(Ord. 476. Passed 7-6-99.)

1320.13 TENTS OR PORTABLE BUILDINGS.

The use and occupancy of a tent or portable building for the purpose of general living quarters is not permitted in any zoning district.

(Ord. 476. Passed 7-6-99.)

1320.14 EXCAVATION.

The extraction of sand, gravel, or other raw materials at or below grade and the processing of raw materials extracted upon the premises in all districts is allowed subject to the following:

- (A) The land to be excavated shall consist of not less than 10 contiguous acres.
- (B) Mining operations are not likely to create a nuisance or interfere with the reasonable enjoyment of surrounding land.
- (C) It shall be demonstrated by independent professional affidavit that all operations will comply with City noise ordinances.
- (D) Dust, smoke or similar airborne particles shall not leave the property in amounts or degrees greater than from allowable uses in the same district.
- (E) All operations and excavations shall be protected against trespass by fences and other suitable means. Truck traffic to and from the site shall be limited to Monday through Friday and shall not be earlier than 9:00 a.m. or later than 5:00 p.m.
- (F) All operations and excavations shall be set back at least 100 feet from the property line and 200 feet from any abutting body of water or R-district.

(Ord. 476. Passed 7-6-99.)

ZONING CODE

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CHAPTER 1322

Administration, Enforcement and Penalty

1322.01	Land use permits.	1322.05	Fees and deposits.
1322.02	Improvement guarantees.	1322.06	Municipal civil infraction.
1322.03	Certificates of occupancy.	1322.07	Declaration of nuisances.
1322.04	Zoning Administrator.	1322.99	Penalty.

CROSS REFERENCES

City zoning ordinances; public hearing, notice; report of Planning Commission; amendment; vote required - MCLA 125.584
 Board of Zoning Appeals - MCLA 125.585; Zoning Code Chapter 1324
 Conflicting laws; governing law - MCLA 125.586
 Violations; nuisance per se; abatement - MCLA 125.587
 Amendments - Zoning Code Section 1320.04
 Appeals - Zoning Code Section 1324.04; 1324.05(b)
 Variances - Zoning Code Section 1324.05(d)

1322.01 LAND USE PERMITS.

- (a) **Permit Required.** A land use permit is required before a building or structure is built, rebuilt, converted, enlarged, demolished or structurally altered when such activity requires a building permit and before land clearing (as defined in this Code). A land use permit is also required before a parking area is constructed, reconstructed or enlarged. Interior structural alterations for one or two-family dwellings that do not result in a change in use or an expansion of a non-conforming use do not require land use permits.
- (b) **Foundation Only Approval Prohibited.** In no case shall a land use permit be issued for the construction of foundations only.
- (c) **Application Forms.** The Planning Director shall have application forms for a land use permits available at the office of the Planning Director.
- (d) **Site Plans.** All land use permit applications shall be accompanied by an accurate site plan or diagram complying with the requirements of this Code.
- (e) **Survey.** When requested by the Planning Director, all dimensions shown on the site plan relating to the locations and size of the lot shall be based on an actual survey and the lot shall be staked out on the ground before construction is started.
- (f) **Records.** The original copy of such applications and site plans shall be kept by the Planning Director and a copy shall be kept at the site at all times during construction.
- (g) **Fees.** Land use permit application fees shall be established by resolution of the City Commission. A special fee may be required for any project which may, in the discretion of the Planning Director or Planning Commission, create an identifiable and potentially negative impact on public infrastructure or services or upon adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made. The Planning Director may require and hold such fee in escrow to be used when the professional services must be paid.
- (h) **Expiration of Permit.** Unless the land use permit states differently, a permit expires after 24 months from the date of granting such permit if the activity is not at least 75

percent completed, and after 36 months if not 100 per cent completed. Completion percentages shall be determined in the sole discretion of the Planning Director, subject to appeal to the Board of Zoning Appeals.

- (i) **Revocation.** The Planning Director may revoke any land use permit for failure to comply with any provisions of this Code, the application or permit or for a material error, false statement or misrepresentation made in the application. The owner or owner's agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and new use of the site shall cease, other than for the purpose of correcting the violation. The Planning Director may suspend any land use permit if there are reasonable grounds for revocation and may issue a stop work order to halt all construction activities and land use pending a decision on revoking the permit.
- (j) **Relation to Non-Conforming Uses.** It is not necessary for an owner of a legal nonconforming structure or use to obtain a land use permit in order to maintain its legal, nonconforming status. However, no Class I nonconforming use shall be changed or extended until a land use permit has been issued by the Planning Director. In such cases the permit shall state specifically how the nonconforming use differs from the provisions of this Code.

(Ord. 476. Passed 7-6-99. Ord. 594. Passed 1-06-03. Ord. 810. Passed 9-2-08. Ord. 812. Passed 10-6-08.)

1322.02 IMPROVEMENT GUARANTEES.

- (a) **Required.** To ensure compliance with this Zoning Code and any condition imposed hereunder, the City Commission, the Planning Commission, the Board of Zoning Appeals or the Planning Director may require that a guarantee covering the estimated cost of improvements associated with a project for which zoning approval is sought be deposited with the City Treasurer to ensure faithful completion of the improvements.
- (b) **Definitions.** As used in this section:
 - (1) "Guarantee" or "improvement guarantee" means a cash deposit, certified check, irrevocable bank letter of credit or surety bond in such form as determined by the City Attorney.
 - (2) "Improvements" means those features and actions associated with a project, that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, parking, screening and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.
- (c) **Deposit.** The guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The City may not require deposit of the guarantee before the date upon which the City is prepared to issue the permit.
- (d) **Rebate.** The Planning Director shall establish written procedures under which a cash deposit, in reasonable proportion to the ratio of work completed on the required improvements, is rebated as work progresses. Such procedures shall be on file in the office of the Planning Director. The Planning Director may amend such procedures, but such amendments shall not affect any guarantee previously deposited with the City,

except upon mutual agreement of the Planning Director, the person obtaining the permit to which the guarantee applies and the person making the guarantee.

1322.03 CERTIFICATES OF OCCUPANCY.

- (a) **Required.** Certificates of occupancy shall be required for any of the following:
- (1) Occupancy and use of a new building or of a structurally altered building;
 - (2) Change in the use of an existing building to a use of a different zoning classification;
 - (3) Occupancy and use of vacant land;
 - (4) Change in the use of land to a use of a different zoning classification; and
 - (5) Change in the use of a nonconforming use.

No such occupancy, use or change of use shall take place until a certificate of occupancy therefor has been issued.

- (b) **Temporary Certificates.** Pending the issuance of a final certificate, a temporary certificate of occupancy may be issued by the Building Inspector. Temporary certificates shall be effective no more than six months during the completion of construction or alterations. A temporary certificate shall not be construed as altering the respective rights, duties or obligations of the owner or the City relating to the use or occupancy of the premises or any other matter covered by this Zoning Code. Temporary certificates shall not be issued except under such restrictions and provisions as will adequately ensure the safety of occupants. If a temporary certificate expires and a final certificate is not issued, the building or land shall not be occupied.
- (c) **Final Certificates.** Final certificates of occupancy shall be issued if there has been compliance with all provisions of this Zoning Code and all other applicable health, safety and welfare requirements.
- (d) **Land.** Certificates of occupancy for the use of vacant land or for a change in the character of the use of land shall be applied for before such land is occupied or used.
- (e) **Statement and Record.** A certificate of occupancy shall state that the building or the proposed use of the building or land complies with this Zoning Code. A record of all certificates shall be kept on file.

1322.04 ZONING ADMINISTRATOR

- (a) **Administration.** The Planning Director shall designate an individual to act as Zoning Administrator. The administration and enforcement of this Code shall be the responsibility of the Zoning Administrator.
- (b) **Appearance Tickets.** The Zoning Administrator or such other officials as are designated by the City Manager, are hereby authorized to issue and serve appearance tickets with respect to a violation of this Zoning Code pursuant to Section 1 of Act 147 of the Public Acts of 1968, as amended (MCL 764.9c(2); MSA 28.868(3)(2)). Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

1322.05 FEES AND DEPOSITS.

At the time of a request for any zoning approval, an applicant shall pay to the City Treasurer a

fee as determined by resolution of the City Commission. The fee shall cover the approximate cost of the procedure. In addition to any established fees, the applicant shall deposit such sum as is determined necessary by the Planning Director to cover any extraordinary costs in processing the application.

1322.06 MUNICIPAL CIVIL INFRACTION.

A person who violates any provision of the Zoning Code is responsible for a municipal civil infraction.

1322.07 DECLARATION OF NUISANCES.

Buildings and structures built, altered, razed or converted, or uses carried on, in violation of this Zoning Code, are hereby declared to be a nuisance per se. Any court of competent jurisdiction may order such nuisance abated, and the owner or agent in charge of the building or land may be adjudged guilty of maintaining a nuisance per se. A person may not assert that a use is a nonconforming use or vested right, by way of defense to any Code enforcement action or otherwise until that person has exhausted all administrative remedies for determination of a non-conforming use.

1322.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this Zoning Code shall be subject to the civil infraction sanctions, injunctive relief, nuisance abatement, surcharges and equitable remedies as provided in the Traverse City Code of Ordinances or as otherwise available under the law, as well as any damages resulting from such violation. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 476. Passed 7-6-99)

CHAPTER 1324

Board of Zoning Appeals

1324.01	Establishment.	1324.05	Powers and duties.
1324.02	Composition; terms of office.	1324.06	Time limitations of orders.
1324.03	Meetings.	1324.07	Court review.
1324.04	Rules of procedure.		

CROSS REFERENCES

Board of Zoning Appeals - MCLA 125.585

Meetings of the Board; freedom of information - MCLA 125.585a

Review by Circuit Courts; appeals to Supreme Court; procedure - MCLA 125.590

Actions for review; proper and necessary parties; notice; failure to appear - MCLA 125.591

Authority re nonconforming uses - Zoning Code 1370.03

Construction Board of Appeals - B & H Ch. 1442

1324.01 ESTABLISHMENT.

The Board of Zoning Appeals is established in accordance with Article VI of Act 110 of the Public Acts of 2006. The Board shall perform its duties and exercise its powers as provided by state law and this Zoning Code such that the intent of this Zoning Code is observed and the health, safety and welfare of the public is secured.

(Ord. 719. Passed 2-5-07.)

1324.02 COMPOSITION; TERMS OF OFFICE.

- (a) The Board of Zoning Appeals shall consist of nine members appointed by the City Commission for terms of three years. Terms shall be overlapping to provide for the appointment of an equal number of members each year. A successor member must be appointed within one month following the expiration of the previous term. At least one member shall also be a member of the Planning Commission.
- (b) The City Commission shall also appoint two alternate members for terms of three years each. An alternate member may be called by the Chairperson of the Board, the Planning Director or the Zoning Administrator to sit as a regular member of the Board in the absence of a regular member if:
 - (1) A regular member is unable to attend a regularly scheduled meeting; or
 - (2) A regular member has abstained from a decision for reason of conflict of interest.
 - (3) The alternate member having been appointed shall serve on an appeal until a final decision has been made. Such alternate member shall have the same voting rights as a regular member of the Board. Absence, inability to attend or abstention because of a conflict of interest may be established by communication of a Board member at least twenty-four hours prior to the regularly scheduled Board meeting.

(Ord. 719. Passed 2-5-07.)

1324.03 MEETINGS.

Meetings of the Board of Zoning Appeals shall be held at the call of the Chairperson and at such other times as the Board may determine. There shall be a fixed place of meeting and all

meetings shall be open to the public. The Board shall adopt its own rules of procedure and shall keep a public record of its proceedings showing the action of the Board and the vote of each member upon each question considered. The presence of five members shall be necessary to constitute a quorum and a majority vote of the members of the Board shall be necessary to reverse an order, requirement, decision or determination of an administrative official or to decide in favor of the applicant in the case of a variance, exception or interpretation, except that the concurring vote of two-thirds of the members shall be necessary to grant a variance from uses of land permitted by this Zoning Code.

1324.04 RULES OF PROCEDURE.

The Board of Zoning Appeals shall follow such procedures as are established by statute, ordinance and resolution of the Board.
(Ord. 719. Passed 2-5-07. Ord. 811. Passed 9-2-08. Ord. 989. Passed 2-18-14)

1324.05 POWERS AND DUTIES.

- (a) **Generally.** The Board of Zoning Appeals shall not have the power to alter or change the zoning district classification of any property or make any change in the terms of intent of this Zoning Code. The Board shall have the power to act on those matters where this Zoning Code provides for an appeal, interpretation, variance or exception. The Board of Zoning Appeals shall not have the power to vary a standard for a Planned Unit Development or a Special Land Use Permit.
- (b) **Appeals.** The Board shall hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision or determination made by the administrative official or body charged with the enforcement of this Zoning Code.
- (c) **Interpretations.** Upon application by a City official or person interested in a specific affected parcel of land, when other administrative appeals have been exhausted, the Board shall have the power to:
 - (1) Interpret this Zoning Code in such a way as to carry out its intent and purpose;
 - (2) Determine the precise location of a zoning district and special area boundaries;
 - (3) Classify a use which is not specifically mentioned, determine the district within which the use is permitted and determine the necessary parking to support the use; and
 - (4) Determine the off-street parking and loading space requirements of this Zoning Code.
- (d) **Variances.** The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Code. A variance from the dimensional requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement. A variance from the use requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is an unnecessary hardship created by those use restrictions.
 - (1) **Basic conditions.** Any variance granted from this Zoning Code shall meet the following basic conditions:
 - (A) The spirit of this Zoning Code shall be observed, public safety secured and

- substantial justice done.
- (B) There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
 - (C) The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.
 - (D) The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.
 - (E) It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
 - (F) There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
 - (G) The alleged hardship or difficulty is not solely economic, and is based on the reasonable use of a particular parcel of land.
 - (H) It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or concert with the applicant.
- (2) **Practical difficulties and unnecessary hardships.** In order to determine if there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Zoning Code the following shall apply:
- (A) **Dimensional variance.** A practical difficulty shall exist where there are exceptional or extraordinary circumstances or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property or uses in the same zoning district.
 - (B) **Use variance.** An unnecessary hardship shall exist where the lot considered in combination with other land owned by the applicant adjacent thereto has no reasonable value as zoned.
- (e) **Exceptions.** The Board shall have the power to grant the following exceptions:
- (1) Extend a district where the boundary line of a district divides a lot of record in single ownership at the time of adoption of this Zoning Code (July 6, 1999);
 - (2) Interpret or apply this Zoning Code where the street layout actually on the ground varies from the street layout as shown on the District Map.
 - (3) Permit the alteration or enlargement of an existing building associated with a Class 1 nonconforming use, or permit the increase in intensity of use of a Class nonconforming use, where:
 - (A) The change will not unreasonably delay future probability of compliance with this Zoning Code.
 - (B) There will be greater compliance with this Zoning Code or, in the alternative, with the Building Code or other applicable ordinances if the change is permitted, and such compliance is the maximum which can be reasonably expected. The change will not detract from any historical or unique architectural qualities of the building.
 - (C) The change will not be detrimental to or tend to alter the character of the

neighborhood.

- (4) Permit a change in use of a Class 1 nonconforming use to another nonconforming use which is more nearly conforming to the use restrictions of this Zoning Code. After a change in use has been permitted, the use shall not be changed back to the former nonconforming use or to any less conforming use. Such a change in use may be permitted only where:
 - (A) The change in use will not unreasonably delay future probability of compliance with this Zoning Code.
 - (B) There will be greater compliance with this Zoning Code if the change is permitted, and such compliance is the maximum which can reasonably be expected.
 - (C) The change will not be detrimental to the neighborhood or tend to alter the character of the neighborhood.

1324.06 TIME LIMITATIONS OF ORDERS.

- (a) **Building Alterations.** An order of the Board of Zoning Appeals permitting the erection or alteration of a building is valid for no longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (b) **Uses.** An order of the Board permitting the use of a building or premises is valid for no longer than one year unless such use is established within such period. However, where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within such period and if such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (c) **Modification.** Time limits established by this section may be lengthened or shortened by the Board as a condition imposed under the standards for conditions set forth in this Zoning Code.
- (d) **Expiration.** In addition to any expiration provision contained in an order itself, an order of the Board of Zoning Appeals may be declared by the Zoning Administrator to be expired where there has been a change in a material circumstance or fact upon which the order was issued, such as, but not limited to, destruction of a building or natural feature, vacation of a street or a change in topography. Before so declaring an order expired, the Zoning Administrator shall notify the landowner and if requested shall conduct a hearing with notice and procedures as practical.

1324.07 COURT REVIEW.

- (a) **Circuit Court Review.** A decision of the Board of Zoning Appeals shall be final. However, any party having a substantial interest affected by an order, determination or decision of the Board of Zoning Appeals may appeal to the Circuit Court if made to the Court within 30 days after the Zoning Board of Appeals certifies its decision in writing signed by the Chairperson or within 21 days after the Board of Zoning Appeals approves the minutes of its decision, or upon grant by the Court of leave to appeal.
- (b) **Standards for Review.** The Circuit Court shall review the record and decision of the Board of Zoning Appeals to insure that the decision:

BOARD OF ZONING APPEALS

- (1) Complies with the constitution and the laws of the State;
- (2) Is based upon proper procedure;
- (3) Is supported by competent, material, and substantial evidence on the record;
- (4) Represents the reasonable exercise of discretion granted by law to the Board of Zoning Appeals.

(c) **Inadequate Record.** If the Court finds the record of the Board of Zoning Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board of Zoning Appeals, the Court shall order further proceedings before the Board of Zoning Appeals on conditions which the Court considered proper. The Board of Zoning Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse or modify the decision.

(Ord. 476. Passed 7-6-99. Ord. 655. Passed 11/1/04. Ord. 717. Passed 2-5-07. Ord. 808. Passed 8-4-08.)

BOARD OF ZONING APPEALS

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CHAPTER 1326

Districts, Boundaries and Zoning Map

1326.01	Designation of districts.	1326.05	Zoning of vacated streets.
1326.02	Zoning Map.	1326.06	Zoning of water areas.
1326.03	Interpretation of district boundaries.	1326.07	Zoning of annexed land.
1326.04	Zoning of streets, alleys and railroad corridors.	1326.08	Categories within zoning districts.
		1326.09	Incorporating uses allowed.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a

1326.01 DESIGNATION OF DISTRICTS.

The City is divided into the following zoning districts:

OS	-	Open Space District
RC	-	Residential Conservation District
R-1a & R-1b	-	Single Family Dwelling Districts
R-2	-	Two-Family Dwelling District
R-9, R-15 & R-29	-	Multiple Family Dwelling Districts
HR	-	Hotel Resort District
C-1	-	Office Service District
C-2	-	Neighborhood Center District
C-3	-	Community Center District
C-4	-	Regional Center District
D	-	Development Districts
T	-	Transportation District
GP	-	Government/Public District
PR	-	Planned Redevelopment District
I	-	Industrial District
NMC-1 & NMC-2	-	Northwestern Michigan College Districts
H-1 & H-2	-	Hospital Districts

1326.02 ZONING MAP.

The boundaries of the districts are shown upon the map adopted by the City Commission designated as the Zoning Map. Such Map is filed in the office of the City Clerk. The Zoning Map and all notations, references and other information shown thereon are hereby declared to be a part of this Zoning Code and shall have the same force and effect as if the Zoning Map and all notations, references and other information shown thereon were fully set forth and described herein.

1326.03 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following rules apply:

- (a) If districts are bounded approximately by street, private street or alley lines, the centerline of the street, private street or alley shall be construed to be the boundary of the district.
- (b) If the district boundaries are not indicated and if the property is now or later divided into blocks and lots, the district boundaries shall be construed to be the nearest lot lines.
- (c) In unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the Zoning Map.

1326.04 ZONING OF STREETS, ALLEYS AND RAILROAD CORRIDORS.

Streets, alleys and railroad corridors shall be zoned the same as the adjacent land is zoned to the centerline. In addition, they may be used for customary and incidental transportation purposes including commercial transportation such as taxicabs.

1326.05 ZONING OF VACATED STREETS.

Whenever any street, alley or other public way is vacated by official action, the zoning district adjoining the side of such street, alley or public way shall be automatically extended to the new property line resulting from such vacation. All area included in the vacation shall thereafter be subject to all appropriate regulations of the extended district.

1326.06 ZONING OF WATER AREAS.

All areas in the City which are under water and not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins two or more districts, the boundaries of each district shall be construed to extend to the center of the water area.

1326.07 ZONING OF ANNEXED LAND.

The zoning of annexed land is governed by state statute. MCL 117.4(i)(3); MSA 5.2082.

1326.08 CATEGORIES WITHIN ZONING DISTRICTS.

Any building or structure built, rebuilt, converted, enlarged, moved or structurally altered shall be used only for a use allowed in the district in which the building or structure is located. In order to insure all possible benefits and protection for the zoning districts in this Code, the land uses have been classified into three categories:

- (a) Uses Permitted by Right. The primary uses and structures specified for which the zoning district has been established.
- (b) Uses Permitted by Special Use Permit. Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district, but could present potential injurious effects upon the primary uses and structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole.
- (c) Uses Permitted by Planned Unit Development. Uses and structures, compatible with the primary uses and structures within the zoning district, and which are provided a heightened degree of flexibility in site development standards to encourage mixed uses,

open space preservation, and preservation of natural resources or energy conservation.

1326.09 INCORPORATING USES ALLOWED.

When the regulations of a zoning district incorporate the uses allowed in a different zoning district, only those uses listed in the section entitled "Uses Allowed" are incorporated and not any of those uses allowed by special land use permit or any other special zoning permission. (Ord. 476. Passed 7-6-99)

DISTRICTS, BOUNDARIES, AND ZONING MAP

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CHAPTER 1328

OS - Open Space District

The Open Space (OS) District is for the purpose of accommodating natural or park-like settings including parks, playgrounds, athletic fields, wetlands, floodplains, natural areas and cultural buildings, often linked with pedestrian and bicycle paths.

1328.01	Uses allowed.	1328.05	Encroachments into the setbacks.
1328.02	Uses allowed by special land use permit.	1328.06	Building height.
1328.03	Lot, density and impervious surface provisions.	1328.07	Accessory buildings.
1328.04	Setbacks.	1328.08	Parking, loading and driveways.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs in residential districts - B & H 1476.06, 1476.10 and 1476.27

1328.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Open Space District, with buildings less than 3,000 square feet in gross floor area:

- Airport clear zones;
- Athletic fields;
- Boat houses;
- Boat liveries;
- Cultural facilities;
- Community Gardens;
- Essential services without buildings;
- Golf Courses
- Marinas
- Outdoor public swimming pools
- Parks
- Playgrounds
- Recreational Facilities
- Theaters in municipality owned buildings built prior to 2013

(Ord. 476. Passed 7-6-99. Ord. 842. Passed 8-3-09. Ord. 972. Passed 6-3-13)

1328.02 USES ALLOWED BY SPECIAL LAND USE PERMIT

The following uses of land and buildings, together with accessory uses, are allowed in the Open Space District if a special land use permit is issued according to the standards of this Code:

- New buildings 3,000 square feet or larger in gross floor area for allowed uses;
- Essential services buildings.

(Ord. 476. Passed 7-6-99. Ord. 972. Passed 6-3-13)

1328.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
20 feet	No minimum.	Not applicable.	20% maximum.

(Ord. 476. Passed 7-6-99)

1328.04 SETBACKS.

(a) **Front setbacks:**

Building: No new building or building addition shall be erected closer to the street than average setback of the buildings within 200 feet on either side. Where there are no buildings, the minimum setback is 30 feet.

Parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.

(b) **Side setbacks (minimum):**

Building:

One side: 10 feet

Aggregate: 20 feet

Parking area: If contiguous to an R-district, a minimum of 10 feet. Otherwise, 5 feet. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

(c) **Rear setbacks:**

Building: 30 feet

Parking area: 5 feet

(d) **Corner lots and through lots** shall have a front setback on each street.

(e) **Water setbacks:** Except for bathhouses and buildings which need to be on or in close proximity to the water (such as harbormaster offices, marina fueling facilities and boathouses), building shall be set back 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from ordinary high water mark of the Boardman River. Where the dock line is establishing by City ordinance, the setback shall be measures inland from the dock line.

(Ord. 476. Passed 7-6-99. Ord. 502. Passed 5-15-00.)

1328.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the required setbacks are allowed.

(Ord. 476. Passed 7-6-99)

1328.06 BUILDING HEIGHT.

(a) **Building height:** Maximum 45 feet

(b) **Exceptions:**

Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord 724. Passed 3-19-07.)

1328.07 ACCESSORY BUILDINGS.

Accessory buildings shall be located no closer than 5 feet from any side or rear property line. A boat house up to 250 feet in gross floor area may be built to the water's edge.

(Ord. 476. Passed 7-6-99)

1328.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas shall be considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 476. Passed 7-6-99)

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CHAPTER 1330

RC - Residential Conservation District

The Residential Conservation (RC) District is for the purpose of classifying property susceptible to erosion or flooding for clustered, low-density development in the least sensitive portions of such property.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs in residential districts - B & H 1476

1330.01	Uses allowed.	1330.05	Encroachments into the
1330.02	Uses allowed by special		setbacks.
	land use permit.	1330.06	Building height.
1330.03	Lot, density and impervious	1330.07	Accessory buildings.
	surface provisions.	1330.08	Parking, loading and
1330.04	Setbacks.		driveways.

1330.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Residential Conservation District:

- OS district uses, with buildings less than 3,000 square feet gross floor area;
- R-1a and R-1b district uses;
- Clustered single family dwellings;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (7) Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.

- (8) Any sign identifying the occupation must conform to the regulations of Traverse City Code Chapter 1476, Signs.
 - (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (11) The use shall not generate noise, vibration or odors detectible beyond the property line.
- Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:
 - (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
 - Medical Marihuana Cultivation on a Parcel containing a more than one Single Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:
 - (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way;

- (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marijuana to Qualifying Patients other than than Qualifying Patients residing within the Dwelling Unit shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
- (Ord. 476. Passed 7-6-99. Ord. 650. Passed 8-16-04. Ord. 874. Passed 8-16-10.)

1330.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Residential Conservation District if a special land use permit is issued according to the standards of this Code:

- Adult foster care small group home;
- Buildings 3,000 square feet or larger gross floor area for OS District uses;
- Essential services buildings;
- Temporary accessory dwelling units.

(Ord. 476. Passed 7-6-99. Ord. 893. Passed 12-6-10.)

1330.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

Lot width (min.)	Lot area (min.)	Density (maximum)	Impervious surface
20 feet	No minimum.	4.4 dwelling units/acre	20% maximum

(Ord. 476. Passed 7-6-99.)

1330.04 SETBACKS.

(a) **Front setbacks:**

Building: No new building or building addition shall be erected closer to the street than the average setback of the buildings within 200 feet on either side. Where there are no buildings, minimum setback is 25 feet.

Parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.

(b) **Side setbacks (minimum):**

Building:

One side: 10 feet.(No setback if adjacent to RC district).

Aggregate: 20 feet.(No setback if adjacent to RC district).

Parking area: The setback is minimum of 10 feet if contiguous to an R-district. Otherwise, the setbacks is 5 feet. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

(c) **Rear setbacks:**

Building: 30 feet

Parking area: 5 feet

- (d) **Corner lots and through lots** shall have a front setback on each street.
- (e) **Water setbacks:** 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of Boardman River. Where the dock line is established by City ordinance, it shall be measured inland from the dock line.
- (f) **Storage** of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment shall be limited to the rear yard only. Storage shall mean parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of 30 consecutive days or more.

(Ord. 476. Passed 7-6-99.)

1330.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the required setbacks are allowed except:

- (a) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setbacks.
- (b) **Terraces, patios, decks, uncovered and unenclosed porches and other ornamental features** which do not extend more than 30 inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than 2 feet from the subject side property line.
- (c) **An unenclosed balcony, porch or deck** may project into a front or rear setback for a distance not exceeding 10 feet.

(Ord. 476. Passed 7-6-99.)

1330.06 BUILDING HEIGHT.

- (a) **Building height:** Maximum 45 feet

(b) **Exceptions:**

Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.

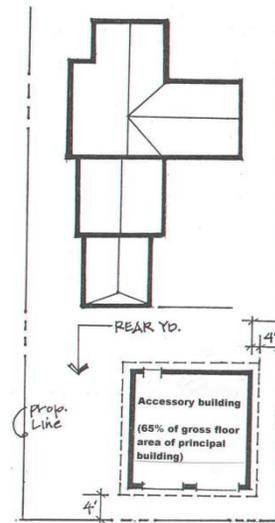
Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord 725. Passed 3-19-07.)

1330.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

- (a) Only be permitted in the rear yard.
- (b) Not exceed 25 feet or the height of the principal building(s), whichever is less.
- (c) Not be closer than 4 feet to any side or rear property line. A boat house up to 250 square feet in gross floor area may be built to the waters edge.
- (d) Have a total gross floor area of all accessory buildings on the lot no greater than 65% of the gross floor area of the principal building(s).



- (e) Be constructed using materials and features similar to the principal building(s) if the accessory building exceeds 200 square feet in gross floor area.

(Ord. 476. Passed 7-6-99. Ord. 542. Passed 8-20-01. Ord. 637. Passed 4-5-04.)

1330.08 PARKING, LOADING AND DRIVEWAYS.

Driveways for residential lots must access from a publicly maintained alley if available. Other requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 476. Passed 7-6-99)

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CHAPTER 1332

R-1a and R-1b - Single-Family Dwelling Districts

The Single Family Dwelling - Large Lot (R-1a) District is for the purpose of primarily accommodating conventional single family dwellings.

The Single Family Dwelling - Small Lot (R-1b) district is for the purpose of accommodating single family dwellings on small lots.

Clustering (e.g. single-family attached, zero-lot-line detached dwellings) may be allowed in either district on larger parcels within the designated density guidelines as a means to protect sensitive soils and provide usable open space.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs in residential districts - B & H 1476

<p>1332.01 Uses allowed.</p> <p>1332.02 Uses allowed by special and use permit.</p> <p>1332.03 Lot, density and impervious surface provisions.</p> <p>1332.04 Setbacks.</p>	<p>1332.05 Encroachments into the setbacks.</p> <p>1332.06 Building height.</p> <p>1332.07 Accessory buildings.</p> <p>1332.08 Parking, loading and driveways.</p>
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1332.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Single Family districts:

- Accessory Dwelling Units meeting the following requirements:

The intent of this section is to:

1. Preserve and maintain the character of predominately single-family residential neighborhoods while broadening housing choices.
2. Have owner-occupancy to provide the necessary on-site supervision that enhances maintenance and the preservation of the character of the City's single-family neighborhoods.
3. Prevent disruption in the stability of the single family neighborhoods, speculation and absentee ownership.
4. Diversify housing options and create more affordable housing within existing single family neighborhoods.

5. Enhance neighborhood stability by providing extra income that potentially could allow homeowners to live in their houses longer and maintain their property better.
 6. Provide homeowners with a means of accommodating extended families, companionship, security, or services through tenants in either the accessory dwelling unit or principal dwelling.
 - (1) The existing site and use are substantially in compliance with this Zoning Code.
 - (2) There shall be a maximum limit of ten (10) newly registered Accessory Dwelling Units per calendar year.
 - (3) The accessory dwelling unit is allowed only on a lot having at least 5,000 square feet.
 - (4) Only one accessory dwelling unit per parcel is allowed with a maximum of 2 dwellings per parcel.
 - (5) The accessory dwelling unit is clearly incidental to the principal dwelling unit and the structures' exterior appear to be single-family.
 - (6) Accessory dwelling units must meet the following additional requirements:
 - i. Location of entrances. Only one entrance may be located on the façade of the primary dwelling facing the street, unless the primary dwelling contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.
 - ii. Exterior stairs. Fire escapes or exterior stairs for access to an upper level accessory dwelling shall not be located on the front of the primary dwelling.
 - (7) Individual site plans, floor plans, elevation drawings and building plans for the proposed accessory dwelling unit shall be submitted with the application for a land use permit.
 - (8) The accessory dwelling unit incorporated in the principal dwelling may be no more than 800 square feet or the size of the principal dwelling, whichever is less. A unit in an accessory building may not exceed 800 square feet and must meet all the requirements of Section 1332.07. The accessory dwelling unit must have at least 250 square feet of gross floor area.
 - (9) At least one owner of record shall occupy either the primary dwelling unit or the accessory dwelling unit. The owner occupant shall meet the requirements for a principal residence tax exemption.
 - (10) The accessory dwelling unit shall be registered with the City Clerk's Office.
 - (11) The Accessory Dwelling Unit shall not be leased for a period of less than three (3) months at a time. Upon request of the City, the owner of record shall provide a lease agreement evidencing the length of the lease.
 - (12) Each registered Accessory Dwelling Unit is subject to annual administrative review by the City. Registrant shall provide additional information as requested by the City.
- Adult foster care family home;
 - Athletic fields;
 - Boat houses if they are an accessory use, if they are designed for housing a boat, if

provisions are made for routing of any boardwalk, and if proper State and federal permits are obtained;

- Community Gardens;
- Dwellings, single family;
- Essential services;
- Golf courses;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (7) Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.
 - (8) Any sign identifying the occupation must conform to the regulations of Traverse City Code Chapter 1476, *Signs*.
 - (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (11) The use shall not generate noise, vibration or odors detectible beyond the property line.
- Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:
 - (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as

such.

- (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
- Medical Marihuana Cultivation on a Parcel containing a more than one Single Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:
 - (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the dwelling unit and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such;
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing within the Dwelling Unit shall occur;
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
 - Playgrounds;
 - Tourist homes meeting the following requirements:
 - (1) Rooms utilized for sleeping shall be part of the primary residential structure and shall not be specifically constructed or remodeled for rental purposes.
 - (2) The tourist home shall not be closer than 1,000 feet to an existing licensed tourist home.
 - (3) The exterior appearance of the structure shall not be altered from its single family character.
 - (4) There shall be no separate or additional kitchen facility for the guests.
 - (5) Off-street parking shall be provided as required by this Zoning Code and shall be developed in such a manner that the residential character of the property is preserved.
 - (6) A site plan is approved according to the Zoning Code. Certain site plan information may be waived at the discretion of the Planning Director.
 - (7) A City tourist home license is maintained.

- (8) A tourist home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of such business use with other permitted uses of the residential districts and with the residential character of the neighborhoods involved, and to ensure that tourist homes are clearly secondary and incidental uses of residential buildings.

(Ord. 476. Passed 7-6-99. Ord. 649. Passed 8-16-04. Ord. 842. Passed 8-3-09. Ord. 875. Passed 8-16-10. Ord. 895. Passed 12-6-10. Ord. 1020. Passed 4-6-15.)

1332.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Single Family districts if a special land use permit is issued according to the standards of this Chapter:

- Adult foster care small group home;
- Clustered single family dwellings;
- Conversions of one family dwellings to two-family dwellings;
- Essential services buildings;
- Group day care homes;
- Places of worship;
- Schools;
- Temporary accessory dwelling units.

(Ord. 895. Passed 12-6-10.)

1332.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
R-1a: 90 feet	9,000 sq. feet	Not applicable	30% maximum
R-1b: 35/45 feet ¹	5,000 sq. feet	Not applicable	45% maximum

¹The minimum lot width for parcels located north or east of the US31/M-72, east of Milliken Drive and south of Eastern Ave are 45 feet.

(Ord. 476. Passed 7-6-99. Ord. 621. Passed 2-2-04. Ord. 916. Passed 6-6-11. Ord. 956. Passed 1-7-13)

1332.04 SETBACKS.

(a) **Front setbacks:**

Building:

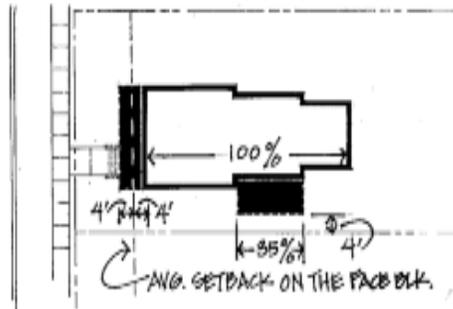
R-1a: 25 feet minimum.

R-1b: Within 4 feet of the average setback of principal buildings on the same face block, but no closer than 6 feet from the front property line.

Parking area:

R-1a: 3 feet minimum.

R-1b: 3 feet minimum.



(b) **Side setbacks (minimum):**

Building:

R-1a:

One side

8 feet

Aggregate

20 feet

R-1b:

6 feet*

14 feet

*35% of a building side wall may be located no closer than 4 feet from the side property line.

Parking area:

2 feet

(c) **Rear setbacks (minimum):**

Building:

R-1a:

30 feet

R-1b:

25 feet

Parking area: None.

- (d) **Through lots and corner lots** having a frontage on two streets shall provide the required front setback on both streets.
- (e) **Water setbacks:** 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of Boardman River. Where the dock line is established by City ordinance, it shall be measured inland from the dock line.
- (f) **Storage** of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment is limited to the rear yard only. Storage shall mean parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of 30 consecutive days or more.

(Ord. 476. Passed 7-6-99. Ord. 757. Passed 7-2-07.)

1332.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the required setbacks are allowed except:

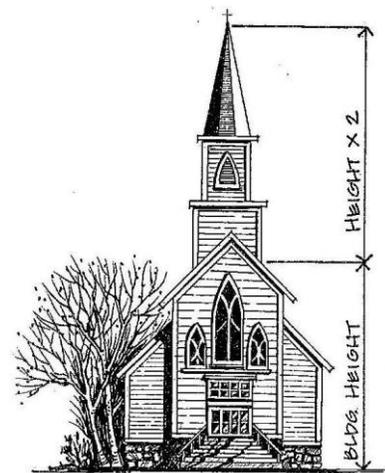
- (a) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setbacks.
- (b) **Terraces, patios, decks, uncovered and unenclosed porches and other ornamental features** which do not extend more than 30 inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than 2 feet from the subject side property line.
- (c) **An unenclosed balcony, porch or deck** may project into a rear setback for a distance not exceeding 10 feet.
- (d) **An unenclosed balcony or porch** may project into a front setback not more than 8 feet from the exterior building line, but not closer than 6 feet from the front property line.

(Ord. 476. Passed 7-6-99.)

1332.06 BUILDING HEIGHT.

- (a) **Building height (both districts):**
Maximum 35 feet.
- (b) **Exceptions:**
Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.
Parapet walls may be used to screen existing equipment may be erected if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord. 726. Passed 3-19-07.)



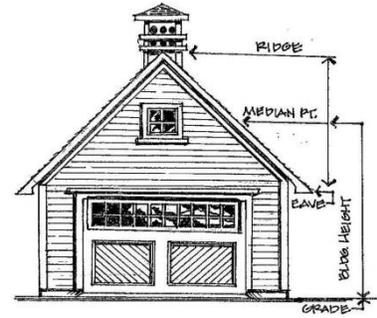
1332.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

- (a) Only be permitted in the rear yard except accessory buildings may be located streetward on lots on navigable water and may be located streetward of the principal building on the less traveled street on through lots.
- (b) Not exceed 25 feet or the height of the principal building,

whichever is less.

- (c) Not be closer than 4 feet to any side or rear property line. A boat house up to 250 square feet in gross floor area may be built to the water's edge.
- (d) Have a total gross floor area of all accessory buildings on the lot no greater than 80% of the gross floor area of the principal building.
- (e) Be constructed using materials and features similar to the principal building if the accessory building exceeds 200 square feet in gross floor area.



(Ord. 476. Passed 7-6-99.) Ord. 542. Passed 8-20-01. Ord. 554. Passed 2-4-02. Ord. 637. Passed 4-5-04. Ord. 1020. Passed 4-6-15.)

1332.08 PARKING, LOADING AND DRIVEWAYS.

Minimum parking space requirements for single family dwellings are 1 per dwelling unit.

Additional requirements for parking, loading and driveways are contained in Chapter 1374.

Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard.

For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.

Any parking area for single or two family residential use shall, at a minimum, be surfaced and the area clearly defined with gravel, crushed stone, concrete, asphalt, brick or equal material, and be maintained substantially free of dust, mud and standing water.

Parking for motor vehicles shall occur only on a surface permitted by this code.

In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 476. Passed 7-6-99. Ord. 758. Passed 7-2-07.)

1332.09 SPECIAL REQUIREMENTS.

To preserve and reinforce the development patterns of the Single Family Dwelling District the following special requirements shall apply:

- (a) In the Boardman and Central Neighborhood Historic Districts, attached garages for parcels with alley access shall be prohibited.
- (b) In the Boardman and Central Neighborhood Historic Districts, the distance between dwellings and accessory buildings greater than 200 square feet that have alley access shall not be less than 30 feet. The 30 foot separation between dwellings and accessory buildings can be reduced to 20 feet if it is determined to be impractical by the Planning Director.

R-1a AND R-1b – SINGLE FAMILY DWELLING DISTRICTS

(c) (Ord. 974. Passed 7-1-13)

CHAPTER 1334

R-2 Two-Family Dwelling District

The Two Family Dwelling (R-2) District is for the purpose of allowing two-family dwellings designed to be architecturally compatible with surrounding housing.

1334.01	Uses allowed.	1334.05	Encroachments into the setbacks.
1334.02	Uses allowed by special land use permit.	1334.06	Building height.
1334.03	Lot, density and impervious surface provisions.	1334.07	Accessory buildings.
1334.04	Setbacks.	1334.08	Parking, loading and driveways.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs in residential districts - B & H 1476.06, 1476.10 and 1476.27

1334.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Two Family Dwelling District:

- Adult foster care family home;
- Art galleries in non-residential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Athletic fields;
- Boat houses if they are an accessory use, if they are designed for housing a boat, if provisions are made for routing of any boardwalk, and if proper State and federal permits are obtained;
- Community Gardens;
- Dwellings, single family;
- Dwellings, two-family;
- Dwellings, multiple family, in non-residential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Essential services;
- Golf courses;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.
 - (2) All business activity and storage shall take place within the interior of the

dwelling and/or accessory building.

- (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (7) Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.
 - (8) No sign, display or device identifying the occupation may be used.
 - (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (11) The use shall not generate noise, vibration or odors detectible beyond the property line.
- Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:
 - (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
 - Medical Marihuana Cultivation on a Parcel containing a more than one Single Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:
 - (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;

- (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the dwelling unit and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing within the Dwelling Unit shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
- Offices in nonresidential buildings built prior to 1950, provided they are located on an arterial or collector street and provided the building is not expanded except as necessary to meet barrier free access requirements.
 - Tourist homes meeting the following requirements:
 - (1) Rooms utilized for sleeping shall be part of the primary residential structure and shall not be specifically constructed or remodeled for rental purposes.
 - (2) The tourist home shall not be closer than 1,000 to an existing licensed tourist home.
 - (3) The exterior appearance of the structure shall not be altered from its single family appearance.
 - (4) There shall be no separate or additional kitchen facility for the guests.
 - (5) Off-street parking shall be provided as required by this Zoning code and shall be developed in such a manner that the residential character of the property is preserved.
 - (6) A site plan is approved according to this Zoning Code. Certain site plan information may be waived at the discretion of Planning Director.
 - (7) A City tourist home license is maintained.
 - (8) A tourist home shall be an incidental and secondary use of a dwelling unit for business purposes. The intent of this provision is to ensure compatibility of such business use with other permitted uses of the residential districts and with the residential character of the neighborhoods involved, and to ensure that tourist homes are clearly secondary and incidental uses of residential buildings.
 - Other similar uses as approved by the Planning Commission provided:
 - (1) The uses are located on an arterial or collector street.
 - (2) The uses are in a non-residential building built prior to 1950 and the building is not expanded except as necessary to meet barrier-free access requirements.
 - (3) The uses will not generate excessive noise, lighting, fumes or other nuisances.

(Ord. 693. Passed 12-19-05. Ord. 746. Passed 5-21-07. Ord. 842. Passed 8-3-09. Ord. 876. Passed 8-16-10. Ord. 894. Passed 12-6-10.)

1334.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with Accessory Uses, are allowed in the Two Family Dwelling District if a special land use permit is issued according to the standards of this Chapter:

- Adult foster care small group home;
- Clustered single family dwellings;
- Essential services buildings;
- Group day care homes;
- Places of worship;
- Schools.

(Ord. 894. Passed 12-6-10.)

1334.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>
Impervious surface		
35 feet	4,000 sq. feet	45% maximum

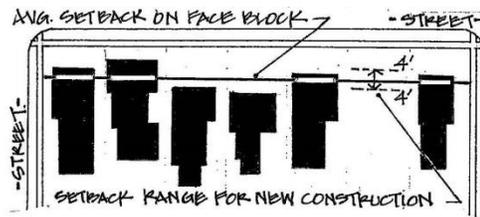
(Ord. 476. Passed 7-6-99. Ord. 555. Passed 2-4-02. Ord. 621. Passed 2-2-04. Ord. 750. Passed 5-21-07. Ord. 884. Passed 11-1-10.)

1334.04 SETBACKS.

(a) Front setbacks:

Building: Within 4 feet of the average setback of principal buildings on the same face block but no closer that 6 feet from the front property line.

Parking area: 3 feet minimum.



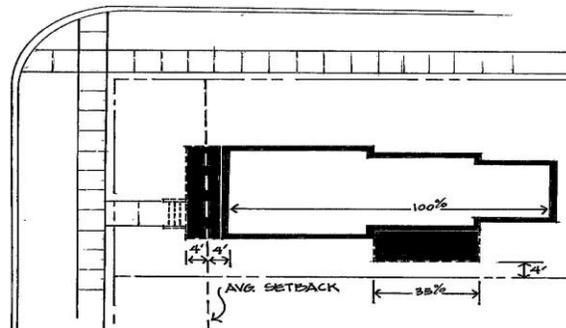
(b) Side setbacks (minimum):

Building:

One Side: 6 feet

Aggregate: 14 feet 35% of a side building wall may be located no closer than 4 feet from the side property line.

Parking area: 2 feet



(c) Rear setbacks:

Building: 25 feet

Parking area: None

(d) Corner and through lots shall have a front setback on each street.

(e) Water setbacks: 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of the Boardman

River. Where the dock line is established by City ordinance, it shall be measured inland from the dock line.

- (f) **Storage** of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment is limited to the rear yard only. Storage means parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of 30 consecutive days or more.

(Ord. 759. Passed 7-2-07.)

1334.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into required setbacks are allowed except:

- (a) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setback.
- (b) **Terraces, patios, decks, uncovered and unenclosed porches and other ornamental features** which do not extend more than 30 inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than 2 feet from the subject side property line.
- (c) **An unenclosed balcony or porch** may project into a front setback not more than 8 feet from the exterior building line, but not closer than 6 feet from the front right of way line.

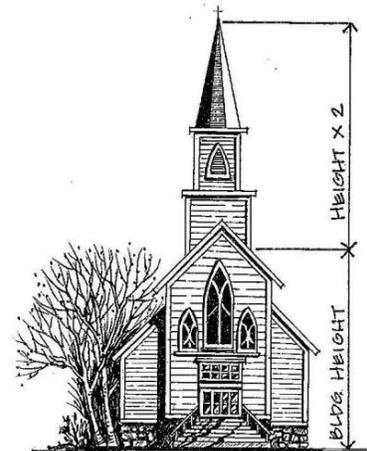
1334.06 BUILDING HEIGHT.

- (a) **Building height:** Maximum 35 feet.
- (b) **Exceptions:**

Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

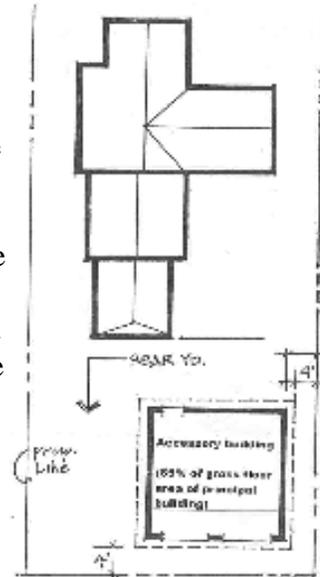
(Ord. 727. Passed 3-19-07.)



1334.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

- (a) Only be permitted in the rear yard, except accessory buildings may be located streetward on lots on navigable water and may be located streetward of the principal building on the less traveled street on through lots.
- (b) Not exceed 25 feet or the height of the principal building(s) at the median point, whichever is less.
- (c) Not be closer than 4 feet to any side or rear property line. A boat house up to 250 square feet in gross floor area may be built to the water's edge.
- (d) Have a total gross floor area of all accessory buildings on the lot no greater than 65% of the gross floor area of the principal building(s).



(e) Be constructed using materials and features similar to the principal building(s) if the accessory building exceeds 200 square feet in gross floor area.
(Ord. 542. Passed 8-20-01. Ord. 554. Passed 2-4-02. Ord. 637. Passed 4-5-04.)

1334.08 PARKING, LOADING AND DRIVEWAYS.

Minimum parking space requirements are 1 per dwelling unit.

Additional requirements for parking, loading and driveways are contained in Chapter 1374.

Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard.

For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.

Any parking area for single or two family residential use shall, at a minimum, be surfaced and the area clearly defined with gravel, crushed stone, concrete, asphalt, brick or equal material, and be maintained substantially free of dust, mud and standing water.

Parking for motor vehicles shall occur only on a surface permitted by this code.

Athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas shall be considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 476. Passed 7-6-99. Ord. 760. Passed 7-2-07.)

1334.09 SPECIAL REQUIREMENTS.

To preserve and reinforce the development patterns of the Two Family Dwelling District the following special requirements shall apply:

- (a) In the Boardman and Central Neighborhood Historic Districts, attached garages for parcels with alley access shall be prohibited.
- (b) In the Boardman and Central Neighborhood Historic Districts, the distance between dwellings and accessory buildings greater than 200 square feet that have alley access shall not be less than 30 feet. The 30 foot separation between dwellings and accessory buildings can be reduced to 20 feet if it is determined to be impractical by the Planning Director.

(Ord. 975. Passed 7-1-13)

CHAPTER 1336

R-9, R-15 and R-29 Multiple Family Dwelling Districts

These Multiple-Family Dwelling districts allow for multiple family uses in varying densities, have pedestrian scale and are located in close proximity to major activity and employment centers, on transit routes, or in transitional areas.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i

Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581

Regulation of buildings; authority to zone - MCLA 125.582

Regulation of congested areas - MCLA 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a

Signs in residential districts - B & H 1476.06, 1476.10 and 1476.27

1336.01	Uses allowed.	1336.04	Setbacks.
1336.02	Uses allowed by special land use permit.	1336.05	Encroachments into the setbacks.
1336.03	Lot, density and impervious surface provisions.	1336.06	Building height.
		1336.07	Accessory buildings.
		1336.08	Parking, loading and driveways.

1336.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Multiple Family districts:

- Adult foster care family home and small group home;
- Art galleries in non-residential buildings built prior to October 16, 2003, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Athletic fields;
- Boat houses if they are an accessory use, if they are designed for housing a boat, if provisions are made for routing of any boardwalk, and if proper State and federal permits are obtained;
- Coffee houses and family or fine food restaurants in non-residential buildings built prior to October 16, 2003, provided they are located on an arterial or collector street and provided the building is not expanded other than for barrier free access requirements;
- Community Gardens;
- Dwellings, single family;
- Dwellings, two-family;
- Dwellings, multiple family;
- Essential services;
- Golf courses;
- Home occupations subject to the following conditions:
 - (1) A home occupation shall be conducted within the dwelling which is the bona fide

residence of the principal practitioner of the occupation, or in a building accessory to such dwelling.

- (2) All business activity and storage shall take place within the interior of the dwelling and/or accessory building.
 - (3) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (4) The home occupation shall not generate vehicular traffic beyond eight trip-ends per day.
 - (5) Only off-street parking facilities customary for a residential use and located on the premises may be used.
 - (6) No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
 - (7) Home occupations shall be conducted solely by persons residing at the residence and no more than two such persons shall be employed in the home occupation. If the residence is located on an arterial or collector street, one non-resident employee at one time is also allowed in addition to two resident employees.
 - (8) Any sign identifying the occupation must conform to the regulations of the Traverse City Code Chapter 1476, *Signs*.
 - (9) No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
 - (10) Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
 - (11) The use shall not generate noise, vibration or odors detectible beyond the property line.
- Medical Marihuana Cultivation on a Parcel containing one Single Family Dwelling meeting the following requirements:
 - (1) No more than the maximum number of plants one (1) person may cultivate under the Michigan Medical Marihuana Act shall be cultivated per Parcel;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the Parcel and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Parcel shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing on the Parcel shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on

the Parcel, other than such as are customarily used for domestic or household purposes.

- Medical Marihuana Cultivation on a Parcel containing a more than one Single Family Dwelling, a Two Family Dwelling, or a Multiple Family Dwelling meeting the following requirements:
 - (1) No more than 12 Medical Marihuana plants shall be cultivated per Dwelling Unit;
 - (2) The Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (3) All medical marihuana plants cultivated shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or Qualifying Patient cultivating the plants;
 - (4) Cultivation shall be conducted so as not to create unreasonable dust, glare, noise, odors, or light spillage beyond the dwelling unit and shall not be visible from an adjoining public way;
 - (5) The Principal Use of the Dwelling Unit shall be a Dwelling and shall be in actual use as such.
 - (6) No transfer of Medical Marihuana to Qualifying Patients other than Qualifying Patients residing within the Dwelling Unit shall occur.
 - (7) No alteration to the exterior of the residential dwelling, accessory building or yard that alters the residential character of the premises is permissible.
 - (8) No vehicles used in cultivation may be parked, kept or otherwise be present on the Parcel, other than such as are customarily used for domestic or household purposes.
- Offices in nonresidential buildings built prior to [the date of this ordinance] provided they are located on an arterial or collector street and provided the building is not expanded except as necessary to meet barrier free access requirements;
- Parks;
- Playgrounds;
- Private clubs, lodges, fraternities or sororities, if located on an arterial or collector street;
- Rooming houses;
- Tourist homes maintaining a City tourist home license;
- Other similar uses as approved by the Planning Commission if such uses will generate similar traffic and parking, are compatible with adjacent land uses, and will not generate excessive noise, lighting, fumes or other nuisances.

(Ord. 476. Passed 7-6-99. Ord. 611. Passed 10-6-03. Ord. 693. Passed 12-19-05. Ord. 842 Passed 8-3-09. Ord. 877. Passed 8-16-10. Ord. 896. Passed 12-6-10.)

1336.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Multiple Family districts if a special land use permit is issued according to the standards of this Code:

- Essential services buildings;
- Group day care homes;
- Places of worship;

- Residential care & treatment facilities;
- Schools;
- Theaters, live, and performance art centers.

(Ord. 476. Passed 7-6-99. Ord. 676. Passed 05-02-05.)

1336.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

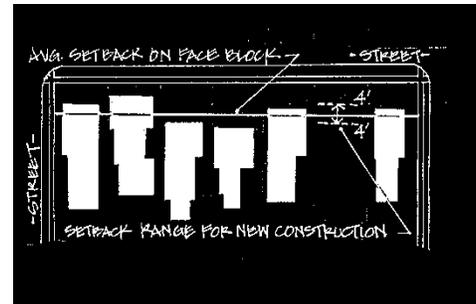
	<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
R-9:	50 feet	7,500 sq. feet	9/dwelling unit/acre	35% maximum
R-15:	50 feet	7,500 sq. feet	15/dwelling unit/acre	40% maximum
R-29:	50 feet	7,500 sq. feet	29 dwelling unit/acre	50% maximum

1336.04 SETBACKS.

(a) **Front setbacks:**

Building: Within 4 feet of the average setback of principal buildings on the same side of the street in the same face block, but no closer than 6 feet from the front property line.

Parking area: To the side or rear of the principal building and set back a distance at least equal to the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.



(b) **Side setbacks (minimum):**

Building:

One side: 6 feet

Aggregate: 14 feet; for structures above grade on lots or tracts of land on Grand Traverse Bay, the side setback is the greater of 30% of the lot width or 14 feet.

Parking area: If contiguous to an R-district, a minimum of 10 feet. Otherwise, 5 feet. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

(c) **Rear setbacks:**

Building: 25 feet

Parking area: 5 feet, except 20 feet if abutting, adjacent to or across an alley from an R-District.

(d) **Corner lots and through lots** shall have a front setback on each street.

(e) **Water setbacks:** 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of Boardman River. Where the dock line is established by City ordinance, it shall be measured inland from the dock line.

(f) **Storage** of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment is limited to the rear yard only. Storage means parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of 30 consecutive days or more.

(Ord. 476. Passed 7-6-99.)

1336.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into required setbacks are allowed except:

- (a) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setbacks.
- (b) **Terraces, patios, decks, uncovered and unenclosed porches** and other ornamental features which do not extend more than 30 inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than 2 feet from the subject side property line.
- (c) **An unenclosed balcony, porch or deck** may project into a rear setback for a distance not exceeding 10 feet.
- (d) **An unenclosed balcony or porch** may project into a front setback not more than 8 feet from the exterior building line, but not closer than 6 feet from the front right of way line.

(Ord. 476. Passed 7-6-99.)

1336.06 BUILDING HEIGHT.

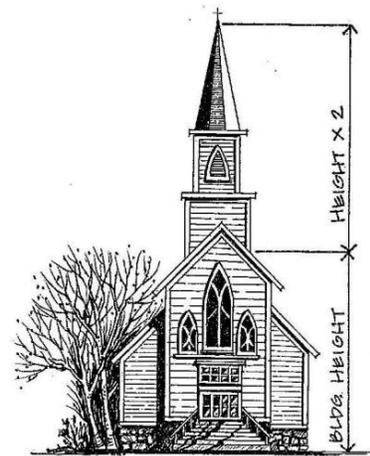
- (a) **Building height:** Maximum 40 feet.

- (b) **Exceptions:**

Steeples and towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates the exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord. 728. Passed 3-19-07.)



1336.07 ACCESSORY BUILDINGS.

The following are requirements for accessory buildings in the multiple family districts:

- (a) In order to minimize visibility from public or private street, accessory buildings shall be screened by the principal building(s), the site topography or other natural features of the property.
- (b) Accessory buildings shall not exceed 20 feet in height.
- (c) Accessory buildings shall be located no closer than 5 feet to any side or rear property line, except a boat house up to 250 square feet gross floor area may be built to the water's edge.
- (d) Accessory buildings over 200 square feet in gross floor area, shall be constructed using building materials, design elements and roof pitches substantially similar to the principal building(s).

(Ord. 476. Passed 7-6-99. Ord. 526. Passed 3-19-01. Ord. 637. Passed 4-5-04.)

1336.08 PARKING, LOADING AND DRIVEWAYS.

Minimum parking space requirements for single family dwellings are 1 per dwelling unit. Additional requirements for parking, loading and driveways are contained in Chapter 1374.

Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area

be located in the front yard.

For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.

Any parking area for single or two family residential use shall, at a minimum, be surfaced and the area clearly defined with gravel, crushed stone, concrete, asphalt, brick or equal material, and be maintained substantially free of dust, mud and standing water.

Parking for motor vehicles shall occur only on a surface permitted by this code.

In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 476. Passed 7-6-99. Ord. 761. Passed 7-2-07.)

1336.09 SPECIAL REQUIREMENTS.

To preserve and reinforce the development patterns of the Multiple Family Dwelling District the following special requirements shall apply:

- (a) In the Boardman and Central Neighborhood Historic Districts, attached garages for parcels with alley access shall be prohibited.
- (b) In the Boardman and Central Neighborhood Historic Districts, the distance between dwellings and accessory buildings greater than 200 square feet that have alley access shall not be less than 30 feet. The 30 foot separation between dwellings and accessory buildings can be reduced to 20 feet if it is determined to be impractical by the Planning Director.

(Ord. 976. Passed 7-1-13)

CHAPTER 1338

HR - Hotel Resort District

The Hotel Resort (HR) District is for the purpose of accommodating tourist-related land uses along the major routes near tourist attractions. It is important that motor vehicle access be limited and land uses are compatible with peak traffic flows. Uses for these zones include multi-family housing, lodging facilities, accessory offices, and limited uses that are functionally integrated as part of the development.

(Ord. 782. Passed 2-4-08.)

CROSS REFERENCES

Zoning and planning in home rules cities - MCL 117.4i

Regulation of location of trades, buildings and uses by local authorities - MCL 125.581

Regulation of buildings; authority to zone - MCL 125.582

Regulation of congested areas - MCL 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCL 125.583a

Motels - See BR & T Chapter 836

<p>1338.01 Uses allowed.</p> <p>1338.02 Uses allowed by special land use permit.</p> <p>1338.03 Lot, density and impervious surface provisions.</p> <p>1338.04 Setbacks.</p> <p>1338.05 Encroachments into the setbacks.</p>	<p>1338.06 Building height.</p> <p>1338.07 Accessory buildings.</p> <p>1338.08 Parking, loading and driveways.</p> <p>1338.09 Special requirements.</p>
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1338.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Hotel Resort District:

- R-29 District uses;
- Lodging facilities;
- Offices, and retail shops provided the total floor area of the business or business within a building does not exceed 6,000 square feet in gross floor area on one level;
- Restaurants, family or fine, banquet or meeting rooms, but not drive-ins or drive-throughs and not exceeding 6,000 square feet in gross floor area.
- Drinking places without entertainment, up to 6,000 square feet gross floor area;
- Drinking places with entertainment if not adjacent to, abutting or across an alley from a residential district.
- Veterinary Services, without outdoor runs.
- Recreational Facilities

(Ord. 476. Passed 7-6-99. Ord. 492. Passed 4-17-00. Ord. 623. Passed 3-15-04. Ord. 782. Passed 2-4-08. Ord. 788. Passed 3-17-08. Ord. 844. Passed 8-3-09. Ord. 1010. Passed 9-2-14)

1338.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Hotel Resort District if a special land use permit is issued according to the standards of this Code:

- Essential services buildings
- Residential care and treatment facilities
- Transitional housing
- Communication towers and Emergency shelters
- Wind Energy Building-Mount

(Ord. 476. Passed 7-6-99. Ord. 709 . Passed 10-2-06. Ord. 938. Passed 4-2-12. Ord. 1001. Passed 7-7-14)

1338.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
50 feet	7,500 sq. feet	44/rooms/acre	70% maximum

(Ord. 476. Passed 7-6-99. Ord. 489. Passed 4-17-00. Ord. 624. Passed 3-15-04. Ord. 885. Passed 11-1-10.)

1338.04 SETBACKS.

(a) **Front setbacks:**

Building: The minimum setback is the lesser of 8 feet or the average setback of principal buildings on the same face block on the same side of the street. The maximum setback is 25 feet.

Parking area: To the side or rear of the principal building and set back a distance at least equal to the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.

(b) **Side setbacks (minimum):**

Building: None, except a minimum 10-foot side setback is required on the side adjoining a residential district. For structures above grade on lots or tracts of land on Grand Traverse Bay, the setback is the greater of 30% of the lot width or the number listed above.

Parking area: Minimum of 10 feet if adjacent to an R-district. Otherwise, 5 feet. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

(c) **Rear setbacks:**

Building: 5 feet, except a minimum 20-foot rear setback is required if adjacent to or across an alley from a residential district.

Parking area: 5 feet. 20 feet if abutting, adjacent to or across an alley from an R-District.

(d) **Corner lots and through lots** shall have a front setback on both streets.

(e) **Water setbacks:** 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of Boardman River. Where the dock line is established by City ordinance, it shall be measured inland

from the dock line.

(Ord. 476. Passed 7-6-99. Ord 490. Passed 4-17-00. Ord. 625. Passed 3-15-04. Ord. 716. Passed 1-2-07.)

1338.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the required setbacks are allowed except:

- (a) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setbacks.
- (b) **Terraces, patios, decks, uncovered and unenclosed porches** and other ornamental features which do not extend more than 30 inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than 2 feet from the subject side property line.

(Ord. 476. Passed 7-6-99. Ord. 626. Passed 3-15-04.)

1338.06 BUILDING HEIGHT.

- (a) **Building height:** Maximum 45 feet.

- (b) **Exceptions:**

Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord. 491. Passed 4-17-00. Ord. 628. Passed 3-15-04. Ord. 729. Passed 3-19-07. Ord. 993. Passed 6-2-14)

1338.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

- (a) Only be permitted in the rear yard, except a pool equipment structure may be located in a front or side yard, and except accessory buildings may be located streetward on lots on navigable water and may be located streetward of the principal building on the less traveled street on through lots;
- (b) Be located no closer than 5 feet to any side or rear property line. A boat house up to 250 sq. ft. gross floor area may be built to the water's edge.

(Ord. 476. Passed 7-6-99. Ord. 554. Passed 2-4-02.)

1338.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area

be located in the front yard.

For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.

(Ord. 476. Passed 7-6-99. Ord. 762. Passed 7-2-07.)

1338.09 SPECIAL REQUIREMENTS.

The following are additional requirements for hotel, motel and restaurant uses:

- (a) Mechanical equipment shall be screened from public view using the same materials used for the building walls or material which is approved by the Planning Director as visually compatible with the building.
- (b) The main entry door of the principal building must face the street.
- (c) Window openings in the principal building must constitute a minimum of 40 percent of the area of the first story street wall facing any public street unless the building is solely for residential use.
- (d) Window glazing shall be recessed from the outside of all walls.
- (e) Vertical building modulation shall be used to add variety and interest and to make a large building appear to be an aggregation of smaller units. Relief from a continuous street-facing wall may be achieved with wall offsets in combination with pilasters, corbeling or other permanent architectural elements, however, offsets in any wall shall not be less than eight inches from the subject plane.
- (f) All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street level entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience.

(Ord. 476. Passed 7-6-99. Ord. 627. Passed 3-15-04. Ord. 993. Passed 6-2-14)

CHAPTER 1340

C-1 Office Service District

The Office Service (C-1) District is for the purpose of accommodating residentially scaled commercial buildings. A variety of low intensity uses designed to integrate with adjacent residential areas. Uses permitted generally generate low to moderate trips. Existing residential structures are intended to be preserved and adaptively reused without substantially altering the appearance of building exteriors. New structures, signs and lighting should be sensitive and respectful to adjacent residential properties.

1340.01	Uses allowed.	1340.06	Building height.
1340.02	Uses allowed by special land use permit.	1340.07	Accessory buildings.
1340.03	Lot, density and impervious surface provisions.	1340.08	Parking, loading and driveways.
1340.04	Setbacks.	1340.09	Special requirements.
1340.05	Encroachments into the setbacks.		

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs - B & H Chapter 1476

1340.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Office Service District:

- R-29 District uses;
- Art galleries;
- Business services;
- Educational services, except schools;
- Engineering, accounting, research, management & related services except testing and laboratory services;
- Finance, insurance and real estate services;
- Funeral services, excepting crematories;
- Health services except hospitals, sales and rentals;
- Legal services;
- Mailing services;
- Membership organizations;
- Offices;
- Personal services, including walk-in laundry and dry cleaning pick-up stations, but laundry cleaning and garment services are not allowed and without drive-throughs;

- Places of worship;
- Public administration, except correctional institutions;
- Repair services - watch, clock and jewelry;
- Repair services - reupholstery and furniture;
- Security services exclusive of sales and installation;
- Social services;
- Vacation Home Rentals maintaining a City Vacation Home Rental License;
- Veterinary Services, without outdoor runs.

(Ord. 788. Passed 3-17-08. Ord. 844. Passed 8-3-09. Ord. 954. Passed 10-1-12.)

1340.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with Accessory Uses, are allowed in the Office Service District if a Special Land Use Permit is issued according to the standards of this Code:

- Communication towers
- Essential services buildings
- Residential care and treatment facilities
- Schools
- Transitional housing and Emergency shelters
- Wind Energy Building-Mount

(Ord. 938. Passed 4-2-12. Ord. 1002. Passed 7-7-14)

1340.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width(min.)</u>	<u>Lot area(min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
20 feet	3,750 sq. ft.	N/A	60% maximum

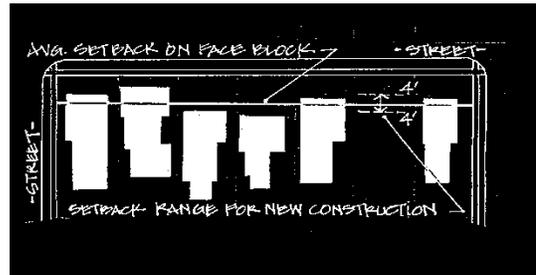
(Ord. 886. Passed 11-1-10.)

1340.04 SETBACKS.

(a) **Front setbacks:**

Building: The lesser of 8 feet or the average setback of principal buildings on the same face block.

Parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.



(b) **Side setbacks:**

Building:

Each side: None, except a minimum 10-foot side setback is required on any side adjoining an R- District.

Parking area: 5 feet, except a 10-foot side setback is required on any side adjoining an R-District.

(c) **Rear setbacks:**

Building: 5 feet, except a 20 foot rear setback is required on portion abutting or across an

alley from an R-district.

Parking area: 5 feet, except a 20 foot rear setback is required for any parking area abutting, adjacent to or across an alley from an R-district.

- (d) **Corner lots and through lots** shall have a front setback on each street.
- (e) **Water setbacks:** 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of Boardman River. Where the dock line is established by City ordinance, it shall be measured inland from the dock line.

1340.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the required setbacks are allowed except:

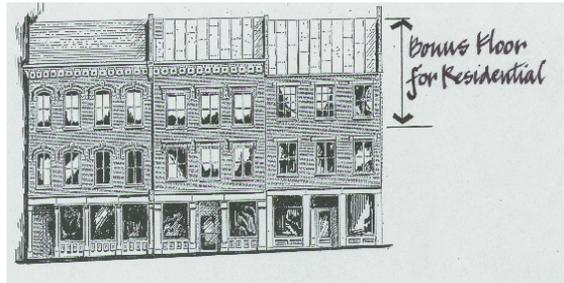
- (a) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setbacks.
- (b) **An unenclosed balcony, porch or deck** may project into a rear setback for a distance not exceeding 10 feet.

1340.06 BUILDING HEIGHT.

- (a) **Building height:**
Maximum 30 feet or with a floor designed and used for residential purposes: maximum 45 feet

- (b) **Exceptions:**
Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen a building's rooftop mechanical equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.



(Ord. 730. Passed 3-19-07. Ord. 994. Passed 6-2-14)

1340.07 ACCESSORY BUILDINGS.

An accessory building shall:

- (a) Only be permitted in the rear yard, except accessory buildings may be located streetward of the principal building on the less traveled street on through lots.
- (b) Be located no closer than 4 feet to any side or rear property line. A boat house up to 250 square feet gross floor area may be built to the water=s edge.
- (c) Be constructed using materials and features similar to the principal building if the accessory building exceeds 500 square feet in gross floor area.

(Ord. 476. Passed 7-6-99. Ord. 554. Passed 2-4-02.)

1340.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space

for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed. Additional parking is not required for upper story dwellings above a first floor commercial or office use if the commercial or office use is in compliance with the parking requirements of this Code. Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard. For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.
(Ord. 763. Passed 7-2-07.)

1340.09 SPECIAL REQUIREMENTS.

To preserve and reinforce the context of historic buildings and land to establish development patterns of the Office Service district, all new buildings and additions to existing buildings are to be designed, constructed and used in accordance with the following standards:

- (a) Except for buildings located on Garfield Avenue, no building shall have a gross floor area of more than 4,500 square feet on one level, and no more than 9,000 square feet gross floor area total, except a third floor and an additional 4,500 square feet are allowed if such floor is designed and used for residential purposes.
- (b) No use shall be open to the public between the hours of 10:00 p.m. and 6:00 a.m.
- (c) The predominant building wall and entryway shall face the street.
- (d) Unless determined to be impractical by the Planning Director, the building width shall not be less than 80 percent of the property width at the street.
- (e) Vertical building modulation shall be used to add variety and interest and to make a large building appear to be an aggregation of smaller units. Relief from a continuous street facing wall may be achieved with wall offsets in combination with pilasters, corbeling or other permanent architectural elements, however, offsets in any wall shall not be less than eight inches from the subject plane.
- (f) Window glazing shall be recessed from the outside of all building walls.
- (g) Clear or lightly tinted transparent glass shall be used for all windows facing a public street. Decorative stained glass may be used for accents. Mirrored, smoked and darkly tinted glass is prohibited.
- (h) Street-facing building facades shall incorporate permanent architectural elements which create shadow patterns and surface textures which, in turn, enhance visual interest.
- (i) Except for buildings that are solely residential, windows or street level activities are required on 50 percent of the first story street wall facing any public street. Street level activities include public display space, public atriums, pedestrian entrances and interior circulation and windows with views into any designated street level use.
- (j) For each 90 feet of linear building frontage, pedestrian entrances will be required. Pedestrian entrances may open onto the sidewalk or mid-block passages or walkways leading to the public right-of-way. Entries must be prominently identified and must not interfere with safe pedestrian passage along walkways. Primary entries must set back a minimum four feet from the facade.
- (k) The spacing and shape of windows and openings on the building shall closely reflect the fenestration of any adjacent historic buildings. Brick, stone, wood or a combination

thereof, compatible with adjacent historic buildings, shall be used.

(l) Fenestration, cornices and other primarily horizontal architectural elements incorporated in new buildings or additions to existing buildings shall be in context with historic buildings in the area.

(m) Any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.

(n) All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street level entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience.

(Ord. 476. Passed 7-6-99. Ord 503. Passed 5-15-00. Ord. 547. Passed 10-15-01. Ord. 559. Passed 3-18-02 Ord. 955. Passed 10-1-12. Ord. 994. Passed 6-2-14).

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CHAPTER 1342

C-2 Neighborhood Center District

The Neighborhood Center district is for the purpose of accommodating small businesses primarily serving adjacent neighborhoods with day-to-day retail goods and services. These small centers are comprised of residentially-scaled buildings with limited parking areas and a strong pedestrian orientation. Existing buildings and quality vegetation should be retained. New buildings are to be designed to reflect a residential flavor and minimize impacts (e.g., noise, light, traffic) on neighborhood residences. Overall density of up to 29 dwellings per acre is allowed.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i
 Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
 Regulation of buildings; authority to zone - MCLA 125.582
 Regulation of congested areas - MCLA 125.583
 Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
 Signs - B & H Chapter 1476

1342.01	Uses allowed.	1342.06	Building height.
1342.02	Uses allowed by special land use permit.	1342.07	Accessory buildings.
1342.03	Lot, density and impervious surface provisions.	1342.08	Parking, loading and driveways.
1342.04	Setbacks.	1342.09	Special requirements.
1342.05	Encroachments into the setbacks.		

1342.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Neighborhood Center district.

- C-1 District uses except drive-throughs;
- Boat liveries;
- Brew pubs;
- Convenience stores;
- Day care facilities;
- Drinking places without entertainment;
- Drinking places with entertainment if the use is not likely to create a noise disturbance under City ordinances and if the building is provided with a central air conditioning system. Florists;
- Fruit and vegetable markets, but not public or municipal markets;
- Grocery stores;
- Hardware stores;
- Laundromats;
- Marinas;

- Movie rental stores;
- News dealers and news stands;
- Parcel packing services;
- Pet grooming services without outdoor runs or kennels;
- Preschools;
- Radio, television and consumer electronics stores;
- Restaurants, family, fine and fast (except drive-through and drive-ins);
- Service stations and repair stations with no more than two bays; with or without fuel dispensing;
- Stores, retail, miscellaneous;
- Theatrical producers, entertainers, bands and orchestras;
- Parking areas, public, subject to the following standards:
 - (1) Access shall be limited to one driveway per public street or two driveways per site, whichever is less.
 - (2) All parking areas which abut a public street shall be set back a minimum distance of eight feet from the property line along said street and shall provide in this setback area appropriate screening with plant materials or a combination of plant materials, berming and decorative screenwalls to a minimum height of three feet.
 - (3) Pedestrian travel routes within the parking area shall be provided, clearly defined and approved by the Planning Director.
 - (4) Unless herein varied, the Landscaping and Site Development Chapter shall apply. (Ord. 747. Passed 5-21-07. Ord. 867. Passed 6-7-10.)

1342.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Neighborhood Center District if a special land use permit is issued according to the standards of this Code:

- Residential care & treatment facilities;
- Schools.
- Transitional housing and Emergency shelters
- Wind Energy Building-mount.

(Ord. 938. Passed 4-2-12. Ord. 1003. Passed 7-7-14)

1342.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
20 feet	3,750 sq. ft. min.	NA	70% maximum

(Ord. 887. Passed 11-1-10.)

1342.04 SETBACKS.

(a) **Front setbacks:**

- (1) **Building:** The minimum setback is the lesser of 8 feet or the average setback of principal buildings on the same face block on the same side of the street. The maximum setback is 25 feet.
- (2) **Parking area:** Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal

building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.

(b) **Side setbacks:**

(1) **Building:**

(2) **One side/Aggregate:** None, except a minimum 10-foot side setback is required on a side adjoining an R- District.

(3) **Parking area:** 5 feet, except a minimum 10-foot side setback is required on any side adjoining an R District

(c) **Rear setbacks:**

(1) **Building:** 5 feet, except 20 feet if adjoining an R-District.

(2) **Parking area:** 5 feet, except a 20-foot setback is required for any parking area abutting, adjacent to or across a public alley from an R-District.

(3) **Parking area:** 5 feet, except a 20-foot setback is required for any parking area abutting, adjacent to or across a public alley from an R-District.

(d) **Corner lots and through lots** shall have a front setback on each street.

(e) **Water setbacks:** 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of Boardman River. Where the dock line is established by City ordinance, it shall be measured inland from the dock line.

1342.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the required setbacks are allowed except:

(a) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setbacks.

(b) **An unenclosed balcony, porch or deck** may project into a rear setback for a distance not exceeding 10 feet.

1342.06 BUILDING HEIGHT.

(a) **Building height:** Maximum 30 feet or with a floor designed and used for residential uses: maximum 45 feet.

(b) **Exceptions:**

Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates the exterior building materials similar to those of the main building.

(Ord. 731. Passed 3-19-07. Ord. 995. Passed 6-2-14)

1342.07 ACCESSORY BUILDINGS.

An accessory building shall:

(a) Only be permitted in the rear yard, except accessory buildings may be located streetward of the principal building on the less traveled street on through lots.

(b) Be located no closer than 4 feet to any side or rear property line. A boat house up to 242 square feet gross floor area may be built to the water's edge.

(c) Be constructed using materials and features similar to the principal building if the accessory building exceeds 500 square feet in gross floor area.

(Ord. 476. Passed 7-6-99. Ord. 554. Passed 2-4-02.)

1342.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

Parking is not required for upper story dwellings above a first floor commercial or office use.

Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard.

For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.

(Ord. 764. Passed 7-2-07.)

1342.09 SPECIAL REQUIREMENTS.

To preserve and reinforce the context of historic buildings and to establish land development patterns of the Neighborhood Center district, all new buildings and additions to existing buildings are to be designed, constructed and used in accordance with the following standards:

- (a) No building shall have a gross floor area of more than 6,000 square feet on one level, and no more than 12,000 square feet gross floor area total, except a third floor and an additional 6,000 square feet are allowed if such floor is designed and used for residential purposes.
- (b) No use shall be open to the public between the hours of 2:00 a.m. and 6:00 a.m.
- (c) The predominant building wall and entryway shall face the street.
- (d) Unless determine to be impractical by the Planning Director, the building width shall not be less than 80 percent of the property width at the street.
- (e) Vertical building modulation shall be used to add variety and interest and to make a large building appear to be an aggregation of smaller units Relief from a continuous street facing wall may be achieved with wall offsets in combination with pilasters, corbeling or other permanent architectural elements, however, offsets in any wall shall not be less than eight inches from the subject plane.
- (f) Window glazing shall be recessed from the outside of all building walls.
- (g) Clear or lightly tinted transparent glass shall be used for all windows facing a public street. Decorative stained glass may be used for accents. Mirrored, smoked and darkly tinted glass is prohibited.
- (h) Street-facing building facades shall incorporate permanent architectural elements which create shadow patterns and surface textures which, in turn, enhance visual interest.
- (i) Except for buildings that are solely residential, windows or street level activities are

required on 50 percent of the first story street wall facing any public street. Street level activities include public display space, public atriums, pedestrian entrances and interior circulation and windows with views into any designated street level use.

- (j) For each 90 feet of linear building frontage, pedestrian entrances will be required. Pedestrian entrances may open onto the sidewalk or mid-block passages or walkways leading to the public right-of-way. Entries must be prominently identified and must not interfere with safe pedestrian passage along walkways. Primary entries must set back a minimum four feet from the facade.
- (k) The spacing and shape of windows and openings on the building shall closely reflect the fenestration of any adjacent historic buildings. Brick, stone, wood or a combination thereof, compatible with adjacent historic buildings, shall be used.
- (l) Fenestration, cornices and other primarily horizontal architectural elements incorporated in new buildings or additions to existing buildings shall be in context with historic buildings in the area.
- (m) Any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.
- (n) All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street level entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience.

(Ord. 476. Passed 7-6-99. Ord. 546. Passed 10-15-01. Ord. 957. Passed 1-7-13. Ord. 995. Passed 6-2-14)

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CHAPTER 1344

C-3 Community Center District

The Community Center (C-3) district is for the purpose of accommodating a wide range of retail goods and services available to the community. These uses are intended to be developed compactly and have coordinated access, preferably with limited driveways and shared parking facilities. More intense uses such as twenty-four-hour stores and drive-through establishments are appropriate.

1344.01	Uses allowed.	1344.05	Encroachments into the setbacks.
1344.02	Uses allowed by special land use permit.	1344.06	Building height.
1344.03	Lot, density and impervious surface provisions.	1344.07	Accessory buildings.
1344.04	Setbacks.	1344.08	Parking, loading and driveways.

1344.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Community Center district:

- HR District uses;
- C-2 District uses;
- Amusement and recreation services (see mechanical amusement arcades below);
- Communication establishments;
- Contractors, with no outside storage;
- Drinking places with entertainment;
- Equipment rental and leasing;
- Finance services, including those having drive throughs subject to the standards of Section 1374.06, *Drive-throughs*;
- Kennels, provided no that no building, open kennel or exercise runway is closer than 200 feet from a Residential District;
- Mechanical amusement arcades subject to the following:
 - (1) All necessary licenses are obtained and maintained.
 - (2) There is in physical attendance at all times of operation a minimum of one adult employee whose sole responsibility is to supervise the conduct of patrons on or near the premises.
 - (3) Suitable ventilation, fire protection measures and adequate lighting inside and outside the premises are provided for the safety of patrons and the public as required by the Fire Marshal.
 - (4) One bicycle rack per mechanical amusement device is provided on-site and located subject to the approval of the Planning Director.
 - (5) There is not more than one arcade in a face block, and in no case shall an arcade be located closer than 600 feet to any existing arcade or amusement park.
- Medical Marihuana Collective meeting the following requirements:

- (1) Use and transfer of Medical Marihuana shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (2) Transfer of Medical Marihuana shall be only allowed to a Qualifying Patient directly in person by his or her Registered Primary Caregiver or by another Qualifying Patient as allowed by the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - (3) The Collective shall not be in operation between the hours of 10:00 p.m. and 7:00 a.m.
 - (4) No Medical Marihuana Cultivation shall occur on the parcel.
 - (5) Except for parents or guardians of a Qualifying Patient and the Owner or staff of the facility, persons other than a Qualifying Patient or Primary Caregiver shall be not permitted within the Collective when Medical Marihuana is being transferred or used.
 - (6) A Qualifying Patient under the age of 18 shall be accompanied by a parent or guardian and notice of such shall be conspicuously posted.
 - (7) A Medical Marihuana Collective shall not be located within a 1,000 foot radius from any existing School.
 - (8) A Medical Marihuana Collective shall not be located within 1000 feet from another existing Collective.
 - (9) An Owner or Operator of a Medical Marihuana Collective shall not have been convicted of a felony involving controlled substances.
 - (10) The name and address of all persons with an ownership interest in the Medical Marihuana Collective and all Operators of the Medical Marihuana Collective shall be provided to the Zoning Administrator at least ten (10) business days prior to opening the Medical Marihuana Collective and least ten (10) business days prior to when a new person owns or operates the Medical Marihuana Collective.
- Microbrewery
 - Motorized vehicle dealers, mobile home dealers, watercraft dealers and recreational vehicle dealers subject to the following conditions:
 - (1) All outdoor display and storage in front or on the side of a building shall meet landscape requirements for parking areas.
 - (2) Outdoor display areas shall be differentiated from parking areas using contrasting surface material and shall be designated on a site plan.
 - (3) Any display platforms shall not be elevated more than three feet higher than the adjacent public right of way.
 - Personal services, including those having drive-throughs subject to the standards of Section 1374.06, *Drive-throughs*;
 - Pet boarding or pet grooming services, provided that no building, open kennel or exercise runway is closer than 200 feet from an R-District.
 - Printing (commercial);
 - Repair services, miscellaneous;
 - Restaurants, family, fine and fast, including drive-ins and drive-throughs accessory to an on-site, indoor, full service restaurant and including the parking requirements of Chapter 1372, *Landscaping* and Section 1374.06, *Drive-throughs*:

- Retail trade;
- Service stations and repair shops (except tire retreading) with or without fuel dispensing;
- Theaters, except outdoor;
- Vehicle wash facilities subject to the following standards:
 - (1) Customer stacking space shall be provided at a rate of three spaces per bay or wash area for a stationary-type (coin-operated) system, and eight spaces per bay for an automatic system.
 - (2) Customer stacking spaces shall be located and arranged to preclude obstruction of traffic flow on the public right-of-way or overhang and the public sidewalk.
 - (3) Grates the full width of the driveway shall be provided at the exits to intercept and collect excess water and prevent its spread onto the public right of way.
 - (4) A 35 foot setback is required from the property line where the primary exit for the vehicle wash facility is made. All other setbacks shall conform to the district requirements.
 - (5) All operations connected with this facility shall be conducted within the buildings, except for vacuuming, so as to minimize the effect of noise and moisture on surrounding areas.
 - (6) Where an auto wash is adjoining residential property or is separated from such property by a public alley, there shall be provided a continuous decorative screenwall of not less than five feet or more than six feet in height.
 - (7) Ingress and egress shall be on an arterial or collector street, except where the Planning Commission determines public welfare or safety would be best served by allowing other means of ingress or egress.
- Veterinary services, provided that no building, open kennel or exercise runway is closer than 200 feet from a R-District;
- Warehousing.

(Ord. 778. Passed 1-7-08. Ord. 878. Passed 8-16-10. Ord. 903. Passed 2-7-11.)

1344.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Community Center district if a special land use permit is issued according to the standards of this Code:

- Communication towers;
- Essential services buildings;
- Residential care and treatment facilities;
- Schools;
- Transitional housing and Emergency shelters
- Wind Energy Pole/Tower-Mount
- Wind Energy Building-Mount

(Ord. 476. Passed 7-6-99. Ord. 938. Passed 4-2-12. Ord. 1004. Passed 7-7-14)

1344.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
20 feet	3,750 sq. ft	N/A	80% maximum

(Ord. 476. Passed 7-6-99. Ord. 888. Passed 11-1-10.)

1344.04 SETBACKS.

(A) **Front setbacks:**

Building: 25' maximum; 8' minimum

Parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.

(B) **Side setbacks (minimum):**

Building:

One side/Aggregate:

None, except a 10-foot side setback is required on the side adjoining an R-District.

Parking area: 5 feet, except a 10-foot setback is required on any portion abutting an R-District.

(C) **Rear setbacks:**

Building: 5 feet, except 20 feet is required on any portion abutting or across an alley from an R- district.

Parking area: 5 feet, except 20 feet is required on any portion abutting, adjacent to or across an alley from an R-district.

(D) **Corner lots and through lots** shall have a front setback on each street.

(E) **Water setbacks:** 50 feet inland from the ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25 feet from the ordinary high water mark of the Boardman River. Where the dock line is established by City ordinance, it shall be measured from the dock line.

(Ord. 476. Passed 7-6-99.)

1344.05 ENCROACHMENTS INTO THE SETBACK.

No encroachments into the required setbacks are allowed except:

(A) **Eaves, chimneys, sills, belt courses, cornices and ornamental features** not to exceed 18 inches are permitted to extend within the setbacks.

(B) **An unenclosed balcony, porch or deck** may project into a rear setback for a distance not exceeding 10 feet.

(Ord. 476. Passed 7-6-99.)

1344.06 BUILDING HEIGHT.

(a) **Building height:**

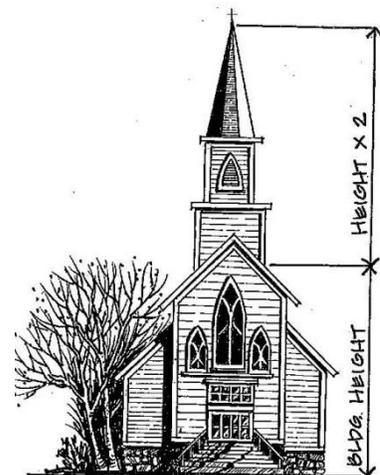
Maximum 45 feet

(b) **Exceptions:**

Steeples and clock towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord. 732. Passed 3-19-07)



1344.07 ACCESSORY BUILDINGS.

An accessory building shall:

- (a) Only be permitted in the rear yard, except accessory buildings may be located streetward of the principal building on the less traveled street on through lots.
- (b) Be located no closer than 5 feet to any side or rear property line. A boat house, up to 250 sq. feet gross floor area, may be built to the water's edge.
- (c) Be constructed using materials and features similar to the principal building if the accessory building exceeds 500 square feet in gross floor area.

(Ord. 476. Passed 7-6-99. Ord. 554. Passed 2-4-02.)

1344.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

Parking is not required for upper story dwellings above a first floor commercial or office use.

Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard. For parcels having alley access, the parking of a boat, motor home, camper, utility trailer or other recreational vehicle is limited to the rear yard.

(Ord. 476. Passed 7-6-99. Ord. 765. Passed 7-2-07.)

1344.09 SPECIAL REQUIREMENTS.

To establish land development patterns of the district, all new buildings and additions to existing buildings are to be designed and constructed in accordance with the following standards:

- (a) The predominant building wall and entryway shall face the public or private street.
- (b) Unless determined to be impractical, by the Planning Director, the building width shall not be less than 60 percent of the property width at the street.
- (c) Vertical building modulation shall be used to add variety and interest and to make a large building appear to be an aggregation of smaller units. Relief from a continuous street facing wall may be achieved with wall offsets in combination with pilasters, corbeling or other permanent architectural elements; however, offsets in any wall shall not be less than eight inches from the subject plane.
- (d) Horizontal building modulation shall be used to reduce the perceived mass of a large building. Horizontal awnings, balconies, and roof features should be incorporated into new developments provided that their appearance varies through the use of color, materials, size and location.
- (e) Except for buildings that are solely residential, windows or street level activities are required on 40 percent of the first story street wall facing any public street. Street level activities include public display space, public atriums, pedestrian entrances and interior circulation and windows with views into any designated street level use.
- (f) Clear or lightly tinted transparent glass shall be used for all windows facing a public street. Decorative stained glass may be used for accents. Mirrored, smoked and darkly

C-3 COMMUNITY CENTER DISTRICTS

tinted glass is prohibited.

- (g) Street-facing building facades shall incorporate permanent architectural elements which create shadow patterns and surface textures which, in turn, enhance visual interest.
- (h) Any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.
- (i) All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street level entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience.

(Ord. 619. Passed 2-2-04. Ord. 996. Passed 6-2-14)

CHAPTER 1346

C-4 Regional Center Districts

The Regional Center Districts are for the purpose of accommodating a broad variety of retail, office and residential uses integrated with hotels, convention centers, and integrated common parking facilities. Internal linkage between stores is encouraged. It is extremely important that new development be integrated with historically significant buildings. The first floors of buildings are primarily for retail, financial services and restaurants. Dominant and striking visual features of the central area of the City should be maintained and enhanced. The upper stories of buildings are generally to be occupied by offices, services and residences. High density housing is also appropriate.

It is the intent of these districts to create streets which encourage pedestrian activity. Buildings along Boardman River should be designed to integrate with both the sidewalk and riverwalk systems. Driveways crossing sidewalks should be limited to public parking areas.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs - B & H Chapter 1476

1346.01	Uses allowed.	1346.06	Building height.
1346.02	Uses allowed by special land use permit.	1346.07	Accessory buildings.
1346.03	Lot, density and impervious surface provisions.	1346.08	Parking, loading and driveways.
1346.04	Setbacks.	1346.09	Special requirements.
1346.05	Encroachments into the setbacks.		

1346.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in these districts:

- GP district uses;
- C-3 district uses, except the following: drive-ins, drive-throughs, sexually-oriented businesses, vehicle wash facilities, veterinary services and kennels;
- Boat liveries;
- Convention centers;
- Drinking places with or without entertainment;
- Markets, public or municipal;
- Parking areas, private, for dwelling units (limited to one per dwelling unit); subject to Chapter 1374.

- Parking areas, private, interior, subject to the following standards:
 - (1) Parking area is accessed from the alley,
 - (2) Parking area is fully enclosed within a building,
 - (3) Parking surface is on average, at least four feet below the street elevation or is fronted with habitable space.
- Parking areas, private, subject to the following standards:
 - (1) Access shall be limited to one driveway per public street or two driveways per site, whichever is less.
 - (2) The parking is accessory to an allowed use.
 - (3) There can be demonstrated a need for private parking which will not be satisfied by existing public parking within 500 feet of the proposed use, except for private parking areas for dwelling units or interior private parking areas;
 - (4) All requirements of Chapter 1374, *Circulation and Parking*, are met, except Section 1374.03(d), *Parking Space Requirements*.
 - (5) All requirements of Sections 1372.04, *Screening Requirements for Parking Areas*, and 1372.05, *Landscape Development Internal to a Parking Area* are met.
 - (6) Pedestrian travel routes within the parking area shall be provided, clearly defined and approved by the Planning Director.
- Parking areas, public, subject to the following standards:
 - (1) Access shall be limited to one driveway per public street or two driveways per site, whichever is less.
 - (2) All parking areas which abut a public street shall be set back a minimum distance of eight feet from the property line along said street and shall provide in this setback area appropriate screening with plant materials or a combination of plant materials, berming and decorative screenwalls to a minimum height of three feet.
 - (3) Pedestrian travel routes within the parking area shall be provided, clearly defined and approved by the Planning Director.
 - (4) Unless herein varied, the Landscaping and Site Development Chapter shall apply.
- Parking structures, public or private, subject to the following standards:
 - (1) Parking structures shall be designed to have horizontal versus stepped or sloping levels at areas of public view. Ramping shall be concealed from public view to the greatest degree possible.
 - (2) Openings shall not exceed 60% of the total wall surface. Openings shall be vertical or square.
 - (3) Sloped roofs are not required for parking decks, however:
 - A. The upper and lowest level of parking shall incorporate sufficient screening to shield cars from public view.
 - B. Parapet treatment is required to terminate the deck and give proper architectural finish to the structure. Cornices, overhangs and other devices which are consistent with the language of historical buildings may be employed.
 - (4) The design of parking decks shall be consistent with the design of historical buildings in the area.
- Theaters, live and performance art centers.

(Ord. 476. Passed 7-6-99. Ord. 677. Passed 5-2-05. Ord. 782. Passed 2-4-08. Ord. 825. Passed 2-2-09.)

1346.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in these districts if a special land use permit is issued according to the standards of this Code:

- Communication towers;
- Drive-throughs for finance services;
- Essential services buildings;
- Parking areas, private, if public parking is available within 500 feet of the allowed use;
- Taller buildings in the C4-b or C4-c district;
- Transit centers.

(Ord. 476. Passed 7-6-99. Ord. 610. Passed 9-2-03. Ord. 677. Passed 05-02-05. Ord. 779. Passed 1-7-08.)

1346.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
No minimum.	No minimum.	N/A	100% maximum.

The surface parking area shall not exceed the total floor area of all buildings on the lot.

(Ord. 476. Passed 7-6-99. Ord. 684. Passed 10-03-05.)

1346.04 SETBACKS

(a) **Front setbacks:**

Building: 2.5 feet minimum, except existing buildings that have been damaged by fire, explosion, act of God or similar causes and located closer than 2.5 feet may be restored or rebuilt at the same location using the same foundation unless the foundation is located in the right-of-way. 8 feet maximum.

Private parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.

(b) **Side setbacks (minimum):**

Building:
One side/Aggregate: None, except 10-foot side setback is required on any side abutting or across an alley from an R-district.

Private parking area: 5 feet, except a 10-foot setback is required on any side abutting an R-district.

(c) **Rear setbacks:** None, except a 5 foot setback if abutting an alley. A 20-foot setback is required if abutting or across an alley from an R-district.

(d) **Corner lots and through lots** shall have a front setback on each street.

(e) **Water setbacks:** May build to the edge of a public easement; if no

public easement, then 10 feet inland from the ordinary high water mark or any dockline established by City ordinance.

(f) Bridge setbacks:

Buildings shall be set back a distance of 25 feet from any bridge abutment unless otherwise approved by the City Engineer if he or she determines that the building will not interfere with the maintenance or reconstruction of the bridge and that utilities will not be adversely impacted.

(Ord. 476. Passed 7-6-99. Ord. 512. Passed 9-18-00. Ord. 576. Passed 10-7-02. Ord. 685. Passed 10-03-05. Ord. 818. Passed 1-5-09.)

1346.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into setbacks are allowed except a building, balcony, porch or deck may project no more than five feet into a rear setback provided these projections are not less than 15 feet above grade and provided they do not project into any public right of way and except eaves, chimneys, sills, belt courses, cornices and ornamental features not to exceed two and a half feet are permitted to extend within the front or rear setbacks.

(Ord. 476. Passed 7-6-99. Ord. 511. Passed 9-18-00. Ord. 577. Passed 10-7-02.)

1346.06 BUILDING HEIGHT.

(a) Building Height: Buildings in the C-4 District shall have a minimum height of thirty (30) feet and a maximum building height as listed below. An existing building may have a one-story addition of no larger than the area of the first floor of that building as it existed on the effective date of Ordinance No. 467, which is July 16, 1999. More than sixty (60) feet in height may be allowed only by special land use permit or as part of a planned unit development and subject to the requirements listed below.

C-4a: 45 feet maximum.

C-4b: 60 feet maximum. Sixty-eight (68) feet in height is allowed if at least 20% of the building is designed and used for dwellings.

C-4c: 85 feet maximum. An additional 15 feet shall be allowed for permitted uses that are designed and positioned in a manner that will effectively shield rooftop mechanical equipment or elevator shafts, but not to exceed an overall height of 100 feet. Buildings over 60 feet tall shall have at least 20% of the building designed and used for dwellings. That portion of the building with a finish floor elevation of 45 feet or greater must be recessed at least 10 feet from the first floor building facade.

(b) Exceptions: The following are exceptions to the above height restrictions:

(1) **Steeple and clock towers** may be erected in a C-4a district up to a height not exceeding 60 feet.

(2) **Parapet walls** may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord. 528. Passed 3-19-01. Ord. 548. Passed 12-17-01. Ord. 561. Passed 4-1-02. Ord. 631. Passed 4-19-04. Ord. 686. Passed 10-03-05. Ord. 692. Passed 12-05-05. Ord. 733. Passed 3-19-07.)

1346.07 ACCESSORY BUILDINGS.

An accessory building shall:

- (a) Only be permitted in the rear yard, except accessory buildings may be located streetward of the principal building on the less traveled street on through lots.
- (b) Be located no closer than 4 feet to any side or rear property line. A boat house up to 250 sq. feet gross floor area may be built to the water's edge.

(Ord. 476. Passed 7-6-99. Ord. 554. Passed 2-4-02.)

1346.08 PARKING, LOADING AND DRIVEWAYS.

No parking is required in this district, however, if parking is provided, it must meet the standards contained in Chapter 1374, *Circulation and Parking* and restrictions of this chapter.

(Ord. 476. Passed 7-6-99.)

1346.09 SPECIAL REQUIREMENTS.

To preserve and reinforce the context of historic buildings and land to establish development patterns of the Regional Center district, all new buildings and additions to existing buildings are to be designed and constructed in accordance with the following standards:

- (a) The predominant building wall and entryway shall face the public or private street.
- (b) Unless determined to be impractical by the Planning Director, the building width shall not be less than 90 percent of the property width at the street.
- (c) Vertical building modulation shall be used to add variety and interest and to make a large building appear to be an aggregation of smaller units. Relief from a continuous street facing wall may be achieved with wall offsets in combination with pilasters, corbeling or other permanent architectural elements; however, offsets in any wall shall not be less than eight inches from the subject plane.
- (d) Horizontal building modulation, like awnings, balconies and roof features shall be used to reduce the perceived mass of a large building.
- (e) Fenestration, cornices and other architectural elements incorporated in new buildings or additions to existing buildings shall be in context with historic buildings in the area.
- (f) Window glass planes shall be recessed at least four inches from the outside of all building walls to create a shadow line except in bay windows and to other projecting window elements.
- (g) Clear or lightly tinted transparent glass shall be used for all windows facing a public street. Decorative stained glass may be used for accents. Mirrored, smoked and darkly tinted glass is prohibited.
- (h) New buildings and additions to existing buildings, including parking structures, shall be constructed of durable materials utilizing the predominant building materials of traditional brick and stone used in the Regional Center District or constructed of materials of comparable aesthetic value.
- (i) Any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.
- (j) Except for buildings that are solely residential, windows or street level activities are required on 50 percent of the first story street wall facing any public street. Street level activities include public display space, public atriums, pedestrian entrances and exterior

circulation.

(k) For each 90 feet of linear building frontage, pedestrian entrances are required. Pedestrian entrances may open onto the sidewalk or mid-block passages or walkways leading to the public right-of-way. Entries must be prominently identified and must not interfere with safe pedestrian passage along walkways. Primary entries must set back a minimum four feet from the property line.

(l) All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street level entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience.

(Ord. 476. Passed 7-6-99. Ord. 545. Passed 10-15-01. Ord. 631. Passed 4-19-04; but with no changes to existing ordinance. Ord. 684. Passed 10-03-05. Ord. 687. Passed 10-03-05. Ord. 996. Passed 6-2-14)

CHAPTER 1347

Development Districts

The Development Districts are for the purpose of accommodating a mixture of land uses in areas traditionally known as the “Traverse City Ironworks” area, the “Depot” area and the “Red Mill” area. Residential uses are to be combined with shopping, restaurant, office and entertainment uses to create a village-like atmosphere. Compact, pedestrian-friendly developments which integrate well with adjacent properties are characteristic of these projects.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i
 Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
 Regulation of buildings; authority to zone - MCLA 125.582
 Regulation of congested areas - MCLA 125.583
 Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
 Signs - B & H Chapter 1476

1347.01	Uses allowed.	1347.06	Building height.
1347.02	Uses allowed by special land use permit.	1347.07	Accessory buildings.
1347.03	Lot, density and impervious surface provisions.	1347.08	Parking, loading and driveways.
1347.04	Setbacks.	1347.09	Special requirements.
1347.05	Encroachments into the setbacks.		

1347.01 USES ALLOWED.

No use shall be open to the public between the hours of 2:00 a.m. and 6:00 a.m.

The following uses of land and buildings, together with accessory uses, are allowed:

Ironworks (D-1), Depot (D-2) and Red Mill (D-3) areas:

- C-2 uses without drive-throughs
- Banquet halls or conference rooms
- Communication establishments
- Contractors’ offices with no outside storage
- Lodging facilities
- Markets, public or municipal
- Parking structures, public or private, subject to the following standards:
 - (1) Parking structures shall be designed to have horizontal versus stepped or sloping levels at areas of public view. Ramping shall be concealed from public view to the greatest degree possible.
 - (2) Openings shall not exceed 60% of the total wall surface. Openings shall be vertical or square.
 - (3) Sloped roofs are not required for parking decks, however:
 - A. The upper and lowest level of parking shall incorporate sufficient screening to shield cars from public view.

B. Parapet treatment is required to terminate the deck and give proper architectural finish to the structure. Cornices, overhangs and other devices which are consistent with the language of historical buildings may be employed.

(4) The design of parking decks shall be consistent with the design of historical buildings in the area.

- Stores, retail, no larger than 8,000 square feet per floor per single retailer.
- Theaters, except outdoor theaters

(Ord. 496. Passed 7-6-99. Ord. 748. Passed 5-21-07. Ord. 782. Passed 2-4-08. Ord. 803. Passed 6-16-08. Ord. 936 Passed 4-2-2012)

1347.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed if a special land use permit is issued according to the standards of this Code:

- Communication towers;
- Convention centers;
- Essential services buildings;
- Finance services with drive-throughs;
- Stores, retail, over 8,000 square feet per floor;
- Taller buildings (buildings taller than 60 feet or over 4 stories),
- Transit centers in the D-2 and D-3 District.
- Transitional housing and Emergency shelters
- Wind Energy Building-Mount

(Ord. 476. Passed 7-6-99. Ord. 610. Passed 9-2-03. Ord. 938. Passed 4-2-12. Ord. 1005. Passed 7-7-14)

1347.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

	<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
Depot:	--		N/A	70%
Ironworks:	--		N/A	80%
Red Mill:	--		N/A	80%

(Ord. 476. Passed 7-6-99. Ord. 889. Passed 11-1-10.)

1347.04 SETBACKS.

(a) **Front setbacks:**

Building:

- D-1 - Ironworks: 3 feet
- D-2 - Depot: 3 feet
- D-3 - Red Mill: 3 feet, except 8 feet from Grandview Parkway and 20 feet from Gillis Street.

Parking areas: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line.

(b) **Side setbacks (minimum):**

Building:

D-1 - Ironworks: None

D-2 - Depot: None

D-3 - Red Mill: None

Parking areas: 5 feet, except a minimum 10-foot side setback is required on any side adjoining an R-district.

(c) **Rear setbacks:**

Building:

D-1 - Ironworks: None

D-2 - Depot: None

D-3 - Red Mill: None

Parking areas: 5 feet, except a 20-foot setback is required for any parking area abutting, adjacent to or across a public alley from an R-District

(d) **Corner and through lots** shall have a front setback on each street.

(e) **Water setbacks:**

Ironworks: 25 feet from dock line established by City ordinance.

(f) **Bridge setbacks:** Buildings shall be set back a distance of 25 feet from any bridge abutment.

1347.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into required setbacks are allowed except eaves, chimneys, sills, belt course, cornices and ornamental features not to exceed 18 inches are permitted to extend within the setbacks.

1347.06 BUILDING HEIGHT.

(a) **Building height:**

(1) **D-1 - Ironworks:**

Along 8th Street (west of Lake Street within 100 feet of the right-of-way): 45 feet maximum.

Remaining area: 45 feet. An additional 15 feet is allowed if 25% of the project is designed and used for residential uses and the building is no taller than 60 feet.

An additional 15 feet is allowed if 25% of the project is designed and used for dwellings and 75 feet is not exceeded. The fifth story requires a special land use permit or planned unit development.

That portion of a building above 60 feet shall be recessed a minimum of 10 feet from the facade facing a public street.

(2) **D-2 - Depot:**

Along 8th Street (within 100 feet of the right-of-way): 45 feet maximum.

Remaining Area: 45 feet. An additional 15 feet is allowed if 25% of the project is designed and used for dwellings and the building is no taller than 60 feet.

Another 15 feet is allowed by a special land use permit or planned unit

development if 25% of the project is designed and used for residential uses and 75 feet is not exceeded.

That portion of a building taller than 60 feet shall be recessed a minimum of 10 feet from the facade facing the public street.

(3) **D-3 - Red Mill:**

That portion of a building within 100 feet from the property line along east Gillis Street (extended to Grandview Parkway) is limited to 45 feet.

Buildings within 100 feet of Grandview Parkway shall not exceed a building height of 45 feet.

Remaining Area: 45 feet. An additional 15 feet is allowed if 25% of the project is designed and used for residential uses and the building is no taller than 60 feet. Another 15 feet is allowed by a special land use permit or planned unit development if 25% of the project is designed and used for dwellings and 75 feet is not exceeded.

That portion of a building taller than 60 feet shall be recessed a minimum of 10 feet from the facade facing the public street.

Any existing five (5) story building in the D-3 District, constructed prior to 2005 within thirty (30) feet from the right-of-way line of Grandview Parkway, is exempt from minimum residential requirements, provided that it shall comply with all other underlying zoning requirements.

(b) **Exceptions:**

Steeple and clock towers may be erected to a height not exceeding twice the height of the attached building.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 699. Passed 3-20-06. Ord. 734. Passed 3-19-07. Ord. 940. Passed 4-7-12)

1347.07 ACCESSORY BUILDINGS.

An accessory building shall be constructed using materials and features similar to the principal building if the accessory building exceeds 500 square feet in gross floor area.

1347.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1372.

1347.09 SPECIAL REQUIREMENTS:

Ironworks (D-1), Depot (D-2) and Red Mill (D-3) areas. To preserve and reinforce the context of historic buildings and to establish land development patterns of the development districts, all new buildings and additions to existing buildings are to be designed and constructed in accordance with the following standards:

DEVELOPMENT DISTRICT

- (a) The predominant building wall and entryway shall face the public or private street.
 - (b) Unless determined to be impractical, by the Planning Director, the building width shall not be less than 90 percent of the property width at the street.
 - (c) Vertical building modulation shall be used to add variety and interest and to make a large building appear to be an aggregation of smaller units. Relief from a continuous street facing wall may be achieved with wall offsets in combination with pilasters, corbeling or other permanent architectural elements; however, offsets in any wall shall not be less than eight inches from the subject plane.
 - (d) Horizontal building modulation like awnings, balconies and roof features shall be used to reduce the perceived mass of a large building.
 - (e) Fenestration, cornices and other primarily horizontal architectural elements incorporated in new buildings or additions to existing buildings shall be in context with historic buildings in the area.
 - (f) Window glass planes shall be recessed at least four inches from the outside of all building walls to create a shadow line except in bay windows and to other projecting window elements.
 - (g) Clear or lightly tinted transparent glass shall be used for all windows facing a public street. Decorative stained glass may be used for accents. Mirrored, smoked and darkly tinted glass is prohibited.
 - (h) New buildings and additions to existing buildings, including parking structures, shall be constructed of durable materials utilizing the predominant building materials used in the district and every building facade shall be constructed of materials comparable in aesthetic value.
 - (i) Any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.
 - (j) Except for buildings that are solely residential, windows or street level activities are required on 50 percent of the first story street wall facing any public street. Street level activities include public display space, public atriums, pedestrian entrances and exterior circulation.
 - (k) For each 90 feet of linear building frontage, pedestrian entrances are required. Pedestrian entrances may open onto the sidewalk or mid-block passages or walkways leading to the public right-of-way. Entries must be prominently identified and must not interfere with safe pedestrian passage along walkways. Primary entries must be set back a minimum of four feet from the property line.
 - (l) All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street level entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience.
- (Ord. 698 Passed 3-20-06. Ord. 996. Passed 6-2-14)

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CHAPTER 1348

T - Transportation District

The Transportation (T) District is for the purpose of accommodating special areas for the moving of goods and people, and supporting aeronautical and non-aeronautical uses that benefit the operation of the Cherry Capital Airport as approved by the Northwestern Regional Airport Commission and in compliance with the Airport Zoning Act, Ac No. 23 of the Public Acts of 1950.

(ord. 1033 passed 5-2-16)

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i

Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581

Regulation of buildings; authority to zone - MCLA 125.582

Regulation of congested areas - MCLA 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a

Airport Zoning Act, MCLA 259.431 et seq

Signs - B & H Chapter 1476.06

1348.01	Uses allowed.	1348.06	Building height.
1348.02	Uses allowed by special land use permit.	1348.07	Accessory buildings.
1348.03	Lot, density and impervious surface provisions.	1348.08	Parking, loading and driveways.
1348.04	Setbacks.	1348.09	Special Requirements.
1348.05	Encroachments into the setbacks.	1348.10	Federal laws.
		1348.11	Unlawful Land Use.

1348.01 USES ALLOWED.

The following uses of land and buildings, together with accessory uses, are allowed in the Transportation Zone:

- OS District uses, including buildings 3,000 square feet or larger in gross floor area;
- GP District uses;
- I District uses, except C-2 District Uses;
- Air transportation, including airports and airport terminals;
- Amusement and recreation services (indoor only)
- Automobile gasoline/convenience stores;
- Automobile, motorcycle, trailer, recreational vehicle or boat showrooms;
- Brew pubs;
- Business services;
- Drugstore;
- Engineering, accounting, research, management and related services;
- Finance, insurance and real estate services;

- Finance services without drive-throughs;
- Indoor fruit and vegetable markets;
- Landing areas;
- Laundromats;
- Legal services;
- Lodging facilities;
- Microbrewery;
- Motorized vehicle dealers, mobile home dealers, watercraft dealers and recreational vehicle dealers subject to the following conditions:
 - (1) All outdoor display and storage in front or on the side of a building shall meet landscape requirements for parking areas.
 - (2) Outdoor display areas shall be differentiated from parking areas using contrasting surface material and shall be designated on a site plan.
 - (3) Any display platforms shall not be elevated more than three feet higher than the adjacent public right of way.
- Parcel packing services;
- Parking areas, public or private,
- Passenger transportation services;
- Personal services;
- Pet grooming services without outdoor runs or kennels;
- Repair services;
- Restaurants, family, fine and fast without drive-throughs;
- Retail use of 10,000 square feet or more;
- Security services
- Services stations and repair stations;
- Theaters;
- Theatrical producers, entertainers, bands and orchestras;
- Transportation service;
- Vehicle wash facilities as permitted in the C-3 District;
- Veterinary Services, without outdoor runs;
- Water transportation.

(ord. 1033 passed 5-2-16)

1348.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Transportation District if a special land use permit is issued according to the standards of this Code:

- Communication towers.
- Wind Energy Pole/Tower-Mount
- Wind Energy Building Mount

(Ord. 938. Passed 4-2-12)

1348.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
20 feet	No minimum.	No maximum.	70% maximum.

1348.04 SETBACKS.

(a) **Front setbacks.**

Building: Minimum setbacks are 25 feet.

Parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line. Parking may be provided street ward of the building along South Airport Road provided a minimum 25 foot vegetative buffer area that will effectively screen the parking area from public view as set forth in Section 1372.04 is maintained where a vegetative buffer exists or, if no other vegetative buffer exists, other screening is provided as set forth in Section 1372.04 within the 25 foot buffer area.

(b) **Side setbacks (minimum): Building:** None except as follows:

(1) 25 feet if abutting or adjacent to an R- District

(2) 50 feet if a loading dock is abutting or adjacent to an R-District

Parking area: If contiguous to an R-district, a minimum of 10 feet. Otherwise, 5 feet. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

(c) **Rear setbacks:**

Building: 5 feet, except as follows:

(1) 25 feet if abutting, or adjacent to an R - District.

Parking area: 5 feet, except 20 feet if abutting, adjacent to or across a public alley from an R-District.

(d) **Corner lots and through lots** having a frontage on two streets shall provide the required front setback on both streets.

(ord. 1033 passed 5-2-16)

1348.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the setbacks are allowed.

1348.06 BUILDING HEIGHT.

Building height: The lesser of 45 feet or the approach, transitional, conical and inner horizontal surfaces which establish the height limitation under this Ordinance are denoted on the Airport Zoning Plan, and are established in conformance with approach standards or regulations of the Michigan Aeronautics Commission or the Federal Aviation Administration. In acting upon applications for permits, the Zoning Administrator will arrive at proper height limitations by insuring FAA Form 7460-1 is completed with Federal Aviation Administration determination of no hazard to aviation. Air traffic control towers are exempt from this height requirement.

(ord. 1033 passed 5-2-16)

1348.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

(a) Not exceed the Building Height limitation as set forth in Section 1348.06.

(b) Not be closer than 5 feet to any side or rear property line or 25 feet if abutting or adjacent

to an R – District
(ord. 1033 passed 5-2-16)

1348.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 476. Passed 7-6-99)

1348.09 SPECIAL REQUIREMENTS.

To preserve and reinforce the development patterns of the Transportation District, the following special requirements shall apply.

- a) The predominant building wall and entryway shall face the public or private street.
- b) Street-facing building facades shall incorporate permanent architectural elements which create shadow patterns and surface textures which, in turn, enhance visual interest.
- c) Any rooftop equipment shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.
- d) Commercial and industrial outdoor lighting shall not exceed one foot candle or cause glare onto neighboring properties.
- e) Driveways on South Airport Road shall be limited to one per parcel and shall be no closer than 400 feet to the nearest driveway on the same side of the street or 150 feet from the nearest intersection.
- f) All properties developed shall allow for internal access to other abutting industrial or commercial properties.
- g) All utilities shall be placed underground and shall follow private or public streets or the primary maneuvering lanes within a parking area.

(ord. 1033 passed 5-2-16)

1348.10 FEDERAL LAWS.

Notice of construction or alteration shall be provided to the Federal Aviation Administration on Form 7460-1 for the following:

- (a) Any construction or alteration exceeding 200 ft above ground level.
- (b) Any construction or alteration:
 - within 20,000 ft of the Cherry Capital Airport which exceeds a 100:1 surface from any point on the runway of the Cherry Capital Airport with at least one runway more than 3,200 ft.
 - within 10,000 ft of the Cherry Capital Airport which exceeds a 50:1 surface from any point on the runway of the Cherry Capital Airport with its longest runway no more than 3,200 ft.

- within 5,000 ft of the Cherry Capital Airport which exceeds a 25:1 surface
- (c) Any highway, railroad or other traverse way whose prescribed adjusted height would exceed that above noted standards.
- (d) When requested by the FAA.
- (e) Any construction or alteration located on the Cherry Capital Airport regardless of height or location.

(ord. 1033 passed 5-2-16)

1348.11 UNLAWFUL LAND USE.

Notwithstanding any other provisions of this Zoning Ordinance, no person may use any lands within any area of land or water, or both, lying within a ten mile radius from the established center of the Cherry Capital Airport which:

- (a) Would create electrical interference with radio communications between the airport and aircraft or create interference with navigational aids employed by aircraft;
- (b) Would make it difficult for flyers to distinguish between airport lights and others or result in glare to the eyes of flyers using the airport;
- (c) Would create air pollution in such amounts as to impair the visibility of flyers in the use of the airport;
- (d) Would locate or permit the operation of a dump, waste disposal site, sanitary landfill, hazardous waste facility, solid waste transfer station or recycling facility within 10,000 feet of any runway at the airport, unless the construction, location and operation of the site is approved or authorized by the Federal Aviation Administration as not being in violation of its orders, rules or regulations applicable to the airport, or unless a waiver is issued by the Federal Aviation Administration;
- (e) Would otherwise endanger the landing, taking off, or maneuvering of aircraft;
- (f) Would attract birds;
- (g) Would raise the descent minimums of any instrument approach procedure to the airport, or otherwise limit operations at the airport, as determined by an airspace study conducted by the Federal Aviation Administration;
- (h) Would violate the rules of the Federal Aviation Administration or the Michigan Department of Transportation Aeronautics Division.

(ord. 1033 passed 5-2-16)

CHAPTER 1350

GP - Government/Public District

The Government/Public (GP) District is for the purpose of accommodating specialized public buildings while encouraging that the public properties reflect the community's values in the design and maintenance of the buildings and grounds.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i

Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581

Regulation of buildings; authority to zone - MCLA 125.582

Regulation of congested areas - MCLA 125.583

Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a

1350.01	Uses allowed.	1350.05	Encroachments into the setbacks.
1350.02	Uses allowed by special land use permit.	1350.06	Building height.
1350.03	Lot, density and impervious surface provisions.	1350.07	Accessory buildings.
1350.04	Setbacks.	1350.08	Parking, loading and driveways.

1350.01 USES ALLOWED.

(a) Master Site and Facilities Plan. When applying for a land use permit, the governmental unit shall present a Master Site and Facilities Plan for the current uses on all contiguous property owned by that governmental unit and all anticipated uses within a minimum of the next five years. This plan shall show adjacent properties sufficiently to identify surrounding uses and potential impacts on them by the applicant's plan and shall conform to the requirements of Traverse City Code Section 1366.08, *Master Site and Facilities*.

(b) Uses allowed in the GP district. The following uses of land and buildings, together with accessory uses, are allowed in the Government/Public District:

- Administration of economic programs;
- Administration of human resource programs;
- Athletic fields;
- Auditoriums;
- Cemeteries;
- Community Gardens;
- Cultural facilities;
- Electrical, combination electric and gas and other utility services, water supply, sewage systems (except gas storage and refuse);
- Environmental quality & housing program administration
- Essential services and essential services with buildings;
- Executive, legislative & general government uses except correctional institutions;
- Finance, taxation & monetary services, public;
- Health services except hospitals, sales and rentals;
- Libraries;
- National security & international affairs;

- Parking structures, public or private, subject to the following standards:
 - (1) Parking structures shall be designed to have horizontal versus stepped or sloping levels at areas of public view. All ramping shall be concealed from public view.
 - (2) Openings shall not exceed 60 percent of the total wall surface. The shape of openings shall be vertical or square.
 - (3) Materials for parking structures shall follow the same restrictions as buildings;
 - (4) Sloped roofs are not required for parking decks, however:
 - A. The upper and lowest level of parking shall incorporate sufficient screening to shield cars from public view.
 - B. Parapet treatment is required to terminate the deck and give proper architectural finish to the structure. Cornices, overhangs and other devices which are consistent with the language of historical buildings may be employed.
 - (5) The design of parking decks shall be consistent with the design of historical buildings in the area.
- Parks;
- Places of Worship;
- Playgrounds;
- Public works facilities;
- Recreational facilities;
- Social services;
- Transitional housing;
- United States Postal Service.

(Ord. 476. Passed 7-6-99. Ord. 589. Passed 1-06-03. Ord. 614. Passed 11-3-03. Ord. 665. Passed 03-21-05. Ord. 775. Passed. 11-5-07. Ord. 842. Passed 8-3-09.)

1350.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Government/Public District if a special land use permit is issued according to the standards of this Code:

- Communication towers;
- Correctional institutions;
- Landing areas;
- Schools;
- Taller buildings;
- Transit centers;
- Wind Energy Pole/Tower Mount.

(Ord. 476. Passed 7-6-99. Ord. 610. Passed 9-2-03. Ord. 938. Passed 4-2-12)

1350.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
20 feet	No minimum.	No maximum.	70% maximum.

The surface parking area shall not exceed the total floor area of all buildings on the lot.

(Ord. 476. Passed 7-6-99.)

1350.04 SETBACKS.

- (a) **Front setbacks:**
 - Building:** 25 feet minimum, or as shown on the approved Master Site and Facilities Plan allowing a lesser setback.
 - Parking area:** Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater, or as shown on the approved Master Site and Facilities Plan allowing a lesser setback.
- (b) **Side setbacks (minimum):**
 - Building:** None, except 25 feet if abutting or adjacent to an R-district.
 - Parking area:** 5 feet, except a 10-foot setback is required for any parking area abutting, adjacent to or across an alley from an R-District.
- (c) **Rear setbacks (minimum):**
 - Building:** 25 feet
 - Parking area:** 5 feet, except a 20-foot setback is required for any parking area
- (d) **Water setback:** 25 feet inland from the ordinary high water mark or any dockline established by City ordinance.
- (e) **Corner lots and through lots** having a frontage on two streets shall provide the required setback yard on both streets.
- (f) **An additional setback** from of one foot for each foot of building height above 40 feet is required for any portion of a building above 40 feet.

(Ord. 476. Passed 7-6-99. Ord. 607. Passed 7-21-03.)

1350.05 ENCROACHMENTS INTO THE SETBACKS.

None are allowed.

(Ord. 476. Passed 7-6-99.)

1350.06 BUILDING HEIGHT.

- (a) **Building height:** 25 to 90 feet, except all existing buildings may double their existing first floor area.
- (b) **Exceptions:**
 - Parapet walls** may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord. 548. Passed 12-17-01. Ord. 736. Passed 3-19-07)

1350.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

- (a) Not be located in the front yard.
- (b) Shall not exceed 30 feet in height.
- (c) Shall not be closer than 25 feet to any side or rear property line. Boat houses up to 250 square feet gross floor area, may be built up to the water's edge.

(Ord. 476. Passed 7-6-99.)

1350.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 476. Passed 7-6-99.)

CHAPTER 1352

Planned Redevelopment Districts

1352.01	Purpose.	1352.06	Development capacity and transfers.
1352.02	Definitions.	1352.07	Procedures.
1352.03	Standards.	1352.08	Submittal requirements.
1352.04	PRD designation.	1352.09	Conditions of development.
1352.05	Permitted uses.		

CROSS REFERENCES

Urban Redevelopment Corporation Law - MSA 5.3058(1), et seq
Zoning and planning in home rules cities - MCLA 117.4i
Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
Regulation of buildings; authority to zone - MCLA 125.582
Regulation of congested areas - MCLA 125.583
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
Signs in residential districts - B & H 1476.06, 1476.10 and 1476.27

1352.01 PURPOSE.

The purpose of the Planned Redevelopment District is to further the objectives of 1941 Public Act 250 through a land development project review process based on the application of site planning criteria to foster integration of proposed land development projects with the characteristics of the project areas.

By establishing a Planned Redevelopment District (PRD), the City will guide development so as to:

- (a) Provide the Planned Redevelopment District the benefits of a thorough planning, review and development process and provide that such planning be documented in an Act 250 Development Plan, as amended, which conforms to the goals of the Adaptive Reuse Plan.
- (b) Promote a sensitive and creative approach to the comprehensive use of land and related physical facilities that results in consistent design and development, with the inclusion of aesthetic amenities.
- (c) Combine and coordinate architectural styles, historic preservation, landscape design, building forms and building relationships with a mixing of possible different but compatible uses in an appropriate and harmonious design.
- (d) Preserve and/or rehabilitate architectural, natural and historic landmarks.
- (e) Enhance the appearance of commercial, institutional and residential environments through the preservation of natural vegetation, significant topographic and geological features and environmentally sensitive features.
- (f) Use best management practices to control soil erosion, surface flooding, and the protection of subsurface water.
- (g) Preserve common open space for the continuous use and enjoyment of the residents and users of the development as well as the public.
- (h) Ensure the phased development of subareas of the Planned Redevelopment District are

integrated with the overall development program for the PRD, to avoid disjointed development.

- (i) Permit the transfer of development capacity between and within the Subareas of the District, and outside the District under limited circumstances, in order to stimulate and accommodate appropriate overall development or redevelopment of the District while protecting natural resources.
 - (j) Minimize any adverse impact of the development process on the community through planned phasing of the Subareas appropriate to the scale, complexity and sensitivity of the site.
 - (k) Provide for recreational public and private facilities, which are necessary and appropriate to the proposed development, and which benefit the broader community.
 - (l) Promote efficient use of the land, public utilities, traffic circulation, parking, storm-water management and other facilities.
 - (m) Encourage land use which promotes the public health, safety, convenience, and welfare by removing substandard and insanitary conditions as those conditions are defined in 1941 Public Act 250 and otherwise facilitate the redevelopment of land and protect it from blighting influences.
 - (n) Provide coordinated and comprehensive infrastructure development.
- (Ord. 666. Passed 3-21-05.)

1352.02 DEFINITIONS.

As used in this Chapter:

- (1) "Act 250" shall refer to 1941 PA 250, as amended, which is the Urban Redevelopment Corporation law. MCLA 125.901, et seq. MSA 5.3058(1), et seq.
- (2) "Act 250 Development Plan, as Amended" shall mean the development plan and amendments required under Public Act 250, which are submitted and approved by the planning commission for areas designated under that public act. Areas to be designated as a Planned Redevelopment District must have been previously designated as an "area" pursuant to Public Act 250 that is substandard, insanitary, or blighted, thereby requiring redevelopment to protect the public welfare, as defined in Public Act 250.
- (3) "Adaptive Reuse Plan" shall mean a plan adopted by the City for the development of new uses for existing buildings and facilities.
- (4) "Administrative Reviewer" shall mean the staff person assigned the responsibility to review and approve Site Plans.
- (5) "Applicant" shall mean the Master Developer of the Planned Redevelopment District, with the consent of all owners of record of the property which comprises the Planning Redevelopment District.
- (6) "Building Envelope" shall mean the area in which building may occur.
- (7) "Building Footprint" shall mean the horizontal area on the ground surface covered by a building.
- (8) "Building Height" shall mean the vertical distance, measured from the grade to the highest point of the coping of a flat roof, and the deck line of a mansard gable, hop, gambrel or shed roof.
- (9) "Building Setback" (see "Setback")
- (10) "Building Volume" shall mean the gross three-dimensional space within a building or structure, measured in cubic feet.

- (11) "Certificate of Completion" shall mean the recordable certificate issued by the Planning Director indicating that a Development Activity has been completed in compliance with the applicable Subarea Development Plan and all applicable conditions of the Planned Redevelopment.
- (12) "Development Activity" shall mean grading, building or structural construction alteration, demolition, road construction or removal, utility installation and any improvement change or modification of existing buildings or facilities other than customary maintenance and operation.
- (13) "Development Capacity" shall mean the maximum gross density, gross floor area, Impervious Surface coverage and Building Volume allowable within the District or within a Subarea, prior to transfer of capacity to or from another Subarea.
- (14) "District" (See "Planned Redevelopment District")
- (15) "District Building Volume Capacity" shall mean the total Building Volume Capacity that may be established or maintained within a Planned Redevelopment District.
- (16) "District Impervious Surface Capacity" shall mean the total Impervious Surface area that may be established or maintained within a Planned Redevelopment District.
- (17) "District Plan" shall mean the redevelopment plan for the entire area covered by a Planned Redevelopment District establishing the overall general development improvements, capacities and site amenities.
- (18) "Impervious Surface" shall mean any material which prevents, impedes or slows infiltration or absorption of storm-water directly into the ground at the rate of absorption of vegetation bearing soils, including building, asphalt, concrete, gravel and other surfaces.
- (19) "Interim Uses" shall mean temporary uses identified in the District Plan and granting order approving the District Plan, which shall be allowed within the development subject to specific terms and conditions.
- (20) "Master Developer" in a Planned Redevelopment District, shall mean the urban redevelopment corporation established under 1941 PA 250, as amended.
- (21) "Net Development Capacity" shall mean the remaining development capacity of a Subarea after transfers to and from other Subareas.
- (22) "Open Space" shall mean an area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open Space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open Space shall not include buildings, driveways, parking lots, any part of an existing or future road or right of way, or other surfaces designed or intended for vehicular travel.
- (23) "Pedestrian Access" shall mean paths, trails, ways, sidewalks, corridors and other Open Spaces improved and set aside for use by persons who travel by foot, skis or other mode of transportation, not including any motorized vehicle.
- (24) "Permanent Uses" shall mean those permitted, accessory and conditional uses identified in the District Plan and granting order approving the District Plan, which shall remain or be established as part of the redevelopment process.
- (25) "Planned Redevelopment District" (PRD) shall mean an area designated for redevelopment under Public Act 250, to be planned as a planned development and redeveloped as a single entity and containing one or more structures with appurtenant common areas and subject to a comprehensive project and site review process.

PLANNED REDEVELOPMENT DISTRICTS

- (26) "Planning Commission" shall mean the Grand Traverse Commons Planning Commission established pursuant to the Joint Municipal Planning Act, MCL 125.131 et seq, and by agreement between the City of Traverse City and Garfield Township with an effective date of May 14, 2007 and approved by Section 1224.01 of the Codified Ordinances for the City of Traverse City and Section 1 of Ordinance No. 48 for the Charter Township of Garfield.
 - (27) "PRD Certificate" shall mean a certificate evidencing the District Building Volume Capacity, District Impervious Surface Area Capacity, Subarea Building Volume Capacity, and Subarea Impervious Surface Area Capacity for a Planned Redevelopment District.
 - (28) "Public Act 250" shall mean the Urban Redevelopment Corporation Law of the State of Michigan, MCLA 125.501, et seq; MSA 5.3058(1), et seq, as amended, which empowers establishment of a redevelopment corporation and the redevelopment of certain blighted properties.
 - (29) "Receiving Area" shall mean, in the transfer of development capacities, the area to which development rights are transferred (and added to gross capacity).
 - (30) "Sending Area" shall mean, in the transfer of development capacities, the area from which development rights are transferred (and subtracted from gross capacity).
 - (31) "Setback" shall mean the distance by which any building, structure, or surface parking area must be separated from the lot lines, roadways, or from nearby buildings or uses.
 - (32) "Subarea" shall mean the geographical unit of similar uses within the Planned Redevelopment District.
 - (33) "Subarea Building Volume Capacity" shall mean the total building volume that may be established or maintained within a designated subarea within a Planned Redevelopment District.
 - (34) "Subarea Development Plan" shall mean the redevelopment plan for an individual, designated Subarea within the larger Planned Redevelopment District. The plan establishes specific development improvements and site amenities.
 - (35) "Subarea Impervious Surface Capacity" shall mean the total Impervious Surfaces area that may be established or maintained within a designated Subarea within a Planned Redevelopment District.
 - (36) "Subject Area" shall mean that property for which a Planned Redevelopment District is proposed to be established.
 - (37) "Subarea Development Certificate" shall mean a certificate evidencing Subarea Building Volume Capacity, Subarea Impervious Surface Area Capacity and a statement of Development Capacity transfers into and out of a Subarea within a Planned Redevelopment District.
 - (38) "Supporting Capacities" shall mean the total required capacities for Open Space, parking, sanitary sewer, water and storm-water management systems, and other infrastructure within the Planned Redevelopment District.
 - (39) "Total Project Area" shall mean the gross site area of the Planned Redevelopment District.
 - (40) "View Corridors" shall mean areas (usually linear or triangular) which are prevented from obscuring the view of or from particular points, via height limitations, or other development restrictions.
- (Ord. 771. Passed 9-4-07)

1352.03 STANDARDS.

In support of the purposes described in Section 1352.01 of this Chapter, the City encourages development under a Planned Redevelopment. The City shall review and approve developments as Planned Redevelopments according to the following standards, to the extent deemed applicable at each stage of the review (PRD Rezoning and District Plan, Subarea Plan, Site Plan Review):

- (a) A Planned Redevelopment shall be laid out and developed as a unit in accordance with an integrated overall design which accommodates appropriate scaling and phasing and provides for safe, efficient, convenient and harmonious grouping of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features.
- (b) Common Open Space in the development shall be integrated into the overall design. Such spaces shall have a direct functional and visual relationship to the main buildings and not be of isolated or leftover character.
- (c) Principal vehicular access shall be from major streets, and access points shall be designed to encourage smooth traffic flow with controlled turning movements which pose minimum hazards to vehicular or pedestrian traffic, as practicable. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, adequate provision for service by emergency vehicles, and arrangement of parking areas that are safe and convenient, and insofar as practicable, do not detract from the design of proposed buildings and structures and the neighboring properties.
- (d) Through bylaws, covenants, private associations, or other means, the Planned Redevelopment shall ensure the continued maintenance of the properties and of the various amenities, conservation and design features of the Planned Redevelopment in its entirety.
- (e) The landscape in a Planned Redevelopment shall be conserved and enhanced, insofar as practical, by minimizing tree and soil removal, and the conservation of special landscape features such as streams, wetlands, ponds, groves and land forms. The addition or use of trees, shrubs, flowers, fountains, ponds, special paving materials, benches and seating areas, special lighting fixtures and other amenities will be encouraged to the extent of their appropriateness and usefulness to the development and the likelihood of their continued maintenance.
- (f) The impact on the community from on-site lighting and noise shall be minimized. Utilities serving new development shall be underground.
- (g) Special attention shall be given to proper site surface drainage to meet Grand Traverse County ordinance requirements and best engineering and storm-water management practices so that release of surface waters will not adversely affect neighboring properties or the public storm drainage system.
- (h) Exposed storage areas, trash and garbage retainers, exposed machinery installation, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be accounted for in the design of the project and made as unobtrusive as possible while maintaining accessibility to equipment for maintenance. They shall be subject to such Setbacks, special planting or other screening methods as

shall reasonably be required by the reviewing body to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

1352.04 PRD DESIGNATION.

In order for an area to be zoned as a PRD, it shall meet the following requirements:

- (a) Pursuant to Public Act 250, the area must have been previously designated as an area that is substandard, insanitary or blighted, therefore requiring redevelopment to protect the public welfare; and
- (b) The area must contain, at a minimum, 100 contiguous acres.

1352.05 PERMITTED USES.

The uses which may be permitted in a Planned Redevelopment District include any combination of individual uses allowable within districts described elsewhere in the zoning ordinance, provided that those uses are identified in an original or amended District Plan.

1352.06 DEVELOPMENT CAPACITY AND TRANSFERS.

To achieve the purposes of this chapter, the Development Capacity of a PRD shall be determined and limited as follows:

(a) Total Development Capacity.

- (1) The Total Development Capacity of the PRD shall be established based on the existing Impervious Surface area. The total Development Capacity shall be subject to plan restrictions set forth in an Adaptive Reuse Plan, and an Act 250 Development Plan, as amended, adopted by the City for the Subject Area, and shall be limited by the requirements to provide capacity for infrastructure, Open Space, parking, and storm-water management. The total Development Capacity shall be comprised of District Building Volume Capacity and District Impervious Surface Area Capacity which, upon approval, shall be set forth in a District Plan adopted by the City, and shall not be subject to modification.

The Total Development Capacity of the PRD shall be assigned to the Subareas of the District as the Subarea Building Volume Capacity and the Subarea Impervious Surface Area Capacity.

- (2) Total Development Capacity of the PRD and Total Development capacities of the Subareas shall be determined and set upon application for a PRD rezoning designation and approved as part of the District Plan and may not be modified. In no event shall the sum total of the Subarea new Impervious Surface area capacities, taken in the aggregate, exceed the District Impervious Surface Capacity as set forth in the application for a PRD rezoning designation.
 - (3) The Net Development Capacity for new Building Volume and new Impervious Surface area for any Subarea must be supported by specific identifiable storm-water retention/detention, Open Space and parking capacity allocations within the boundaries for the PRD, and must be supportable by proposed infrastructure.
- (b) The Transfer of Development Capacity. To achieve economy and efficiency in the use of land, energy, and the provision of public services and utilities; to encourage useful open space and the conservation of natural resources; to rehabilitate historic structures and to

support adequate infrastructure; to remove substandard and insanitary conditions which impair the economic value of blighted areas, and to encourage private capital and investment consistent with the purposes of Public Act 250; it is necessary and desirable to create inducements and opportunities for the employment of private investment and equity capital in the clearance, replanning, and rehabilitation of Planned Redevelopment Districts. To achieve the purposes of this chapter and the goals of Public Act 250, it is necessary and desirable to allow for the transfer of Development Capacity in eligible areas described as follows to stimulate redevelopment and encourage useable Open Space in the appropriate areas.

- (1) Development Capacity shall be transferable between Subareas comprising the PRD, including Subareas which are within the District but outside the boundaries of the City. Upon approval of the Planning Commission, Development Capacity may also be transferred from a Subarea within the PRD to an area contiguous to, but outside the PRD, which has been designated by the City as eligible to receive Development Capacity pursuant to the following requirements:
 - A. The existing and proposed uses within such area outside of the PRD must be compatible with the uses in the PRD, and an Act 250 Development Plan, as amended, adopted for the designated PRD;
 - B. Such transfer of Development Capacity outside of the PRD must further the purpose of the PRD and enhance redevelopment of the PRD; and
 - C. Such transfer of Development Capacity into an area outside of the PRD shall not affect the underlying zoning of the area outside of the PRD except to allow for the transfer of Development Capacity.
 - (2) A portion or all of the Net Development Capacity may be transferred from any Subarea (the Sending Area) to another Subarea (the Receiving Area) so long as the transfer does not make the existing development within the Sending Area non-conforming under the District Plan as approved pursuant to Section 1352.07(a) of this Chapter.
 - (3) The Supporting Capacities, including the necessary Open Space, parking and storm-water management capacity (retention/detention) associated with the transfer of Net Development Capacity from the Sending Area must be allotted to the Receiving Area provided, however, that in no event will the Supporting Capacities allotment result in the expansion of the Receiving Area or the contraction of the Sending Area, it being understood that the Supporting Capacities in the Sending Area will be allocable to the Net Development Capacity so transferred to the Receiving Area. No supporting capacity may be double-counted (in concurrent support of development on both the sending and the Receiving Areas.) The supporting capacity must be established within the sending and/or Receiving Area(s) prior to or in conjunction with new development.
- (c) Planned Redevelopments Overlapping Municipal Corporate Boundaries. In the event that a planned redevelopment overlaps the jurisdictional boundaries of the City of Traverse City and an adjacent unit of government, the Total Project Area may be used to calculate total capacity based upon the concurrence of both units of government provided the Total Project Area has been designated by both units of government as a redevelopment area under Public Act 250.

(d) Capacity Controls. Utilization of Development Capacity within the PRD will be subject to design guidelines as set forth in Section 1352.08(a)(7). Upon application for a PRD designation, conceptual guidelines for the District shall be established setting forth the goals of the Subareas within the District in conformance with an Adaptive Reuse Plan, and an Act 250 Development Plan or amendments adopted by the City for the Subject Area. Guidelines will be established for each Subarea Development Plan as approved pursuant to Section 1352.08(b)(5) of this Chapter to address the following:

- (1) Building Volume,
- (2) Building Footprint,
- (3) Building Height and Setback,
- (4) Impervious Surface,
- (5) Open Space,
- (6) View Corridors,
- (7) Pedestrian Access, and
- (8) Supporting Capacities.

1352.07 PROCEDURES.

Planned Redevelopments shall be reviewed in accordance with the procedures and standards of this Section, and shall be processed in three stages (PRD Designation and District Plan Approval, Subarea Planned Development Approval, and Site Plan Approval) as set forth below.

(a) PRD Designation and District Plan Approval.

- (1) The applicant for a Planned Redevelopment Rezoning and District Plan approval shall be the Master Developer, with the consent of all owners of record of the property which comprises the Planned Redevelopment District.
- (2) Formal application to the City Commission requesting an approval for a Planned Redevelopment Rezoning and District Plan approval shall include 15 copies of the PRD Rezoning Application and District Plan containing the information required in Section 1352.08(a). This PRD Rezoning and District Plan shall be the subject of a public hearing, noticed as required, before the Planning Commission.
- (3) The Applicant shall submit fifteen (15) copies of the PRD Rezoning Application and District Plan to the City Planning Department not later than twenty-four (24) days before the date of the regular or special meeting at which the Rezoning Application and District Plan will be considered.
- (4) The Planning Commission shall conduct a public hearing, noticed as required, on the Rezoning Application and the District Plan in accordance with applicable statutes. The public hearing will be conducted by the Planning Commission within a reasonable time following the meeting at which the Planning Commission received the Rezoning Application and District Plan.
- (5) Within a reasonable time following the conclusion of the public hearing, the Planning Commission shall submit in writing its findings of fact and recommendations to the City Commission and the Applicant.
- (6) Within a reasonable time following the Planning Commission meeting at which the Planning Commission approved the findings of fact and recommendations, the City Commission shall conduct a public hearing on the Rezoning Application with notice as required by zoning ordinance on the Rezoning Application and on

- the District Plan in accordance with this Chapter.
- (7) No application for Planned Redevelopment District Rezoning and District Plan approval shall be approved by the City Commission unless all of the following findings are made about the proposal:
- A. The planned development process has been recommended in an Act 250 Development Plan, as amended, for the area to be designated as a Planned Redevelopment District.
 - B. Each of the proposed uses is a permitted or special use in one or more of the other Districts within this Code, and each use is identified in an Adaptive Reuse Plan, and an Act 250 Development Plan or amendment previously adopted by the City for the Subject Area.
 - C. The Planned Redevelopment is so designed, located and proposed to be operated and maintained that the public health, safety and welfare will not be endangered or detrimentally affected.
 - D. The Planned Redevelopment will not be injurious to the use and enjoyment of other property in the immediate vicinity.
 - E. The Planned Redevelopment will have or make provision for adequate utilities and utility upgrades, drainage and other necessary facilities.
 - F. The Planned Redevelopment will have or make adequate provision for parking and ingress and egress.
 - G. The Planned Redevelopment will have adequate site area and other buffering features to protect uses within the development and on surrounding properties.
 - H. The Planned Redevelopment District will conform to the storm-water management standards set by Grand Traverse County.
- (8) Upon completion of its required hearing, the City Commission shall approve, approve with conditions and modifications, or reject the PRD Rezoning Application and District Plan.
- A. If the PRD District Plan is not approved, the City Commission shall state in writing the reasons for the decision and such written reasons shall be sent to the Applicant.
 - B. If the PRD District Plan is approved or approved with conditions, the City Commission shall issue a granting order including the following information and documents as provided by the Applicant:
 - i. A table of allowable interim and permanent uses in each Subarea.
 - ii. A mechanism for Development Capacity transfer between and within Subareas.
 - iii. Provisions for applicability of approval and extension of standards and requirements to all successors and assigns of the Applicant.
 - iv. A PRD Certificate evidencing the total District Volume Capacity, total District Impervious Surface Area Capacity, respective Subarea Building Volume Capacity for each Subarea within the PRD, and the respective Subarea Impervious Surface Area Capacity for each Subarea within the PRD.
 - v. An order requiring the Master Developer for the PRD to record the PRD Certificate with the appropriate authorities evidencing the

development capacities, and an order requiring the urban redevelopment corporation authorized pursuant to Public Act 250 to record the PRD Certificate with the Planning Director of Traverse City.

(b) Subarea Development Plan.

- (1) Following the approval of the District Plan, the Master Developer shall file with the City a PRD Subarea Development Plan. The Master Developer may choose to submit PRD Subarea Development Plan(s) for one or more of the area(s) for review by the Planning Commission simultaneous with review of the PRD District Plan.
- (2) The Planning Commission shall, within a reasonable amount of time of the filing of a completed application containing the information required in Section 1352.08(b), conduct a review of the Subarea Development Plan in accordance with applicable statutes.
- (3) The Planning Commission shall review each Subarea Development Plan with regard to its conformance to the approved PRD District Plan and to the Subarea Development Plan requirements, and shall approve with conditions and modifications, or reject the Subarea Development Plan(s) within a reasonable amount of time.
 - A. If any Subarea Development Plan is held to be not in substantial conformance with the PRD District Plan or in conformance with the Subarea Development Plan requirements, the Planning Commission shall advise the Master Developer of the specific areas found deficient. The Master Developer may bring each Subarea Development Plan into conformance to complete the requirements, or may request a new public hearing, to be noticed as required, under the procedures established for approval of a District Plan.
 - B. If the Subarea Development Plan is approved or approved with conditions and modifications, the Planning Commission shall issue a granting order including the following information and documents as provided by the Applicant:
 - i. A table identifying existing and maximum development of the Subarea, including Building Heights, Building Volume capacity, footprint capacity, Setbacks, parking area and parking standards, circulation and roadways, driveways, Impervious Surface Area Capacity, and site coverage.
 - ii. A table and plan of permitted interim and permanent uses, and the probable duration of interim uses.
 - iii. Conceptual design guidelines governing the function, order, identity and visual appeal of development within the Subarea.
 - iv. Conceptual site plans and block diagrams for the Subarea.
 - v. A Subarea Development Certificate evidencing the total Subarea Building Volume Capacity, statement of development capacities transferred out of the Subarea and a statement of development capacities transferred into the Subarea.
 - vi. An order requiring the Master Developer to concurrently record

the Subarea Development Certificate with the appropriate authorities evidencing the development capacities, and an order requiring the urban redevelopment corporation authorized, pursuant to Public Act 250, to oversee the redevelopment of the PRD to record the Subarea Development Certificate with the Planning Director of Traverse City.

(c) Site Plan Approval.

- (1) Prior to the construction of any new structures, the rehabilitation of existing structures, or the installation of additional impervious area to the site, an application must be made by the Master Developer, with the consent of the project owner(s) of the area for which Site Plan review and approval is being pursued.
- (2) Application for Site Plan Approval shall be made on forms provided by the City, with attached documentation as identified in Section 1352.08(c).
- (3) Review of the Site Plan shall be made by the City Planning Director, or designee.
- (4) Within ten (10) days of receipt of a completed application for Site Plan Approval, the City Planning Director shall complete the Site Plan Review of compliance with the District Plan, the applicable Subarea Development Plans, the standards identified in Section 1352.03, and other applicable regulations of the City. In the event the PRD is partially within Traverse City and partially outside Traverse City's jurisdiction, the Planning Director shall confer in joint conference with his or her counterpart in the other jurisdiction in order to identify and establish the prevailing applicable regulations from each jurisdiction for the PRD and Subareas. Such decision for applicable regulations shall be presented to the City Commission for approval.
- (5) If any Site Plan is held to be not in substantial conformance with the District Plan or in conformance with the Subarea Development Plan requirements, the City Planning Director shall advise the Master Developer in writing of the specific areas found deficient. The Master Developer may request a review of these findings as an appeal of an administrative decision as allowed elsewhere within this Chapter or as provided by law.
- (6) If the Site Plan is approved, the City Planning Director shall advise the Master Developer in writing of the approval and of any conditions which must be met prior to, or in conjunction with an application for building permits. Such written approval shall include the table identifying existing and maximum development of the Subarea in which the Site Plan is incorporated, as adjusted to reflect Building Volume capacity, footprint, setbacks, parking area and parking standards, circulation and roadways, driveways, Impervious Surface Area Capacity, and site coverage of the Site Plan. In the event the PRD is partially within Traverse City and partially outside Traverse City's jurisdiction, the Planning Director in joint conference with his or her counterpart in the other jurisdiction affected by such Site Plan approval may approve, subject to the applicable procedures and fees, appointment and use, by the Master Developer, of an enforcement agent for building permit review and approval and construction inspection and occupancy certification.

(d) Extraterritorial Procedures. In the event the PRD is partially within the City of Traverse

City and partially outside the City of Traverse City's jurisdiction, the City Commission and/or the Planning Commission, or the Administrative conference with his or her counterpart from the other municipality for the PRD Zoning District designation and District Plan approval, and the approval of Subarea Development Plans and Site Plans for those Subareas, within the approved PRD, which overlap the jurisdictional boundaries of the City. With regard to the approval of Subarea Development Plans and Site Plans for those Subareas which lie completely within the jurisdiction of the City in a PRD which is partially within the City and partially outside the City's jurisdiction, the City's Planning Commission or the Administrative Reviewer, as applicable, may elect to hold their deliberations and decision making in joint conference with his or her counterpart from the other municipality.

(Ord. 666. Passed 3-21-05.)

1352.08 SUBMITTAL REQUIREMENTS.

- (a) PRD District Plan. The following items constitute the minimum requirements for the contents of a PRD District Plan, unless waived by the City Commission, upon which the Master Developer's submission will be reviewed and considered for approval as well as all material necessary to issue a granting order as requirements in Section 1352.07(a)(8)B of this Chapter. The Master Developer may supplement the list with whatever materials deemed appropriate to illustrate compliance with the regulations and intent of this section.
- (1) A legal description of the site.
 - (2) A boundary line survey of the site prepared and certified by a registered land surveyor, showing the dimensions of the property's boundaries and all existing rights of way adjacent to the property.
 - (3) Existing zoning and land uses on and adjacent to the site.
 - (4) Municipal boundary lines on or adjacent to the site.
 - (5) A conceptual framework plan indicating the boundaries of Subareas, generalized categories of uses, and their relationship to the overall development pattern.
 - (6) A circulation plan including locations of all existing and proposed streets, which also addresses public transit.
 - (7) Conceptual design guidelines which describe the PRD District Plan's control over function, order, identity and visual appeal of the development.
 - (8) A utility concept plan, including the location of all existing sanitary sewers, storm sewers and water lines on the site and on property immediately adjacent to the site. Similar information shall be provided for gas, electric, telephone, and cable television utilities.
 - (9) Existing and proposed topography of the land with contours shown at intervals no greater than two feet (2'). Topographic data shall refer to the USGS North American Datum-Mean Sea Level Elevation and a written description of environmental characteristics of the site prior to development (i.e. soils, vegetative cover, drainage, streams, creeks or ponds).
 - (10) Building Envelopes and Building Volume for each Subarea.
 - (11) Proposed tracking mechanisms for transfer or receipt of Development Capacity within, to or from other Subareas, by the urban redevelopment corporation authorized, pursuant to Public Act 250, to oversee the redevelopment of the PRD.

- (12) A traffic study by a qualified traffic engineer indicating the volume of traffic to be generated by the Planned Redevelopment and proposing any special engineering design features and/or traffic regulation devices needed to ensure the proper safety of traffic circulation to, through and around the Planned Redevelopment or any phase of it.
 - (13) A District Plan may be amended according to the same limitations and procedures set forth in Section 1352.07(a) of this Chapter provided that the amendment is required for the continued successful functioning of the Planned Redevelopment, or that the amendment is required by changes in conditions that have occurred since the District Plan was approved and such changes are incorporated in an approved Public Act 250 Development Plan Amendment. However, the total Development Capacity is not subject to change.
 - (14) An affidavit of the urban redevelopment corporation authorized, pursuant to Public Act 250, to oversee the redevelopment of the PRD evidencing that in the opinion of such urban redevelopment corporation, the District Plan is in conformance with an Act 250 Development Plan, as amended, applicable to the site.
 - (15) The PRD Certificate.
- (b) Subarea Development Plan. Each application for approval of a Subarea Development Plan shall include the following as well as all material necessary to issue a granting order as required in Section 1352.07(b)(3)B of this Chapter:
- (1) A storm-water drainage plan, identifying portions of the site in the flood plain or in flood plain fringe areas, the existing and proposed flow and storm drainage, and the location of drainage ditches, culverts, standing water, and proposed detention/retention facilities.
 - (2) Soil borings data identification of soil problem areas as provided by a registered engineer.
 - (3) Existing and proposed landscape features including significant tree groupings, isolated preservable trees 4 inches or more in diameter at one foot above ground level, scenic views, and other natural features such as wood lots, lakes, ponds, springs, waterways, wetlands, flood plains, etc.
 - (4) Wetlands delineation, including a plan for their preservation, enhancement, or mitigation.
 - (5) Landscape design guidelines addressing right-of-ways, screening walls and fences, lighting facilities, outdoor trash storage area, building/entry areas, Impervious Surface, Open Space, View Corridors, and Pedestrian Access.
 - (6) Architectural design guidelines addressing compatibility of proposed structures, within the context of existing architectural design, including materials, color, scale, rhythm, line and massing.
 - (7) Identification of all areas to be dedicated as common Open Space, designated for easements, and all sites to be conveyed, dedicated or reserved for parks, playgrounds, school sites, public buildings and similar public and quasi-public uses, together with the proposed plan for the permanent maintenance of such common Open Space areas.
 - (8) A plan for the phasing and sequencing of development improvements, including utilities, site, and structures.

- (9) Minor changes from the approved PRD District Plan may be allowed in the Subarea Development Plan without the necessity of Planning Commission or City Commission action if the City Planning Director certifies in writing that the proposed revision does not alter the basic design or any specified conditions of the PRD District Plan as agreed upon by the Planning Commission and the City Commission.
 - (10) An affidavit of the urban redevelopment corporation authorized, pursuant to Public Act 250, to oversee the redevelopment of the PRD evidencing that in the opinion of the urban redevelopment corporation, the Subarea Development Plan is in conformance with the District Plan and an Act 250 Development Plan, as amended, applicable to the Subarea.
 - (11) A table identifying existing and maximum development of the Subarea, including Building Heights, Building Volume Capacity, footprint capacity, Setbacks, parking and parking area standards, circulation and roadways, driveways, Impervious Surface Area Capacity, and site coverage.
 - (12) A written statement of the conceptual design guidelines governing the function, order, identity and visual appeal of development within the Subarea.
 - (13) The Subarea Development Certificate.
 - (14) A statement of the impact that the Subarea Development Plan will have on the other Subareas within the Planned Redevelopment District.
- (c) Site Plan Approval. Each application for Site Plan Approval for development within the Subarea shall include the following information as well as any information necessary to issue a written approval as required in Section 1352.07(c)(6) of this Chapter:
- (1) Final engineering drawings including the final utility plan.
 - (2) Final architectural design development drawings, including plans, elevations and sections for all major structures on builder lots, and a suitable process for approval of architectural drawings for all major structures on custom lots.
 - (3) Final Lighting and Landscape Plans indicating the height, size, location, direction, type, intensity of lighting and height, size, location, quantity and variety of all plant materials.
 - (4) Proof of all applicable approvals from State and County officials or from other agencies outside the City having jurisdiction.
 - (5) Minor changes from the approved Subarea Development Plan may be allowed in the Site Plan without the necessity of Planning Commission or City Commission action if the Planning Director certifies in writing that the proposed revision does not alter the basic design or any specified conditions of the Subarea Development Plan as agreed upon by the Planning Commission and the City Commission.
 - (6) An affidavit of the Master Developer evidencing that in the opinion of the Master Developer, the Site Plan is in conformance with the District Plan and the applicable Subarea Development Plan.
 - (7) A table identifying existing and maximum development of the site plan, including Building Heights, Building Volume Capacity, footprint capacity, Setbacks, parking and parking area standards, circulation and roadways, driveways, Impervious Surface Area Capacity, and site coverage.
 - (8) A statement of the conceptual design guidelines governing the function, order, identity and visual appeal of development within the Site Plan.

- (9) A table indicating the following information:
- i. the total Subarea Building Volume Capacity;
 - ii. the total Subarea Impervious Surface Area Capacity;
 - iii. the total building volume reduction caused to the Subarea Building Volume Capacity due to the specific development or developments contemplated by the Site Plan and the resulting net amount of Subarea Building Volume Capacity remaining after such reduction; and
 - iv. the total Impervious Surface area reduction caused to the Subarea Impervious Surface Area Capacity due to the specific development or developments contemplated by the Site Plan and the resulting net amount of Subarea Impervious Surface Area Capacity remaining after such reduction.

1352.09 CONDITIONS OF DEVELOPMENT.

After the approval of the Subarea Development Plan, the use of land and construction, modification or alteration of any buildings or structures within the Planned Redevelopment will be governed by the approved Subarea Development Plan, and Act 250 Development Plan Amendment(s) relevant to the applicable Subarea and all applicable City codes. In addition, the following conditions apply to the construction of a Planned Redevelopment:

- (a) Construction in accordance with a Subarea Development Plan shall commence within the time period set forth in the Subarea Plan. Failure to commence within that period shall trigger the enforcement provisions of Act 250, unless an extension shall have been granted by the Planning Commission according to paragraph (b) of this section.
- (b) The Planning Commission may extend the time limit for the commencement of construction as follows:
 - (1) If a delay, or anticipated delay, is caused by governmental action without fault on the part of the developer, an extension may be granted for a period not longer than the period of the governmental delay.
 - (2) For good cause shown, an extension may be granted for such period of time as the Planning Commission deems appropriate.
- (c) No major changes shall be made in the approved Subarea Development Plan, except with the approval of the Planning Commission according to the same limitations and procedure set forth in Section 1352.07(b). No major changes may be made in the Subarea Development Plan unless they are required for the continued successful functioning of the Planned Redevelopment, or unless they are required by changes in conditions that have occurred since the Subarea Development Plan was approved and such change is incorporated in an approved Act 250 Development Plan Amendment. A major change is any change that does not qualify as a minor change as defined in Section 1352.08(b)(8) and (c)(5).
- (d) After completion of a Development Activity and the payment of the proper fees, the City Planning Director, at the Master Developer' request on behalf of the entity responsible for the Development Activity, shall promptly furnish the Applicant a Certificate of Completion for the development activities completed. The Certificate of Completion by the City Planning Director shall be conclusive evidence that the development activities have been undertaken in compliance with the applicable Subarea Development Plan and all applicable conditions of the Planned Redevelopment. The Certificate of Completion

shall be in recordable form and shall constitute the City's certification that the completed development activities are in compliance with the applicable Subarea Development Plan and all applicable conditions of the Planned Redevelopment. The City Planning Director shall respond to the Master Developer's request within thirty (30) days after receipt thereof, either with a Certificate of Completion or a written statement indicating, in adequate detail, that the entity with responsibility for the Development Activity has failed to complete the Development Activity in compliance with the applicable Subarea Development Plan and all applicable conditions of the Planned Redevelopment and what measures or act will be necessary, in the opinion of the City Planning Director, for the entity with responsibility for the Development Activity to take or perform in order to obtain the Certificate of Completion. If the City Planning Director requires additional measures or acts of the Applicant to assure compliance, the Master Developer, on behalf of the entity with the responsibility for the development activity, shall resubmit a written request for a Certificate of Completion upon compliance with the City Planning Director response. If the City Planning Director fails to respond to the Master Developer's request within the 30 day period, then such items covered in the request shall be deemed approved.

(e) The City Commission may at any time request written reports on the progress and development of the proposed Planned Redevelopment. If at any time the City Commission is satisfied that the Permittee has permanently abandoned the development of the Planned Redevelopment or failed to follow the Subarea Development Plan, it shall follow the enforcement procedures set forth in Public Act 250.

(f) If any provisions or terms of this Chapter conflict with any provision or term of this Code, the provisions and terms of this Chapter shall control.

(Ord. 383. Passed 5-17-94. Ord. 476. Passed 7-6-99.)

CHAPTER 1354

I - Industrial District

The Industrial (I) District is for the purpose of accommodating light manufacturing, research and development plants, warehousing, and similar clean industries. Industrial areas are envisioned to be attractively developed and landscaped with emphasis placed on maintaining and enhancing existing vegetation. Linkages with pedestrian walkways and recreational trails is also important.

1354.01	Uses allowed.	1354.05	Encroachments into the setbacks.
1354.02	Uses allowed by special land use permit.	1354.06	Building height.
1354.03	Lot, density and impervious surface provisions.	1354.07	Accessory buildings.
1354.04	Setbacks.	1354.08	Special requirements.

1354.01 USES ALLOWED.

The following uses of land and buildings together with accessory uses are allowed in the Industrial district:

- GP District uses;
- C-2 District uses meeting the setbacks (§1342.02), building height (§1342.06) and special requirements (§1342.09) of the C-2 District and shall not open to the public between the hours of 10:00 p.m. and 6:00 a.m.
- C-2 District uses in the Airport Industrial Park and Traversefield Enterprise Place is limited to existing buildings more than five years old, based upon the date of the initial certificate of occupancy issued. Minor additions are allowed provided the addition is for barrier free access, fire safety or to improve the energy efficiency of the building;
- Auto Repair;
- Communications establishments;
- Construction, special trades;
- Contractors;
- Contractors, heavy construction;
- Crematories provided the use is at least five hundred feet from a Residential zoning District, public park or school as defined by the Zoning Code;
- Cutting plastics, leather, etc;
- Equipment rental and leasing, miscellaneous;
- Fuel dealers;
- Funeral services;
- Gas systems;
- Kennels for boarding provided that no building, open kennel or exercise runway shall be located closer than 200 feet from any R District;
- Lumber yards - retail;
- Manufacturing or processing of:
 - (1) Apparel and other finished products made from fabrics and similar materials;
 - (2) Bakery products;
 - (3) Beverages;
 - (4) Canned, frozen and preserved fruits, vegetable and food specialties;

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- (5) Dairy products;
- (6) Electronic and other electrical equipment and components;
- (7) Fabricated metal products, except machinery and transportation equipment and except ordnance and accessories;
- (8) Food preparations and kindred products - miscellaneous;
- (9) Furniture and fixtures;
- (10) Grain mill products;
- (11) Industrial and commercial machinery and computer equipment;
- (12) Leather and leather products (finished), except leather tanning and finishing;
- (13) Lumber and wood products, except furniture, wood preserving and reconstituted wood products;
- (14) Manufacturing industries - miscellaneous;
- (15) Measuring, analyzing and controlling instruments, photographic, medical and optical goods, matches and clocks;
- (16) Printing, publishing and allied industries;
- (17) Stone, clay, glass and concrete products, except asbestos products;
- (18) Sugar and confectionery products;
 - Medical Marihuana Cultivation Facility meeting the following requirements:
 - (1) Medical Marihuana Cultivation shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - (2) All medical marihuana plants cultivated by each Primary Caregiver or Qualifying Patient shall be contained within a fully enclosed locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the Primary Caregiver or the Qualifying Patient.
 - (3) Cultivation shall be conducted so as not to create dust, glare, noise, odors, or light spillage beyond the parcel and shall not be visible from an adjoining public way.
 - (4) A Medical Marihuana Cultivation Facility shall not be located within a 1,000 foot radius from any existing School.
 - (5) A Medical Marihuana Cultivation Facility shall register for a business license with the City Clerk and if the Applicant is not the Owner of the Parcel, such license application shall include the property owners' consent to the use of the parcel as a Medical Marihuana Cultivation Facility.
 - (6) No transfer of Medical Marihuana shall occur except marihuana plants pursuant to the Michigan Medical Marihuana Act.
 - Metal slitting and shearing;
 - Motor freight transportation and warehousing;
 - Nurseries, retail;
 - Offices, general, up to 5,000 square feet gross floor area on any site and/or building;
 - Offices primarily serving industry in the district which clearly establish support services for permitted industries in the district;
 - Parcel packing services;
 - Pet boarding or pet grooming services, provided that no building, open kennel or exercise runway is closer than 200 feet from an R-District;
 - Places of Worship;
 - Postal and delivery services;

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- Pressure container filling;
- Primary metal industries, including smelting, forging and similar operations, subject to the following conditions:
 - (1) The maximum lot size is 14 acres.
 - (2) No odors, smoke or noise from the use are likely to create a disturbance on neighboring public or private property.
- Retail outlets, if accessory to manufacturing use;
- Salvaging damaged merchandise not engaged in sales;
- Scrap steel cutting;
- Sign painting and lettering shops;
- Solvents recovery services;
- Tape slitting for trade;
- Testing and laboratory services;
- Veterinary services for animal specialties provided that no building, open kennel or exercise runway shall be no closer than 200 feet from any R district;
- Vocational schools;
- Warehousing;
- Weighing foods and other commodities;
- Wholesale trade - durable goods;
- Wholesale trade - non-durable goods except livestock and wholesale live animals.

(Ord. 674. Passed 04-04-05. Ord.776. Passed 11-05-07. Ord. 841. Passed 8-3-09. Ord. 878. Passed 8-16-10. Ord. 929. Passed 11-7-11. Ord. 982. Passed 10-7-13. Ord 1024. Passed 09-08-15)

1354.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed in the Industrial district if a special land use permit is issued according to the standards of this Code:

- Communication towers.
- Wind Energy Pole/Tower-Mount
- Wind Energy Building Mount

(Ord. 938. Passed 4-2-12)

1354.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
100 feet	No minimum.	No maximum.	80% maximum.

1354.04 SETBACKS.

(a) **Front setbacks:**

Building: 25 feet minimum.

Parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but no closer than 25 feet from the front property line.

(b) **Side setbacks (minimum):**

Building: One side/Aggregate: 0

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- Parking:** 5 feet, except a minimum of 10 feet if contiguous to an R-district.
- (c) **Rear setback:**
Building: 15 feet minimum.
Parking: 5 feet, except 20 feet if abutting, adjacent to or across a public alley from an R-district.
- (d) **Through lots and corner lots** having a frontage on two streets shall provide the required front setback on both streets.

1354.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the setbacks are allowed.

1354.06 BUILDING HEIGHT.

Building height: Maximum 60 feet.

Public utility buildings may be erected to a height not exceeding 100 feet.

(Ord. 737 Passed 3-19-07.)

1354.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

- (a) Not be located in the front yard except accessory buildings may be located streetward of the

principal building on the less traveled street on through lots.

- (b) Be no closer than 15 feet to any side or rear property line. Boat houses up to 250 square feet gross floor area, may be built up to the water's edge.

(Ord. 476. Passed 7-6-99. Ord. 554. Passed 2-4-02.)

1354.08 SPECIAL REQUIREMENTS.

Curbing is required only for that portion of a parking area including the approach driveways and parking lot facing the street.

(Ord. 476. Passed 7-6-99.)

CHAPTER 1356

NMC - Northwestern Michigan College Districts

The Northwestern Michigan College (NMC) Districts are for the purpose of accommodating universities, colleges and other advanced learning institutions. Such uses often incorporate residential, office, recreational, and cultural activities.

1356.01	Uses allowed.	1356.05	Encroachments into the setbacks.
1356.02	Uses allowed by special land use permit.	1356.06	Building height.
1356.03	Lot, density and impervious surface provisions.	1356.07	Accessory buildings.
1356.04	Setbacks.	1356.08	Parking, loading and driveways.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs - B & H Chapter 1476

1356.01 USES ALLOWED.

- (a) Master Site Facilities Plan. When applying for a land use permit, NMC shall present a Master Site and Facilities Plan for the current uses on all contiguous property owned by NMC and all anticipated uses within a minimum of the next five years. This plan shall show adjacent properties sufficiently to identify surrounding uses and potential impacts on them by the applicant's plan and conform to the requirements of Traverse City Code Section 1366.08, *Master Site and Facilities Plans*.
- (b) Uses allowed in the NMC-1 district. The following uses of land and buildings, together with accessory uses, are allowed in the NMC-1 district:
 - OS district uses;
 - R-15 district uses;
 - Clustered single family dwellings.
 - The following, provided buildings are no larger than 10,000 square feet gross floor area: Universities, colleges and theological schools including the buildings used for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, museums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities and sororities, but not including colleges or trade schools operated for profit and not including the use of any building, stadium or other facility for primarily commercial purposes.
- (c) NMC-2 District uses. Uses permitted in the NMC-2 district:
 - OS district uses;

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- R-29 district uses;
- NMC-1 district uses, without the gross square foot limitations;
- Bookstores;
- Cultural facilities if parking facilities are not visible from a residential district;
- Essential services and essential services with buildings;
- Group day care homes;
- Institutional headquarters;
- Marinas and maritime operations associated with the college and its partners;
- Meeting facilities and convention centers;
- Places of worship;
- Public administration;
- Schools;
- Theatrical producers, bands, orchestras and entertainers.

(Ord. 475. Passed 7-6-99. Ord. 524. Passed 2-20-01. Ord. 590. Passed 1-06-03. Ord. 667. Passed 03-21-05.)

1356.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

When applying for a land use permit NMC shall present a master site and facilities plan for the current uses on all the campus property and all anticipated uses within a minimum of the next five years. The following uses of land and buildings, together with accessory uses, are allowed in the NMC Districts, if a special land use permit is issued according to the standards of this Code:

- Communication towers,
- Essential services buildings in a NMC-1 District,
- Taller buildings in an NMC-2 district except buildings located on Grand Traverse Bay are limited to three stories and 50 feet.
- Transitional housing and Emergency shelters
- Wind Energy Pole/Tower-Mount
- Wind Energy Building-Mount

(Ord. 475. Passed 7-6-99. Ord. 524. Passed 2-20-01. Ord. 938. Passed 4-2-12. Ord. 1006. Passed 7-7-14)

1356.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
NMC-1: 20 feet	No minimum.	15 dwelling units/acre	30% maximum ⁽¹⁾
NMC-2: 20 feet	No minimum.	29 dwelling units/acre	50% maximum ⁽¹⁾

(1) The surface parking area shall not exceed fifteen percent (15%) of the total area of any lot over ten acres. Hard surface recreational areas shall not be included as impervious surface for determining the percentage of allowable impervious surface.

(Ord. 475. Passed 7-6-99. Ord. 533. Passed 6-4-01.)

1356.04 SETBACKS.

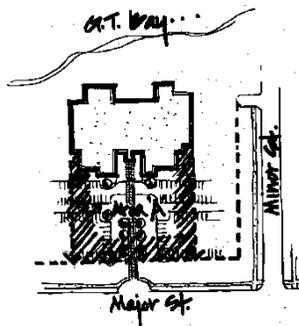
(a) **Front setbacks:**

Buildings: 100 feet or as shown on the approved Master Site and Facilities Plan

allowing a lesser setback.

Parking area: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater, except in the NMC-2 District on Grand Traverse Bay, parking in front of the building is allowed provided:

- (1) At least 40% of Area "A" located on the major street (the area directly in front of the building and of the required front setback line) shall be maintained with landscaping, pedestrian walks or plazas in order to provide a strong visual and physical connection between the building and the public street. (See diagram below).
- (2) Occasional overflow parking may occur within the landscaped portion of area "A" consisting of a parking surface of grass or brick pavers provided a strong pedestrian connection between the public walk and the building's principal entrance(s) is retained.
- (3) Area "A" may be traversed by one two-way drive and a drop-off area for vehicles. This area and any crossing drive shall be designed to encourage only slow-moving vehicles. The drive shall be designed to conform to a uniform pedestrian walkway elevation.
- (4) On corner lots, the frontage along the minor street shall meet the requirements for setbacks for side yards.



Parking on Grand Traverse Bay in NMC-2 District

For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but no closer than 25 feet from the front property line.

(b) Side setbacks (minimum):

Building: One side/Aggregate: 0

Parking area: 5 feet minimum, except 10 feet if abutting or adjacent to an R-District. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

(c) Rear setbacks:

Building: 5 feet, except 20 feet if abutting or across an alley from an R-District.

Parking area: 5 feet, except 20 feet if abutting or across an alley from an R-District.

(d) Corner lots and through lots having a frontage on two streets shall provide the required front setback on both streets.

(e) Water setbacks: 50 feet inland from the ordinary high water mark of Grand

INDUSTRIAL DISTRICT

Traverse Bay except marina buildings up to 3,000 square feet gross floor area may be located at the water's edge.
(Ord. 475. Passed 7-6-99.)

1356.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the setbacks are allowed.
(Ord. 475. Passed 7-6-99.)

1356.06 BUILDING HEIGHT.

(a) **Building height:**

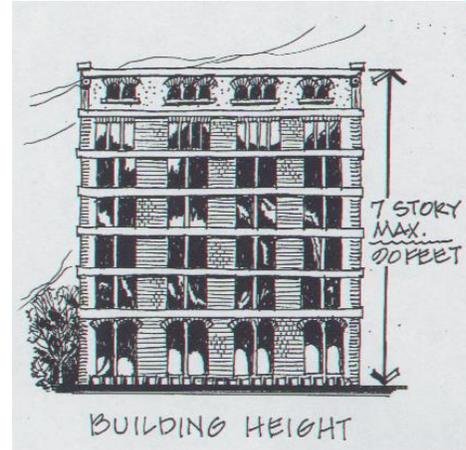
NMC-1: Maximum 45 feet

NMC-2: Maximum 90 feet. More than 60 feet may be allowed by SLUP or PUD, except buildings on Grand Traverse Bay are limited to 50 feet.

(b) **Exceptions:**

Steeple and towers may be erected to a height the lessor of twice the height of the attached building or 90 feet.

Parapet walls may be erected as necessary to screen existing rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.



(Ord. 475. Passed 7-6-99. Ord. 524. Passed 2-20-01. Ord. 738 Passed 3-19-07.)

1356.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

- (a) Not be located in the front yard, except accessory buildings may be located streetward of the principal building on the less traveled street on through lots.
- (b) Not exceed 30 feet in height.
- (c) Not be closer than 10 feet to any side or rear property line. Boat houses up to 3,000 square feet gross floor area may be built up to the water's edge.

(Ord. 475. Passed 7-6-99. Ord. 524. Passed 2-20-01. Ord. 554. Passed 2-4-02.)

1356.08 PARKING, LOADING AND DRIVEWAYS.

Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(Ord. 475. Passed 7-6-99.)

CHAPTER 1358

H - Hospital Districts

The H-1 and H-2, Hospital Districts are for the purpose of accommodating medical centers, hospitals and all their normally related functions, if properly sited in relation to each other and pursuant to an approved plan for that district. The difference between the H-1 and H-2 districts are fewer uses but greater size allowed in the H-2 district. Developments in the H-2 district shall be functionally integrated with other buildings and parking areas and be in substantial conformity with the Hospital Master Site and Facilities Plan.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs - B & H Chapter

1358.01	Uses allowed.	1358.06	Building height.
1358.02	Uses allowed by special land use permit.	1358.07	Accessory buildings.
1358.03	Lot, density and impervious surface provisions.	1358.08	Parking, loading and driveways.
1358.04	Setbacks.	1358.09	Special requirements.
1358.05	Encroachments into the setbacks.		

1358.01 USES ALLOWED.

- (A) Master Site Facilities Plan. When applying for a land use permit for H-2 District properties, the applicant shall present a Master Site and Facilities Plan for the current uses on all contiguous property owned by applicant and all anticipated uses within a minimum of the next five years. This plan shall show adjacent properties sufficiently to identify surrounding uses and potential impacts on them by the applicant's plan and shall conform to the requirements of Traverse City Code Section 1366.08, *Master Site and Facilities Plans*.
- (B) H-1 District. The following uses of land and buildings, together with accessory uses, are allowed in the H-1 Hospital District:
 - Community Gardens;
 - Dormitories;
 - Dwellings, multiple family, up to 29 dwelling units per acre;
 - Group day care homes;
 - Florists;
 - Health services, including clinics of doctors and dentists;
 - Hospitality houses;

HOSPITAL DISTRICTS

- Medical Marihuana Collective meeting the following requirements:
 - (1) Use and transfer of Medical Marihuana shall comply at all times with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time;
 - (2) Transfer of Medical Marihuana shall be only allowed to a Qualifying Patient directly in person by his or her Registered Primary Caregiver or by another Qualifying Patient as allowed by the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - (3) The Collective shall not be in operation between the hours of 10:00 p.m. and 7:00 a.m.
 - (4) No Medical Marihuana Cultivation shall occur on the parcel.
 - (5) Except for parents or guardians of a Qualifying Patient and the Owner or staff of the facility, persons other than a Qualifying Patient or Primary Caregiver shall be not permitted within the Collective when Medical Marihuana is being transferred or used.
 - (6) A Qualifying Patient under the age of 18 shall be accompanied by a parent or guardian and notice of such shall be conspicuously posted.
 - (7) A Medical Marihuana Collective shall not be located within a 1,000 foot radius from any existing School.
 - (8) A Medical Marihuana Collective shall not be located within 1000 feet from another existing Collective.
 - (9) An Owner or Operator of a Medical Marihuana Collective shall not have been convicted of a felony involving controlled substances.
 - (10) The name and address of all persons with an ownership interest in the Medical Marihuana Collective and all Operators of the Medical Marihuana Collective shall be provided to the Zoning Administrator at least ten (10) business days prior to opening the Medical Marihuana Collective and least ten (10) business days prior to when a new person owns or operates the Medical Marihuana Collective.
- Residential care and treatment facilities.

The following uses, if they meet the requirements of an accessory use, except that they need not be in the same building or on the same lot:

- Duplicating, mailing, stenographic and office services no larger than 2,000 square feet gross floor area;
- Schools for the handicapped;
- Educational services to the public related to health care;
- Financial institutions with no drive-throughs;
- Gift shops no larger than 2,000 square feet gross floor area;
- Orthopedic stores;
- Pharmacies no larger than 2,000 square feet gross floor area;
- Places of worship;
- Recreational Facilities
- Restaurants, family, fine and fast, under 2,000 square feet in gross floor

HOSPITAL DISTRICTS

- area without drive-throughs or drive-ins;
 - Social services;
 - Veterinary Services, without outdoor runs
- (C) H-2 District. The following uses of land and buildings, together with accessory uses, are allowed in the H-2 District:
- H-1 District uses;
 - Health services;
 - Hospitality houses;
 - Hospitals and medical centers;
 - Medical care facilities;
 - Parking structures, public or private, subject to the following standards:
 - (1) Parking structures shall be designed to have horizontal versus stepped or sloping levels at areas of public view. All ramping shall be concealed from public view.
 - (2) Openings shall not exceed 60 percent of the total wall surface. Openings shall be vertical or square.
 - (3) Sloped roofs are not required for parking structures, however:
 - A. The upper and lowest level of parking shall incorporate sufficient screening to shield cars from public view.
 - B. Parapet treatment is required to terminate the deck and give proper architectural finish to the structure. Cornices, overhangs and other devices which are consistent with the design of historical buildings may be employed.
 - (4) The design of parking decks shall be complementary to the design of historical buildings in the area.
 - Residential care and treatment facilities.

(Ord. No. 476. Passed 7-6-99. Ord. No. 550. Passed 12-3-01. Ord. 591. Passed 1-06-03. Ord. 602. 6-2-03. Ord. 668. Passed 03-21-05. Ord. 842. Passed 8-3-09. Ord. 844 Passed 8-3-09. Ord. 880. Passed 8-16-10. Ord. 904. Passed 2-7-11.)

1358.02 USES ALLOWED BY SPECIAL LAND USE PERMIT.

The following uses of land and buildings, together with accessory uses, are allowed if a special land use permit is issued according to the standards of this Zoning Code:

- Communication towers;
- Essential services buildings;
- Landing areas;
- Taller buildings for H-2 district uses;
- Transitional housing and Emergency shelters
- Wind Energy Pole/Tower-Mount
- Wind Energy Building-Mount

(Ord. No. 476. Passed 7-6-99. Ord. No. 550. Passed 12-3-01. Ord. 938. Passed 4-2-12. Ord. 1007. Passed 7-7-14. Ord. 1010. Passed 9-2-14)

1358.03 LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS.

HOSPITAL DISTRICTS

<u>Lot width (min.)</u>	<u>Lot area (min.)</u>	<u>Density (maximum)</u>	<u>Impervious surface</u>
20 feet	No minimum.	29 dwelling units/acre	H-1: 70% maximum H-2: 60% maximum

(Ord. No. 476. Passed 7-6-99. Ord. No. 551. Passed 12-3-01. Ord. No. 568. Passed 7-1-02.)

1358.04 SETBACKS.

(A) **Front setbacks:**

Buildings: H-1: The lessor of 8 feet or the average setback of principal buildings on the same face block. H-2: 25 feet or as shown on the approved Master Site and Facilities Plan allowing a lesser setback.

Parking areas: H-1: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but no closer than 25 feet from the front property line. H-2: Behind or to the side of the principal building and set back a distance equal to the setback of the principal building or 25 feet, whichever is greater, or as shown on the approved Master Site and Facilities Plan allowing a lesser setback.

(B) **Side setbacks (minimum):**

Building: 5 feet, except a 10-foot side setback is required on the side abutting an R-District.

Parking areas: If contiguous to an R-district, a minimum of 10 feet. Otherwise, 5 feet. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

(C) **Rear setbacks:**

Building: 5 feet, except 20 feet if abutting or adjacent to an R-district.

Parking areas: 5 feet, except 20 feet if abutting, adjacent to or across an alley from an R-District.

(D) **Corner lots and through lots** having a frontage on two streets shall provide the required front setback on both streets.

(E) **An additional setback** of one foot for each foot of building height above 45 feet is required for any portion of a building above 45 feet.

(Ord. 476. Passed 7-6-99. Ord. 608. Passed 7-21-03.)

1358.05 ENCROACHMENTS INTO THE SETBACKS.

No encroachments into the setbacks are allowed.

(Ord. 476. Passed 7-6-99.)

1358.06 BUILDING HEIGHT.

(A) **Building height:**

H-1: Maximum 45 feet.

H-2: West of Elmwood Avenue (within 100 feet of the right-of-way) 110 feet maximum

Remaining area: 90 feet maximum

More than 60 feet may be allowed by SLUP or PUD.

(B) **Exceptions:**

Steeple and clock towers may be erected to a height the lessor of twice the height of the attached building or 110 feet.

Parapet walls may be erected as necessary to screen rooftop equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

(Ord. 476. Passed 7-6-99. Ord. 704. Passed 7-17-06. Ord. 739. Passed 3-19-07.)

1358.07 ACCESSORY BUILDINGS.

Accessory buildings shall:

(A) Not be permitted in the front yard, except accessory buildings may be located streetward of the principal building on the less traveled street on through lots.

(B) Not be closer than 5 feet to any side or rear property line.

(Ord 476. Passed 7-6-99. Ord. 554. Passed 2-4-02.)

1358.08 PARKING, LOADING AND DRIVEWAYS.

(A) Requirements for parking, loading and driveways are contained in Chapter 1374. In addition, athletic fields may provide up to 50% of the required number of organized parking on an area developed in turf grasses. Grassed parking areas are considered as providing one parking space for every 350 square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition and shall not be used more than 12 times per calendar year. When use requires more frequent parking, an impervious surface or approved pervious hard surface parking area shall be developed.

(B) Parking is not required for upper story dwellings above a first floor commercial or office use.

(C) All parking areas within the same block shall be designed to allow interconnection to neighboring parking areas.

(Ord. 476. Passed 7-6-99.)

1358.09 SPECIAL REQUIREMENTS.

The following requirements apply:

(A) All roof-mounted equipment, including satellite dishes and other communication equipment, shall be screened from view by a parapet or similar architectural feature. The equipment shall not be visible from recreation trails or from public sidewalks adjacent to the site.

(B) All equipment and activities shall be screened and placed so as to create no noise disturbance on any neighboring property.

(C) No material, equipment, or goods of any kind shall be stored on the roof of any building or outside unless otherwise allowed by ordinance.

(Ord 476. Passed 7-6-99.)

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CHAPTER 1360

Sexually Oriented Businesses

1360.01	Purpose.	1360.04	Regulations.
1360.02	Regulated Uses.	1360.05	Waivers, conditions
1360.03	Definitions.		and Limitations.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i
Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
Regulation of buildings; authority to zone - MCLA 125.582
Regulation of congested areas - MCLA 125.583
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
Signs - B & H Chapter 1476

1360.01 PURPOSE

- (A) In the development and execution of this Chapter, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, church, school, daycare center, or dedicated park, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects shall not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this Chapter. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of nearby neighborhoods. These controls do not legitimize activities, which are prohibited in other Chapters of the City's Ordinances.
- (B) In regulating sexually oriented businesses, it is the purpose of this Chapter to promote the health, safety, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Chapter to condone or legitimize the distribution of obscene material.
- (C) Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City, and on findings incorporated in the cases of *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002), *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560

(1991); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *East Brooks Books, Inc. v. City of Memphis*, 48 F.3d 220 (6th Cir. 1995); *Broadway Books v. Roberts*, 642 F.Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F.Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Dèjà vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F.2d 470 (6th Cir. 1991); *Threesome Entertainment v. Strittmather*, 4 F.Supp.2d 710 (N.D. Ohio 1998); *J.L. Spoons, Inc. v. City of Brunswick*, 49 F.Supp.2d 1032 (N.D. Ohio 1999); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *Nightclubs, Inc. v. City of Paducah*, 202 F.3d 884 (6th Cir. 2000); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Dèjà vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir. Dec. 6, 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *Connection Distrib. Co. v. Reno*, 154 F.3d 281 (6th Cir. 1998); *Sundance Assocs. v. Reno*, 139 F.3d 804 (10th Cir. 1998); *American Library Association v. Reno*, 33 F.3d 78 (D.C. Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir. 2000); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 2002 U.S. Dist. LEXIS 1896 (D.Md., Feb. 6, 2002); *Currence v. Cincinnati*, 2002 U.S. App. LEXIS 1258 (6th Cir., Jan. 24, 2002); and *City of Grand Rapids, Michigan - 137 - November 5, 2007 Chapter 61 Zoning Ordinance Article 9 – Use Regulations* other cases; and on testimony to Congress in 136 Cong. Rec. S 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S 5636; 134 Cong. Rec. E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota-1980; Houston, Texas - 1997; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington -1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio - and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled "Stripclubs According to trippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that the City of Traverse City is seeking to abate and prevent in the future. (Ord. 814. Passed 11-03-08.)

1360.02 REGULATED USES.

Uses subject to these controls and referred to herein as Regulated Uses are as follows:

- Adult book or video stores.
- Adult cabarets.

- Adult motion picture theaters.
- Adult novelty stores.
- Adult panorams.
- Burlesque halls.

(Ord. 814. Passed 11-03-08.)

1360.03 DEFINITIONS.

As used in this Chapter:

Adult book or video store means an establishment having a substantial or significant portion of its business devoted to books, magazines, periodicals, films or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein.

Adult cabaret means a cabaret which regularly features go-go dancers, strippers, or similar entertainers; or waiters, waitresses or other employees showing specified anatomical areas or specified sexual activities.

Adult motion picture theater means an establishment regularly used for presenting motion pictures distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, for observation by patrons therein.

Adult novelty store means an establishment that has a substantial or significant portion of its business devoted to the sale of devices which stimulate human genitals or devices designed for sexual stimulation.

Adult panoram means an establishment having a substantial or significant portion of its business devoted to an entertainment use where patrons view in individual viewing booths, films, tapes, or live entertainment showing specified sexual activities or specified anatomical areas.

Burlesque hall means an establishment which regularly features live performances which are characterized by entertainers showing specified anatomical areas or specified sexual activities.

Cabaret means a cafe, restaurant, bar, or similar establishment where patrons are entertained by performers who dance or sing or play musical instruments.

Specified anatomical areas are defined as:

- (1) Less than completely and opaquely covered:
 - (A) Human genitals, pubic region,
 - (B) Buttock, and
 - (C) Female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernible turgid state, even if completely and opaquely covered.

Specified sexual activities are defined as:

- (1) Human genitals in a state or simulated state of sexual stimulation or arousal;
- (2) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling or other erotic touching or simulated fondling or others erotic touching of human genitals, pubic region, buttock or female breast.

Substantial or significant portion. A business will be deemed to have a substantial or significant portion of its stock in trade or services if it meets at least one of the following criteria:

- (1) Thirty-five percent or more of the stock, materials, or services provided are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities, specified anatomical areas, or both.

- (2) Thirty-five percent or more of the usual floor area of the building is used for the sale, display, or provision of services distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities, specified anatomical areas, or both.
- (3) The advertising (on signs, in publications, on television or radio and/or other media forms) associated with the business, describes or relates to specified sexual activities, specified anatomical areas, or both.

(Ord. 814. Passed 11-03-08. Ord. 913. Passed 05-02-11.)

1360.04 REGULATIONS.

The Regulated Uses listed in Section 1360.02 are allowed subject to the following:

- (a) District. The use is located within a C-3 zoning district. A Regulated Use is not allowed in any other zoning district even if it incorporates C-3 zoning district uses.
- (b) Location. The use is located outside a 300-foot radius of a residential district, a church, school, or day care center and outside a 200 foot radius of an officially dedicated park and the Regulated Use is not located within a 1,000 foot radius of another Regulated Use. All measurements under this section shall be made in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the Regulated Use or building containing a Regulated Use to the nearest property line of the residential district, church, school, day care center or park.
- (c) Minors on premises. Persons operating a Regulated Use shall not permit any person under the age of eighteen to be on the premises of said Regulated Use either as an employee or as a customer.
- (d) Hours. The maximum hours of operation of the Regulated Use shall be from 8:00 a.m. to 10:00 p.m.
- (e) Displays. Sexually oriented products or services or any picture or other representation thereof, shall not be displayed so as to be visible from the street or neighboring property.
- (f) Off-street parking. Off-street parking shall be provided the same as other businesses of a similar nature that are not sexually oriented (e.g., movie theaters, retail sales and eating and drinking establishments), except that all parts of the parking area shall be illuminated from dusk until one hour after the business closes.
- (g) Expansion. Once established, a Regulated Use shall not be expanded in any manner without first applying for and receiving a waiver of the Board of Zoning Appeals.
- (h) Discontinuance. If a Regulated Use is discontinued and events cause the areas to not be available for the location of a Regulated Use, the use may not be re-established without applying for and receiving a waiver of the Board of Zoning Appeals.

(Ord. 814. Passed 11-03-08.)

1360.05 WAIVERS, CONDITIONS AND LIMITATIONS.

- (a) Waivers. Prior to the granting of any waiver as herein provided, the Board of Zoning Appeals may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the Regulated Use as may in its judgment be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.

SEXUALLY ORIENTED BUSINESSES

(b) Procedures. The Board of Zoning Appeals may waive the minimum distance restrictions, allow an expansion, or allow re-establishment after discontinuance, pursuant to the standards provided in sub-section (c) of this section and pursuant to the following procedures:

- (1) The Planning Director will serve notice on all owners and occupiers of all property within 300 feet of the proposed use.
- (2) Said notice will give a minimum of 30 days from the mailing of the notice until the Board of Zoning Appeals hearing on the matter.
- (3) Said notice will include a postcard addressed to the City, containing spaces for stating approval or disapproval of the proposed Regulated Use and including space for commentary.
- (4) The total number of postcards or other written responses returned prior to the hearing will be tallied. The votes yea and nay will also be tallied. These votes will be considered as evidence, in the Board of Zoning Appeals' decision as to whether to grant the waiver.

(c) Standards. The Board of Zoning Appeals may grant a waiver if the following findings are made:

- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this Chapter will be observed.
- (2) That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surrounds.
- (3) That the establishment in the area of a Regulated Use or an additional Regulated Use will not be contrary to any neighborhood conservation, nor will it interfere with any urban renewal.
- (4) That all applicable State laws and local ordinances will be observed.

(Ord. 476. Passed 7-6-99. Ord. 814. Passed 11-3-08.)

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CHAPTER 1362

Planned Unit Developments

The purpose of planned unit developments is to permit flexibility in zoning regulations so that developments conserve environmental resources, economic investment and the community's social fabric while reclaiming marginal and abandoned areas. Where appropriate, new development contiguous to urban boundaries should be organized as compact, pedestrian-friendly, mixed-use neighborhoods characteristic of Traverse City's historic areas.

Approval of a planned unit development shall not be considered an ordinance amendment.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs in planned unit developments - B & H 1476.13

1362.01	Standards for approval.	1362.06	Amendments.
1362.02	Procedure for approval.	1362.07	Termination.
1362.03	PUD application.	1362.08	Mixed use PUD - Morgan Farm.
1362.04	PUD order.		
1362.05	Phased developments.		

1362.01 STANDARDS FOR APPROVAL.

Approval will not be granted when the planned unit development is sought primarily to avoid the imposition of standards and requirements of existing zoning classifications. A planned unit development shall be approved if it is shown that the land use and development meet all of the following standards:

- (a) The Planned Unit Development (PUD) is intended to accommodate developments with mixed uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult and costly development challenges.
- (b) The use is compatible with adjacent land use, the natural environment and the capacities of affected public services and facilities. The use is consistent with the public health, safety and welfare of City residents.
- (c) The area of development is at least three contiguous acres. Where there are exceptional topographic, physical conditions, environmental factors, or other unusual or unique circumstances associated with a parcel which limits the parcel's ability to be reasonably developed, the minimum acreage requirement may be varied by the City Commission following a recommendation by the Planning Commission that the proposed PUD would allow development of land in such a manner as to be compatible with the surrounding land uses and the development would not be contrary to the spirit and purpose of the Zoning Ordinance.
- (d) Any size area of development contiguous to an existing PUD may be added to that PUD under the major amendment provisions of this chapter.

PLANNED UNIT DEVELOPMENTS

- (e) The uses as designed are compatible with adjacent land uses and consistent with all City ordinances.
 - (f) Historic buildings that physically express the history of Traverse City will be preserved or restored and maintained unless it is shown that the building's condition prohibits preservation, restoration or renovation. New buildings and additions to existing buildings shall be compatible with historic buildings adjacent to them.
 - (g) New developments shall be based on traditional forms in terms of placement, design and quality of materials, so that they share a common identity and express their common heritage with Traverse City.
 - (h) The project emphasizes pedestrian circulation and access. The circulation system is composed of short blocks, narrow streets, sidewalks and alleys, where appropriate and practical. The vehicular and pedestrian circulation shall be well-defined and safe.
 - (i) The outside storage of motor vehicles shall either occur on-street or behind or below buildings.
 - (j) The natural landscape features will be preserved and integrated as an integral part of the overall design. Building placement and design represents thoughtful responses to the specific site features and the climate to create interesting and desirable outdoor spaces.
 - (k) There shall be adequate public services and facilities to serve the development.
 - (l) The site plan submitted with the PUD application satisfies all the standards for granting site plan approval.
 - (m) If all or part of the land is in a Mixed Use PUD area as shown on the Zoning Map, then all requirements for that MX-PUD must be met.
 - (n) The parcel, including any non-contiguous parcels, must be capable of being planned and developed as one integral land use unit.
- (Ord. 669. Passed 03-21-05. Ord. 743. Passed 5-7-07.)

1362.02 PROCEDURE FOR APPROVAL.

- (a) Pre-application conference. Before submitting an application, the applicant shall meet with the Planning Director to review the proposed project, the Traverse City Code of Ordinances, and planning documents that relate to the property.
- (b) Application. A planned unit development application shall be submitted to the Planning Commission for review and recommendation and then to the City Commission for decision. The Planning Commission may hold a public hearing with such notice as it deems advisable.
- (c) Public Hearing. A public hearing before the City Commission shall be held on each planned unit development request properly filed under this Zoning Code. Notice of the public hearing shall be given not less than fifteen days before the date of the public hearing. Notice shall be published in a newspaper of general circulation in Traverse City and shall be mailed or personally delivered to:
 - (1) The owners of the property for which approval is being considered;
 - (2) All persons to whom real property is assessed within 300 feet of the boundary of the property in question; and
 - (3) At least one occupant of each dwelling unit or area owned or leased by different persons within 300 feet of the boundary of the property in question. Where a single structure contains more than four dwelling units or other distinct owned or leased areas, notice may be given to the manager or owner of the structure to post

the notice at the primary entrance to the structure. The occupants of all structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, the term "occupant" may be used in making notification.

- (d) Notice. The notice of the public hearing shall contain:
- (1) A description of the nature of the planned unit development request;
 - (2) A description of the property which is the subject of the planned unit development, including a listing of all street addresses within the property where they exist;
 - (3) The time and place of the public hearing for consideration of the planned unit development request; and
 - (4) When and where written comments will be received concerning the request.
- (e) Decision. The application for planned unit development may be denied, approved or approved with conditions after conducting a public hearing with such notification as provided herein. The decision shall be in the form of an order which shall incorporate a statement of conclusions and shall specify the basis for the decision and any conditions imposed. Unless otherwise mutually agreed, an application for a PUD shall be decided by the City Commission within 45 days of the public hearing on the application, and if no such decision is rendered, the application shall be deemed approved. A decision of the City Commission shall be final. There shall be no appeal of the City Commission's decision to the Board of Zoning Appeals.
- (f) Compliance. After approval of a planned unit development, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the planned unit development.

(Ord. 669. Passed 03-21-05. Ord. 720. Passed 2-5-07.)

1362.03 PLANNED UNIT DEVELOPMENT APPLICATION.

- (a) Required Information. A Planned Unit Development application shall be submitted to the Planning Director. An application shall not be deemed accepted by or filed with the City until it is certified as complete by the Planning Director. The application must be signed by the applicant and by the owner or a person with the owner's written consent and must contain:
- (1) A land use permit application with a site plan;
 - (2) A boundary survey of the property prepared by a registered surveyor.
 - (3) A non-refundable application fee established by City Commission resolution.
- (b) Additional Information. Upon the request of the Planning Director within 35 days of accepting the application, the applicant shall provide such additional information and items pertinent to the development or use:
- (1) A description of the developer's intent and objectives (physical, social and environmental);
 - (2) The method of the proposed financing;
 - (3) A market and economic feasibility statement;
 - (4) A description of the proposed development staging and timing;
 - (5) A description of the impact of development on local streets, natural features, schools and utilities;
 - (6) Identification of any waste emissions and methods of handling smoke, dust, noise,

- odors, liquids, solids and vibrations;
- (7) A facade drawing showing all sides of new building(s) in the proposed development. All exterior building materials shall be labeled on the drawing.
- (8) Such other information and items pertinent to the development or use.
- (c) Failure to Provide in a Timely Manner. Failure of the applicant to provide such requested information in a timely manner may be grounds for denial of the application.

1362.04 PUD ORDER.

If it is determined that the application is consistent with the intent of this Zoning Code and with the other standards and requirements herein contained, an order authorizing development and use in accordance with the application and material submitted shall be issued. The PUD order may contain any lawful conditions or restrictions which the City Commission may consider necessary to carry out the purposes of this Zoning Code and to protect the public health, safety and welfare. The PUD order shall recite the findings of fact and the reasons upon which it is based and may specify the following:

- (a) Dimensional and Parking Restrictions. The PUD order may alter and establish lot size limits, required facilities, buffers, open space areas, density limits, set-back requirements, height limits, building size limits, off-street parking regulations, landscaping rules, miscellaneous regulations and density and intensity limits where such regulations or changes are consistent with the intent of this chapter and the standards set forth herein. Dimensional, parking and use restrictions of the underlying zoning shall not apply to the area within an approved planned unit development unless expressly retained in the PUD order.
- (b) Use Restrictions. The PUD order may also authorize principal and other uses not permitted in the district where the land is located, provided that such uses are consistent with the intent of this Zoning Code and the standards set forth herein.
- (c) Date. A PUD order shall be dated as of the date of approval by the authorizing official or body.
- (d) Recording. PUD orders shall be recorded with the City Clerk and the Register of Deeds of the county in which the land is located.

1362.05 PHASED DEVELOPMENTS.

Each phase of a planned unit development (PUD) shall be planned, developed and approved to exist as an independent PUD. Each phase of a PUD shall be applied for and considered as a separate PUD. An applicant may elect to incorporate an existing PUD and a proposed phase of that PUD as a PUD amendment.

1362.06 AMENDMENTS.

A PUD order may be amended as follows:

- (a) Minor Amendment. Minor amendments are those which will have no foreseeable effect beyond the property boundary, such as minor changes in the siting of buildings, the alignment of utilities and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Planning Director without notice or hearing, provided no such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the PUD, significantly reduce usable open space, significantly reduce or increase parking

areas, or significantly encroach on natural features proposed by the plan to be protected.

- (b) Major Amendment. Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the authority granting the PUD to be amended according to the procedures authorized by this chapter for approval of a PUD.

1362.07 TERMINATION.

The PUD order shall automatically expire two years from the date of final approval if the applicant has not commenced substantial construction and is not diligently proceeding to completion. Upon written request stating the reasons therefor, the Planning Director may extend an order for one additional year. An order may be terminated upon application by the owners of record of the land subject to a granting order. It shall be submitted and considered under the same process as is then established for granting or amending such order. The applicant shall demonstrate that if the order is terminated, the property shall comply with all current requirements for the zoning district(s) of that property. The order may be rescinded at any time by the authority granting it for a material misrepresentation in the application, or for a violation of the order by the applicant or his or her successors, agents or assigns after notice to the current owners and occupiers of the PUD area and after a hearing on the violation. Upon termination of an order, the zoning requirements shall revert to the current requirements for the zoning district designated for the property.

(Ord. 707. Passed 10-2-06.)

1362.08 MIXED USE PUD - MORGAN FARM.

A mixed use PUD is for the purpose of accommodating a mixture of land uses in the area traditionally known as the "Morgan Farm area" as that area is shown on the Zoning Map. It is available to permit a single development or series of development phases that encourage diversity of complimentary land uses mixing primarily residential uses with office, retail, recreational and other related uses. Upon issuance of a PUD order, the following uses are allowed and the following standards apply in addition to the standards of Section 1326.01 (d) through (n):

- (a) Requirements if no PUD is granted. If a PUD is not in effect, the use and dimensional requirements shall be the same as for the R-1b zoning district.
- (b) Uses allowed under a PUD. If a PUD is granted, R-1b uses, together with accessory uses, are allowed and up to 15 percent of the gross floor area of a project may allow C-2 uses or up to 50% of the gross floor area of the project may allow lodging facilities where at least 20% of the project's housing units for the balance of the project meet the Affordable Housing Standards in Section 1376.02.
- (c) Dimensional requirements under a PUD. If a PUD is granted, dimensional requirements are as follows:
 - (1) Parcel size. The minimum land area required shall be ten adjacent acres under single ownership and control. For the purpose of this requirement, streets shall not be deemed to divide acreage.
 - (2) Size and area. The size and area requirements shall be as follows:
 - A. The maximum density is seven dwelling units per acre.
 - B. The maximum impervious surface ratio is .35.
 - (3) Open space. Thirty percent of the land area of a project shall be used for common open space.

PLANNED UNIT DEVELOPMENTS

(d) Additional requirements under a PUD. If a PUD is granted, the following requirements pertaining to impervious surface ratio, setbacks, mix of uses, building height and bulk are as follows:

- (1) The minimum setback of any building shall be at least 20 feet from boundary lines or public streets and 60 feet from a State highway.
- (2) Office or retail floor area shall be limited to 15 percent of the total residential floor area. Lodging facilities up to 50% of the gross floor area of the project may be allowed where at least 20% of the project's housing units for the balance of the project meet the Affordable Housing Standards in Section 1376.02.
- (3) Maximum building height shall be 60 feet. That portion of a building taller than 45 feet must be set back an additional ten feet from the above minimum setback for each foot of building height that exceeds that height. An additional ten feet in building height shall be allowed to permit parking level(s) under the building.

(e) Access requirements under a PUD. If a PUD is granted, the following access requirements shall apply:

- (1) Site access to the public rights-of-way shall be provided by a common driveway or driveways which are intended to service the entire development.
- (2) Access to individual uses within the development shall be provided by a private road which shall be adequately sized to accommodate emergency vehicle access and projected traffic loads but not excessively large.

(Ord. 476. Passed 7-6-99. Ord. 824. Passed 2-2-09.)

CHAPTER 1364

Special Land Use Regulations

The purpose of this Chapter is to permit and provide for a special review process for unique uses and activities in zoning districts where they would not otherwise be permitted, provided these uses and activities are made compatible with permitted uses in these districts by following the standards in this Chapter.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i
 Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
 Regulation of buildings; authority to zone - MCLA 125.582
 Regulation of congested areas - MCLA 125.583
 Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
 Signs - B & H Chapter 1476

1364.01	Types of special land use permit review.	1364.06	Amendments.
1364.02	General standards for approval.	1364.07	Termination of orders.
1364.03	Special land use applications.	1364.08	Special land use permits granted by the City Commission.
1364.04	City Commission procedure for approval.	1364.09	Administrative special land use permits.
1364.05	Administrative procedure for approval.		

1364.01 TYPES OF SPECIAL LAND USE PERMIT REVIEW.

- (a) **Types of Procedure.** Special Land Use Permits (SLUP's) are reviewed and approved through either a City Commission procedure or an administrative procedure depending upon the potential impact the proposed use or activity may have upon the adjacent land uses and the broader community.
- (b) **City Commission SLUP's.** Applications for special land use permits for the following uses shall be reviewed by the City Commission according to the procedures and standards contained in this chapter:
 - (1) *New buildings 3,000 square feet or larger in gross floor area for allowed uses in an OS or RC district.*
 - (2) *Clustered single family dwellings* allowed in an R-1a, R-1b or R-2 district.
 - (3) *Communication towers* allowed in a T, GP, I, C-3, NMC-2 (except on Grand Traverse Bay) and H-2 District or properties owned by governmental agencies.
 - (4) *Convention centers* in a D district.
 - (5) *Conversions of one-family to two-family dwellings* in an R-1a or R-1b district.
 - (6) *Correctional institutions* allowed in a GP district.
 - (7) *Drive-throughs for finance services* in C-4 and D districts.
 - (8) *Essential services structures.*

- (9) *Group day care homes, including adult daycare* in an R-1a, R-1b, R-2, R-9, R-15 and R-29 district.
 - (10) *Residential care and treatment facilities* allowed in an R-9, R-15, R-29, HR, C-1, C-2, C-3 or H-1 or H-2 district.
 - (11) *Schools* allowed in an R-1a, R-1b, R-2, R-9, R-15, R-29, C-1, C-2, C-3 or GP district.
 - (12) *Stores, retail, over 8,000 square feet per floor* in a D district.
 - (13) *Taller buildings* allowed in a C-4b, C-4c, D, GP, NMC-2 or H-2 district.
 - (14) *Temporary accessory dwelling units* in an RC, R-1a or R-1b district.
 - (15) *Theaters, live, and performance art centers* allowed in an R-9, R-15 or R-29, Multiple Family Dwelling District.
 - (16) *Transitional housing and Emergency shelters* allowed in an HR, C-1, C-2, C-3, D-1, D-2, D-3, H-1 or H-2 or I district.
 - (17) *Wind energy system, pole or tower-mounted*, allowed in T, GP, C-3, NMC-1, NMC-2, H-1, H-2 or I district and properties owned by governmental agencies.
 - (18) *Wind energy system, building-mounted*, allowed in NMC-1, NMC-2, I, T, H-1, H-2, C-1, C-2, C-3, C-4, D and HR districts.
- (c) **Administrative special land use permits.** Applications for special land use permits for the following uses shall be reviewed by the Planning Director according to the procedures and standards contained in this chapter:
- (1) Adult foster care small group home in an RC, R-1a, R-1b and R-2 district.
 - (2) *Communication antennas* in all districts.
 - (3) *Group day care homes, including adult daycare* in an R-1a, R-1b, R-2, R-9, R-15 and R-29 district.
 - (4) *Landing areas* in an H or GP district.
 - (5) *Parking area, private*, in a C-4 district if public parking is available within 500 feet of an allowed use;
 - (6) *Parking area construction deferral.*
 - (7) *Places of worship* in an R-1a, R-1b, R-2, R-9, R-15 and R-29 district.

(Ord. 496. Passed 7-6-99. Ord. 676. Passed 5-02-05. Ord. 710. Passed 10-2-06. Ord. 780. Passed 1-7-08. Ord. 784. Passed 3-17-08. Ord. 871. Passed 7-19-10. Ord. 897. Passed 12-6-10, Ord. 939 Passed 4-2-12 Ord. 971. Passed 6-3-13. Ord. 999. Passed 7-7-14).

1364.02 GENERAL STANDARDS FOR APPROVAL.

Each application for a special land use shall be reviewed for the purpose of determining that the proposed use meets all of the following standards:

- (a) The use shall be designed, constructed, operated and maintained so as to be harmonious and compatible in appearance with the intended character of vicinity.
- (b) The use shall not be hazardous nor disturbing to existing or planned uses in the vicinity.
- (c) The use shall be served adequately by existing or proposed public infrastructure and services, including but not limited to, streets and highways, police and fire protection, refuse disposal; water, waste water, and storm sewer facilities; electrical service, and schools.
- (d) The use shall not create excessive additional requirements for infrastructure, facilities, and services provided at public expense.
- (e) The use shall not involve any activities, processes, materials, equipment or conditions of

operation that would be detrimental to any person or property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors or water runoff.

- (f) Where possible, the use shall preserve, renovate and restore historic buildings or landmarks affected by the development. If the historic structure must be moved from the site, the relocation shall be subject to the standards of this section.
- (g) Elements shall relate the design characteristics of an individual structure or development to existing or planned developments in a harmonious manner, resulting in a coherent overall development pattern and streetscape.
- (h) The use shall be consistent with the intent and purposes of the zoning district in which it is proposed.

(Ord. 476. Passed 7-6-99. Ord. 670. Passed 03-21-05. Ord. 831 Passed 5-4-09.)

1364.03 SPECIAL LAND USE APPLICATIONS.

All land for which an application for a special land use permit is made shall be owned by the applicant or by a person who has consented, in writing, to the application. The parcel must be capable of being planned and developed as one integral land use unit. Noncontiguous parcels may be considered. The application must be signed by the applicant and by the owner or a person with the owner's written consent and must contain:

- (a) A site plan as described by this Zoning Code;
- (b) A statement of present ownership of all land which is the subject of the request;
- (c) An application fee. This application fee shall be non-refundable. The City Commission shall, by resolution, establish the amount of the application fee.
- (d) Upon the request of the Planning Director or the Planning Commission, the applicant shall provide such other information pertinent to the special land use application. Failure of the applicant to provide such requested information within a reasonable time may be grounds for denial of the application.
- (e) If the application is approved, the applicants shall pay all Register of Deeds recording fees to record the special land use permit.

(Ord. 476. Passed 7-6-99.)

1364.04 CITY COMMISSION PROCEDURE FOR APPROVAL.

The following procedures shall be followed for special land use permits to be granted by the City Commission:

- (a) **Pre-application conference.** Before submitting an application, the applicant shall meet with
 - (1) the Planning Director to review the proposed project, the Traverse City Code of Ordinances, and any planning documents that relate to the property.
- (b) **Application.** A special land use permit application shall be submitted to the Planning Commission for review and recommendation.
- (c) **Public hearings.**
 - (1) The Planning Commission shall hold a public hearing with such notice as it deems advisable. After review, the Planning Commission shall submit a written recommendation to the City Commission based upon the standards of this Zoning Code.
 - (2) A public hearing shall be held by the City Commission on each special land use

application properly filed under this Zoning Code. Notice of the public hearing shall be given not less than fifteen days before the date of the public hearing. Notice shall be published in a newspaper of general circulation in the City and shall be mailed or personally delivered to:

- A. The owners of the property for which approval is being considered;
- B. All persons to whom real property is assessed within 300 feet of the boundary of the property in question; and
- C. At least one occupant of each dwelling unit or spacial area owned or leased by different persons within 300 feet of the boundary of the property in question. Where a single structure contains more than four dwelling units or other distinct spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance of the structure. The occupants of all structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, the term "occupant" may be used in making notification.

(d) **Notice.** The notice of the City Commission public hearing shall contain:

- (1) A description of the nature of the special land use request;
- (2) A description of the property which is the subject of the special land use request, including a listing of all existing street addresses within the property where they exist; and
- (3) The time and place of consideration of and public hearing on the special land use request; and
- (4) When and where written comments will be received concerning the request.

(e) **Decision.** The City Commission may deny, approve or approve with conditions requests for special land use approval after a hearing and notification as provided herein. Its decision shall be in the form of an order which shall incorporate a statement of conclusions and shall specify the basis for the decision and any conditions imposed. An order denying a special land use shall state the standards which have not been met. A decision of the City Commission shall be final. There shall be no appeal of the City Commission's decision to the Board of Zoning Appeals.

(f) **Order.** If the City Commission determines that the application is consistent with the intent of this Zoning Code as expressed in this chapter and with the other standards and requirements herein contained, it shall issue an order authorizing the special land use in accordance with the application and material submitted, modified as it may consider necessary to carry out the intent and standards of this Zoning Code, and containing any lawful conditions or restrictions which it may consider necessary to carry out the purposes of this Zoning Code and to protect the public health, safety and welfare. The order shall recite the findings of fact and the reasons upon which it is based.

(g) **Compliance.** After approval of a special land use, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the special land use or only as authorized by the provisions of this Zoning Code which would apply if the special land use order had not been issued.

(Ord. 476. Passed 7-6-99. Ord. 670. Passed 03-21-05. Ord. 721. Passed 2-5-07)

1364.05 ADMINISTRATIVE PROCEDURE FOR APPROVAL.

The following procedure shall be followed for special land use permits to be granted by the Planning Director:

- (a) **Pre-application conference.** Before submitting an application, the applicant shall meet with the Planning Director to review the proposed project, the Traverse City Code of Ordinances, and any planning documents that relate to the property.
- (b) **Application.** A special land use application shall be submitted to the Planning Director for review and decision.
- (c) **Notice.** If the applicant or the Planning Director requests a public hearing, only notification of the public hearing need be made. If not so requested, upon receipt of an application, the Planning Director shall publish in a newspaper of general circulation in the City one notice that the request has been received and shall send by mail or personal delivery such notice to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Such notice shall be given not less than fifteen days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in notification. Notification need not be given to more than one occupant of a structure unless there is more than one dwelling unit, in which case one occupant of each unit shall be given notice. Such notice shall do the following:
 - (1) Describe the nature of the special land use request;
 - (2) Indicate the property which is the subject of the special land use request;
 - (3) State when and where the special land use request will be considered and;
 - (4) Indicate when and where comments will be received concerning the request;
 - (5) Indicate that a public hearing on a special land use request may be requested by a property owner or occupant of a structure located within 300 feet of the boundary of property being considered for a special use.
- (d) **Public hearing.** At the initiative of the Planning Director, upon the request of the applicant, or upon request of a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required herein shall be held by the Planning Director before rendering a decision.
- (e) **Decision; order.** The Planning Director may deny, approve or approve with conditions, requests for special land use approval after notification as provided in this section. The decision shall be in the form of an order which shall incorporate a statement of conclusions and shall specify the basis for the decision and any conditions imposed. An order denying a special land use shall state the standards which have not been met.
- (f) **Appeals to the Planning Commission.** Any person aggrieved by a final decision of the Planning Director may appeal the decision within 14 days to the Planning Commission. In order to file such an appeal, a person must complete and sign an application for appeal and submit it to the Planning Director on the form provided by that office. In addition, the person appealing must pay the fee established by resolution of the City Commission for such appeals. All reasons and facts in support of the appeal shall be submitted in writing by the person appealing. The Planning Director shall transmit to the Planning Commission all materials submitted in connection with the application including the written decision being appealed and a summary of public comments. Notice of the

Planning Commission hearing shall be given in the same manner as notice of a hearing on a special land use granted by the Planning Commission. After a hearing de novo, the Planning Commission shall decide the appeal de novo within a reasonable time and shall submit its decision in writing to the applicant. A decision of the Planning Commission shall be final. There shall be no appeal of the Planning Commission's decision to the City Commission or Board of Zoning Appeals.

- (g) **Compliance.** After approval of a special land use, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the special land use or only as authorized by the provisions of this Zoning Code which would apply if the special land use order had not been issued.
- (h) **Planning Director referral to Planning Commission.** At the discretion of the Planning Director, a special land use requiring administrative approval of the Planning Director may be submitted to the Planning Commission under procedures described in Section 1364.04

(Ord. 701. Passed 5-1-06. Ord. 777. Passed 12-3-07.)

1364.06 AMENDMENTS.

A SLUP order may be amended as follows:

- (a) **Minor amendment.** Minor amendments are those which will have no foreseeable effect beyond the property boundary, such as minor changes in the siting of buildings, the alignment of utilities and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Planning Director without notice or hearing, provided no such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the site, significantly reduce the usable open space or significantly encroach on natural features proposed by the plan to be protected.
- (b) **Major amendment.** Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the authority granting the SLUP to be amended according to the procedures authorized by this chapter for approval of a SLUP.

Unless otherwise provided by this chapter or the granting order, an order approving a special land use may be amended by the granting authority according to the procedures authorized by this chapter for approval of a special land use.

(Ord. 476. Passed 7-6-99.)

1364.07 TERMINATION OF ORDERS.

A special land use order shall expire two years from the date of final approval if the applicant has not commenced substantial construction and is not diligently proceeding to completion or, where no construction is necessary, if the use authorized has not been commenced. Upon written request stating the reasons therefor, the granting authority may extend the order for one additional year. An order may be terminated upon application by the owners of record of the land subject to a granting order. It shall be submitted and considered under the same process as is then established for granting or amending such order. The applicant shall demonstrate that if the order is terminated the property shall comply with all current requirements for the zoning district(s) of that property. The order may be rescinded at any time by the granting authority for

a violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupiers of the property and after a hearing on the violation. Upon termination of an order, the zoning requirements shall be the current requirements for the zoning district designated for the property. Any use authorized by a special land use order shall be continuously maintained once the same is commenced, and if not so continuously maintained, the special land use permit shall expire.

(Ord. 476. Passed 7-6-99. Ord. 708. Passed 10-2-06.)

1364.08 SPECIAL LAND USE PERMITS GRANTED BY THE CITY COMMISSION.

The City Commission may grant a special land use permit for the following uses in any district, except as herein qualified:

(a) ***New buildings 3,000 square feet or larger in gross floor area for allowed uses in an OS or RC District*** subject to the following:

- (1) The building is for an allowed use;
- (2) The minimum yard requirements may be changed by the Planning Commission based upon topography and existing site limitations (i.e, water, roads, neighboring buildings).
- (3) Traffic related to the use shall not substantially increase congestion on surrounding streets and intersections.
- (4) The use is not likely to create excessive noise across the real property boundary.

(b) ***Clustered single family dwellings.*** The purpose of clustered housing is to provide owners of large parcels of single or two-family residential property the alternative to develop their properties in an environmentally sensitive and cost-effective manner by clustering single-family homes or townhouses rather than spreading development over the entire site. By clustering development, sensitive and attractive environmental features can be preserved as common open space to be enjoyed by future residents.

Clustered housing is subject to the following:

- (1) The use is located in an R-1a, R-1b or R-2 district.
- (2) The property is of at least five contiguous acres under single ownership and control.
- (3) The development must meet the front, side and rear-yard setback requirements of the district on the periphery of the parcel. More than one building may be located on a single lot, but setback requirements for the district shall apply to each building based on hypothetical lot lines approved by the Planning Director as proposed by the applicant.
- (4) The overall density of the development shall not exceed the allowable density of the district; (4.4 dwelling units per acre in an R-1a district, 5.8 dwelling units per acre in an R-1b district and 10.9 dwelling units per acre in an R-2 district).
- (5) Townhouses are permitted, provided there are no more than four dwelling units per detached structure. The front building wall plane is interrupted and off-set in order to project the character and appearance of individual dwelling units;
- (6) A parking area shall be provided only at the side or the rear of the building for which it is designed to service. That portion of the parking area which is exposed to the street shall be screened to minimize the visual impact of the parking area from the public street. Parking areas must also be screened along lot lines

bordering residential uses or zones on the periphery of the parcel. Screening shall create an effective visual barrier consisting of a screenwall or a landscaped area at least six feet wide, densely planted with a mixture of deciduous and evergreen trees and shrubs, and shall create an effective visual barrier. All trees shall be a minimum of two-inch caliper when planted. Native trees and shrubs shall be planted whenever possible. In instances where healthy plant material exists on the site prior to development, in part or in whole, for purposes of off-street parking, the Planning Commission may adjust the application of the above-stated standard to allow credit for such plant material.

- (7) Trash containers shall be properly screened.
 - (8) All other standards not specifically altered in the zoning district shall apply to clustered housing.
- (c) **Communication towers.** The intent of this section is to ensure communication towers are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact will be minimized. Communication towers are permitted if all of the following requirements are met:
- (1) The communication tower is located in a T, GP, C-3, NMC-2 (except on Grand Traverse Bay), H-2 or I district and properties owned by governmental agencies.
 - (2) The communication tower complies with all applicable FCC and FAA regulations and all applicable building codes.
 - (3) The tower is no higher than 20 feet above the height restrictions of the district in which it is located unless it can be demonstrated that additional height is necessary for the tower's intended purpose, but in no case shall the tower exceed 50 feet above the height restrictions of the district. Height is measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
 - (4) Communication towers must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line. Guys and accessory buildings must satisfy the minimum zoning district setback requirements. The City Commission may reduce the standard setback requirements if the goals of this chapter would be better served thereby.
 - (5) The design of the buildings and structures related to communication towers shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
 - (6) The tower shall not use blinking or flashing lights, unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
 - (7) Cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
 - (8) Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
 - (9) The communications tower and operating equipment shall comply with the general standards for approval contained in this chapter. Any tower that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned tower within said 90 days may be removed by

the City at the owner's expense.

- (d) **Convention centers** in a D district, subject to the following:
 - (1) The building is limited to 30,000 square feet;
 - (2) Thirty five percent of the building facade shall be windows or other street level activity;
 - (3) A traffic and economic impact analysis to assess impacts on neighboring streets is provided by the applicant.
- (e) **Conversions of one-family dwellings to two-family dwellings** in a R-1a or R-1b district, subject to the following:
 - (1) The dwelling and lot existed prior to December 10, 1958, substantially as they exist at the time of the request for a special land use permit for purposes of complying or determining compliance with these requirements. Any change made after 1958 may not be used to demonstrate compliance with these requirements.
 - (2) The dwelling is a minimum of twenty percent larger than the average area of those neighboring single-family dwellings within 300 feet to each side of the subject property, including those dwellings along the opposite side of the street.
 - (3) The lot area is not less than 4,000 square feet per proposed dwelling unit.
 - (4) A minimum of 800 square feet of interior living area is required for a one bedroom dwelling unit and 1,200 square feet of living area is required for a two bedroom dwelling unit. In no case shall any secondary dwelling unit provide more than two bedrooms.
 - (5) The dwelling has a minimum of 2,800 square feet of living area exclusive of any basement or third story area.
 - (6) A dwelling unit or portion of a dwelling unit is not provided in the basement, and the basement area shall not be considered to fulfill any requirement of this Zoning Code.
 - (7) No part of a dwelling unit, other than storage, exists above the second story.
 - (8) Access to a second floor dwelling unit is provided from the interior of the structure.
 - (9) The exterior appearance of the structure is not altered from its single-family character.
 - (10) Off-street parking is provided as required by this Zoning Code.
- (f) **Correctional institutions** subject to the following:
 - (1) The use is located in a GP district.
 - (2) All open recreational areas shall be in completely enclosed courtyards.
 - (3) Cell windows and openings shall be screened from the public street view.
 - (4) A master site and facilities plan shall be submitted.
- (g) **Drive-throughs for finance services in C-4 and D districts** subject to the following:
 - (1) The drive-through meets all of the standards of Section 1374.06, unless a more restrictive standard is imposed by this section.
 - (2) The drive-through shall be accessed from an alley, not a street. However, a single lane driveway may exit onto a street if such driveway existed and was utilized prior to July 16, 1999, and it can be clearly demonstrated that alley egress for the drive-through is not practical.
 - (3) The drive-through shall be limited to two service lanes.

- (4) The building associated with the drive-through shall be streetward of the approach lanes to screen the vehicle service lanes.
- (h) ***Essential services structures.*** Are subject to the following:
- (1) The structure and use are reasonably necessary for the public convenience or welfare and, where applicable, a certificate of public convenience and necessity has been obtained from the appropriate regulating agency.
 - (2) Noise, lights, glare and odor will not disturb the surrounding land uses or members of the public.
 - (3) Fencing or other adequate security is constructed to adequately protect the public.
 - (4) If potential adverse effects have been identified, alternative sites have been examined and the proposed site is reasonably necessary to provide the essential service to residents and visitors of the City.
 - (5) Evidence of the appropriate franchise, license or other required governmental permission is demonstrated.
 - (6) Setbacks of the district shall apply unless varied by the Planning Commission for good cause. Communication towers shall be regulated pursuant to Traverse City Code Section 1364.09.
- (i) ***Group day care homes, including adult day care,*** in an R-1a, R-1b, R-2, R-9, R-15 and R-29 as defined by MCL 722.111 et seq, as amended, subject to the following specific requirements, except child care centers located in and operated by hospitals and churches having a valid special land use permit for off-street parking in any R-District:
- (1) All necessary licenses are obtained and maintained. Expiration or revocation of a license automatically terminates the special land use permit and a change in the licensee requires a special land use permit renewal.
 - (2) The lot is not located within 1,500 feet of another lot devoted to such use.
 - (3) For child day centers, fenced outside recreation areas of 1,200 square feet or more of playable ground surface shall be located on premise where it will most effectively shield neighboring properties from noise and visual disruptions. Play equipment shall not be placed streetward of the principal structure unless specifically allowed by the Planning Commission for unique circumstances.
 - (4) The use is not allowed in an apartment.
 - (5) The use is limited to an established and recognized work or shift period and shall not be operated on a 24-hour basis unless approved by the Planning Commission.
 - (6) The premises are approved by the City Fire Marshal prior to the issuance of the special land use permit and at least annually thereafter to maintain the special land use permit.
 - (7) For child care centers, "Approved Child Care Provider" identification is prominently displayed in a street side window so as to be clearly identifiable from the public street, or as otherwise required by the City Commission.
 - (8) No additional parking is required for the Group Day Care Home provided on-street parking is allowed adjacent to the property. If on-street parking is not allowed, four parking spaces shall be provided on premise.
 - (9) As part of the application, a site plan shall be submitted showing the designated outside play area, primary drop off/pick up entrance and parking spaces.
- (j) ***Residential care and treatment facilities*** subject to the following:
- (1) The use is located in an R-9, R-15, R-29, HR, C-1, C-2, C-3 or H-1 or H-2

district.

- (2) The facility shall be located on an arterial or collector street as shown on the Zoning Map if such facility has more than 12 residents.
 - (3) Off-street parking is provided as required by this Zoning Code, except that the Planning Commission may vary the number of parking spaces required.
 - (4) The design of the structure is approved by the Fire Marshall prior to the issuance of the special land use permit and at least annually thereafter to maintain the permit.
 - (5) The structure is not used as a medical clinic or for outpatient treatment unless located in a C-1, C-2 or C-3 District.
 - (6) The structure is not used primarily for office, administrative or regular meetings if located in a multiple family dwelling district, although occasional meetings may be allowed upon approval of the Planning Commission.
 - (7) All necessary licenses are obtained and maintained.
 - (8) The operators of the facility maintain a list of all persons residing at the facility and record their length of stay. State licensed residential facilities (e.g., adult foster care homes) with under seven residents are considered by State law to be single family residences, and State law preempts this Code. MCL 125.583(b); MSA 5.2933(2).
- (k) **Schools** subject to the following:
- (1) The use is located in an R-1a, R-1b, R-2, R-9, R-15, R-29, C-1, C-2 C-3 or GP district.
 - (2) A master site and facilities plan is submitted to and approved by the Planning Commission showing:
 - A. Existing facilities and planned facilities for the ensuing five years.
 - B. Adequate street crossing facilities, pedestrian routes and projected number of pedestrians.
 - C. Sufficient areas for motor vehicle and bus circulation routes, together with areas for pick up and drop off of students.
 - D. If child care use is provided, the facilities for such use shall be designated in the plan, together with the child care hours of operation.
 - E. The building and parking area shall not exceed 70 percent of the lot area.
 - (3) A traffic study must be submitted to the Planning Commission.
- (l) **Stores, retail, over 8,000 square feet per floor** in a D district, subject to the following:
- (1) The building is limited to 30,000 square feet;
 - (2) Thirty five percent of the building facade shall be windows or other street level activity;
 - (3) A traffic and economic impact analysis to assess impacts on neighboring streets is provided by the applicant.
- (m) **Taller buildings.** "Taller buildings" mean those buildings greater than 60 feet in height. The purpose of this section is to encourage sensitive design for taller buildings. Since there are very few buildings taller than 60 feet in the City, it is of public interest that prominent buildings, simply by order of their height, are designed in a manner which will maintain the pedestrian scale at the street level. At the same time, the physical, visual and spatial characteristics of the City are encouraged to be promoted by consistent use, compatible urban design and architectural design elements. Taller buildings are allowed

in a C-4b, C-4c, D, GP, NMC-2 or H-2 district subject to the following:

- (1) The building's height is consistent with Section 1368.01.
 - (2) Roof top mechanical equipment and penthouse space that are an integral part of the architectural design are permitted. All mechanical equipment, appurtenances and access areas shall be completely architecturally screened from view and enclosed.
 - (3) Extended heights for steeples and other architectural embellishments less than 400 square feet each shall not be used to determine the height of the building.
 - (4) The applicant shall prepare and deliver to the Planning Director a scale model, video image or other similar depiction of the taller building in relation to surrounding land and buildings.
- (n) **Temporary accessory dwelling units (TAD)** in an RC, R-1a or R-1b district, subject to the following:
- (1) The existing site and use are substantially in compliance with this Zoning Code.
 - (2) The floor area of the TAD unit is not larger than 676 square feet.
 - (3) The applicant shall present sufficient evidence to the Planning Commission to establish a substantial need for the TAD unit. The TAD shall be discontinued when the person or persons with the substantial need permanently moves to a different domicile or when there is a change in the circumstances where the substantial need no longer exists.
 - (4) A TAD unit is developed within an existing single-family and/or usual accessory use under this Zoning Code.
 - (5) A special land use permit for a TAD unit is not assignable or transferable and will expire automatically unless the applicant submits written evidence that a substantial need continues to exist three years from the date of approval and thereafter every five years.
 - (6) Upon the expiration of the special land use permit the TAD unit shall be discontinued and the property shall be brought into full compliance with the use requirements of this Zoning Code.
 - (7) Individual site plans, floor plans, elevation drawings and building plans for both the proposed TAD unit and the subsequent reconversion to conventional single-family residence and/or accessory use shall be submitted with the application for a special land use permit and shall be prepared by a registered architect or engineer licensed to practice in the State.
- (o) **Transit centers**, subject to the following:
- (1) The center is located in a C-4, D-2, D-3 or GP district.
 - (2) Buses can directly access the center without being dependent upon an access or sub collector street in a residential district.
 - (3) Existing streets in the area accommodate the projected bus traffic.
 - (4) The location of the center lends itself to an integrated transportation system (i.e., walk, bus, bike, rail).
 - (5) The center is within one quarter mile to a high concentration of job sites or dwellings.
 - (6) Noise, lights, glare and odor will not unreasonably disturb the surrounding land uses or members of the public.
 - (7) If potential adverse effects have been identified, alternative sites have been

examined and determined by the applicant not to be feasible.

- (8) No transit vehicle fueling, repair or storage is allowed.
- (p) ***Theaters, live, and performance art centers in an R-9, R-15, or R-29, Multiple Family Dwelling District***, subject to the following conditions:
 - (1) The use must have existed prior to 2005.
 - (2) Minor additions are allowed provided the addition is for barrier free access, fire safety or space that will not increase the seating capacity of the facility.
 - (3) Additions are architecturally compatible with the existing structure and the character of the neighborhood.
 - (4) The applicant submits a parking plan that demonstrates there is sufficient parking within 500 feet to meet the theater's parking demand.
 - (5) On-site exterior lighting is directed to minimize impacts on adjacent residential areas.
 - (6) Performances are not allowed between the hours of 12:00 midnight and 8:00 a.m.
- (q) ***Transitional housing and Emergency shelters***, subject to the following:
 - (1) The facility is fully enclosed in a building located in an HR, C-1, C-2, C-3, D-1, D-2, D-3, H-1, H-2, or I District.
 - (2) The site is located within a ½ mile of a bus stop connected by sidewalks or bike trails.
 - (3) The lot is not located within 1,500 feet of another lot devoted to transitional housing or emergency shelter.
 - (4) The facility shall have a maximum of 100 beds and/or sleeping pads.
 - (5) The building provides 50 square feet of heated building space per person staying overnight at the facility.
 - (6) The operator of the Emergency shelter shall provide continuous, on-site supervision by an employee or volunteer during all hours of operation.
 - (7) The operator of the facility shall have a written management plan including, as applicable, staffing levels, provisions for staff and volunteer training, neighborhood outreach, length of stay of residents, hours of operation, crime prevention, security, screening of residents to insure compatibility and the mission of service provided at the facility. The management plan shall establish a maximum length of time which clients may be accommodated.
 - (8) The operator shall have an ongoing housing assistance program on the premises to place the residents into permanent housing and maintain a list of all persons residing at the facility.
 - (9) Parking requirements would be determined by the Planning Director based on the intensity of the operation described in the management plan.
- (r) ***Wind energy system, pole or tower-mounted structures***. The intent of this section is to ensure that free-standing wind energy systems are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact is minimized. Free-standing wind energy systems are permitted if all of the following requirements are met:
 - (1) The free-standing wind energy system is located in a T, GP, C-3, NMC-1, NMC-2, H-1, H-2 or I district and properties owned by governmental agencies.
 - (2) Guy wires are only permitted to be used in the I and T districts.
 - (3) The free-standing wind energy system complies with all applicable FCC and FAA

regulations and all applicable building codes.

- (4) The pole or tower is no higher than 20 feet above the height restrictions of the district in which it is located unless it can be demonstrated that additional height is necessary for the wind energy system's intended purpose, but in no case shall the wind energy system exceed 40 feet above the height restrictions of the district.
 - (5) Wind energy systems must be set back a distance equal to at least 75 percent of the height of the tower from any adjoining lot line. The setback can be reduced by up to 50% or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind turbine. Accessory buildings must satisfy the minimum zoning district setback requirements. The City Commission may reduce the standard setback requirements if the goals of this chapter would be better served thereby.
 - (6) The design of the wind energy system or buildings and structures related to the wind energy systems shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
 - (7) The wind energy system shall not use blinking or flashing lights, unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
 - (8) Wind energy system cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
 - (9) Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
 - (10) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
 - (11) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04 (h). A wind energy system emits a pure tone and would be subject to a reduction of five dBA.
- (s) ***Wind energy system, building-mounted structures.*** The intent of this section is to ensure that building-mounted wind energy systems are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact is minimized. Building-mounted wind energy systems may exceed the 20 feet above the height limitation of the district if all of the following requirements are met:
- (1) Height exceptions to what is allowed by right will not be allowed in the GP, PR, RC, R-1a, R-1b, R-2, R-9, R-15, R-29 Districts.
 - (2) A taller building-mounted wind energy system may be located in NMC-1, NMC-2, I, T, H-1, H-2, C-1, C-2, C-3, C-4, D and HR districts.
 - (3) Guy wires are only permitted to be used in the I and T districts.
 - (4) The building-mounted wind energy system complies with all applicable FCC and FAA regulations and all applicable building codes.

- (5) A building-mounted wind energy system is no higher than 20 feet above the height of the roof deck in which it is located unless it can be demonstrated that additional height is necessary for the wind energy system's intended purpose, but in no case shall the wind energy system exceed 40 feet above the height of the roof.
- (6) The setback can be reduced by up to 50% or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind turbine. Accessory buildings must satisfy the minimum zoning district setback requirements. The City Commission may reduce the standard setback requirements if the goals of this chapter would be better served thereby.
- (7) The design of the wind energy system or buildings and structures related to the wind energy systems shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
- (8) The wind energy system shall not use blinking or flashing lights, unless required by the FAA or other applicable authority. If lighting is required, the lighting and design chosen must cause the least disturbance to the surrounding views.
- (9) Wind energy system cabinets housing operating equipment shall be architecturally screened from adjacent properties and street level views.
- (10) Existing mature trees and natural land forms on the site are preserved to the maximum extent possible.
- (11) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
- (12) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04 (h). A wind energy system emits a pure tone and would be subject to a reduction of five dBA.

(Ord. 476. Passed 7-6-99. Ord. 527. Passed 3-19-01. Ord. 556. Passed 2-4-02. Ord. 592. Passed 1-06-03. Ord. 620. Passed 2-2-04. Ord. 676. Passed 05-02-05. Ord 688. Passed 10-03-05. Ord. 740. Passed 3-19-07. Ord. 780. Passed 1-7-08. Ord. 785. Passed 3-17-08. Ord. 871. Passed 7-19-10. Ord. 932 Passed 2-6-12 Ord. 938. Passed 4-2-12. Ord. 971. Passed 6-3-13. Ord. 1000. Passed 7-7-14. Ord. 1029. Passed 1-4-16)

1364.09 ADMINISTRATIVE SPECIAL LAND USE PERMITS.

The Planning Director may grant an Administrative Special Land Use Permit for the following uses in any district except as herein qualified:

- (a) Adult foster care small group home in an R-C, R-1a, R-1b and R-2 subject to the following specific requirements:
 - (1) All necessary licenses are obtained and maintained. Expiration or revocation of a license automatically terminates the special land use permit and a change in the

- licensee requires a special land use permit renewal.
- (2) The adult foster care licensee shall be a member of the household and an occupant of the residence.
 - (3) The lot is not located within 500 feet of another lot devoted to such use.
 - (4) The use is not allowed in an apartment.
 - (5) No additional parking is required for the Adult Foster Care Home provided on-street parking is allowed adjacent to the property. If on-street parking is not allowed, two parking spaces shall be provided on premise.
- (b) **Communication antennas.** The intent of this section is to ensure that communication antennas are constructed and placed in a manner which will protect the public health, safety and welfare and where visual impact will be minimized. Co-location of communication antennas are permitted, subject to the following:
- (1) Communications antennas and cabinets housing operating equipment are not permitted for residential buildings or structures in a R District. When associated with a building, the antenna(s) and cabinet(s) housing operating equipment shall be located inside the building.
 - (2) The antenna(s) is no taller than 8 feet above a building or structure.
 - (3) The antenna(s) shall be screened, located or designed in a manner which minimizes views from adjacent properties and street level views or blends with the architecture so as not to be noticed.
 - (4) Cabinets housing operating equipment located on a building roof shall be enclosed or screened from street level view using the same materials used for the building walls or a material which is approved by the Planning Director as visually compatible with the building.
 - (5) Cabinets housing operations equipment not located in a building or on a building roof shall be architecturally screened from adjacent properties and street level views.
 - (6) All necessary licenses shall be obtained and maintained.
 - (7) The antenna(s) and operating equipment shall comply with the general standards for approval contained in this chapter.
- (c) Group day care homes, including adult day care, in an R-1a, R-1b, R-2, R-9, R-15 and R-29 as defined by MCL 722.111 et seq, as amended, subject to the following specific requirements, except child care centers located in and operated by hospitals and churches having a valid special land use permit for off-street parking in any R-District:
- (1) All necessary licenses are obtained and maintained. Expiration or revocation of a license automatically terminates the special land use permit and a change in the licensee requires a special land use permit renewal.
 - (2) The lot is not located within 500 feet of another lot devoted to such use.
 - (3) A fenced outside recreation area shall be located on premise where it will most effectively shield neighboring properties from noise and visual disruptions. Play equipment shall not be placed streetward of the principal structure unless specifically allowed by the Planning Commission for unique circumstances.
 - (4) The use is not allowed in an apartment.
 - (5) The use is limited to an established and recognized work or shift period and shall not be operated on a 24-hour basis unless approved by the Planning Commission.
 - (6) No additional parking is required for the Group Day Care Home provided on-

street parking is allowed adjacent to the property. If on-street parking is not allowed, two parking spaces shall be provided on premise.

- (7) As part of the application, a site plan shall be submitted showing the designated outside play area, primary drop off/pick up entrance and parking spaces.
- (d) **Landing areas.** A landing pad, area, strip, deck or building roof used to launch or receive aircraft, including, but not limited to power-driven winged or delta winged aircraft, gliders, balloons, and helicopters, subject to the following:
- (1) The use is located in an H-1, H-2, or GP district.
 - (2) A noise contour map shall be constructed and overlaid on a land use map.
 - (3) The noise contours shall be based on the noise exposure forecasts.
 - (4) Noise loads shall not exceed maximum recommended FAA noise standards for residentially developed areas.
- (e) **Parking area, private, in a C-4 district if public parking is available within 500 feet of an allowed use,** subject to the following standards:
- (1) No buildings may be removed or demolished to provide the private parking area.
 - (2) Access shall be from an alley or adjacent property only, not from a public street.
 - (3) All requirements of Chapter 1374, *Circulation and Parking*, are met, except Section 1374.03(d), *Parking space requirements*.
 - (4) All requirements of Sections 1372.06, *Screening requirements for parking areas*, and 1372.08, *Landscape development internal to a parking area* are met.
 - (5) Pedestrian travel routes within the parking area shall be provided, clearly defined and approved by the Planning Director.
- (f) **Parking area construction deferral.** It is the intent of this section to provide a mechanism whereby a portion of the off-street parking otherwise required by this Code may be deferred to a future time if it can be demonstrated by the applicant that the number of required parking spaces is excessive of the actual need of a specific use.
- (1) **Standards.** The following standards shall be met for the approval of any parking deferral:
 - A. The property must be located in a GP or I district.
 - B. No more than 50 percent of the parking otherwise required by this Code shall be deferred.
 - C. The area of the site where parking has been deferred shall remain clear of any new structure.
 - D. This clear area shall not be used for parking, the location of a new building, an area to satisfy storm-water management requirements, open space requirements, or screening requirements of this Code.
 - E. A land banked area shall be maintained in its natural condition or landscaped depending upon which is most appropriate for the development in the vicinity as determined by the Planning Director.
 - (2) **Process.** In addition to other special land use application requirements, the following shall be submitted for review and approval:
 - A. A completed application for parking deferral signed by the landowner and business owner as applicants
 - B. A project site plan showing the off-street parking area proposed to be developed and the treatment of the area of the site where parking is to be deferred.

C. A written narrative, signed by the applicant(s), describing in detail the current use of the property, the working shifts, the number of full and part-time employees on each shift, the expected customer counts per day based upon past experience, and records of any operational characteristics which are unique to the subject use which would impact the demand for parking.

(g) ***Places of worship*** in an R-1a, R-1b, R-2, R-9, R-15 and R-29 district, subject to the following:

- (1) The building shall be designed and used primarily for worship.
- (2) The use and related parking shall not necessitate the removal of any historically significant structure as determined by the Historic Districts Commission.
- (3) The maximum lot size shall be 15,000 square feet if located in an R-1a, R-1b or R-2 district and having frontage only on an access street.
- (4) On street parking within 600 feet from the site may account for up to fifty percent of the required parking. All off-street parking shall be located to the rear of the primary building.
- (5) The building and parking area shall not exceed 70 percent of the lot area.
- (6) Parking is allowed in an R-District if associated with a building located in an R-District.

(Ord. 476. Passed 7-6-99 Ord. 586. Passed 11-04-02. Ord. 629. Passed 3-15-04. Ord 711 Passed 10-2-06. Ord. 786. Passed 3-17-08. Ord. 871. Passed 7-19-10. Ord. 897. Passed 12-6-10.)

CHAPTER 1366

Site Plans and Site Development Standards

Site plan review is intended to ensure developments are designed to integrate well with adjacent developments, minimize nuisance impacts on adjoining parcels, insure safe and functional traffic access and parking and minimize impacts on sensitive environmental resources.

CROSS REFERENCES

Zoning authority - MCLA 117.4i; 125.582

Duties of Zoning Administrator re: flood plains - B & H 1458.04

Signs - B & H Chapter 1476

1366.01	Site plan required; site diagrams; waiver.	1366.05	Conditional approvals.
1366.02	Site plan review.	1366.06	Site plan amendments.
1366.03	Site plan requirements.	1366.07	Expiration.
1366.04	Standards for granting site plan approval.	1366.08	Master Site and Facilities Plans.

1366.01 SITE PLANS REQUIRED; SITE DIAGRAMS; WAIVER.

(a) **Site plans.** Site plans are required as follows:

- (1) Any request for a land use permit, land clearing (see definition), an administrative special land use permit or building permit (other than for single or two-family dwellings) shall be accompanied by three copies of a site plan complying with the requirements of this chapter.
- (2) Any request for a Planning Commission-special land use permit, planned unit development, or request for a land use permit for a use that generates more than 500 trip ends per day shall be accompanied by fourteen copies of a site plan complying with the requirements of this chapter. The generation of trip ends is determined by reference to the latest edition of the *Trip Generation* manual promulgated by the Institute of Transportation Engineers.

(b) **Site diagrams.** Any request for a land use permit or building permit for a single family or two family dwelling or accessory structure shall be accompanied by three copies of a diagram drawn to scale showing the proposed use of the site, buildings and structures on the site, lot lines and their relationship to existing property lines and to neighboring sites. The Planning Director shall circulate site diagrams to the relevant officials for comments as to conformance to State and federal laws and the Traverse City Code. A sample site diagram is shown as Figure 1-4 in Appendix 2.

(c) **Waiver.** The Planning Director may waive site plan requirements in any of the following cases when he or she determines that the submission of a site plan would serve no useful purpose:

- (1) Accessory structures;
- (2) Any enlargement of a principal building by less than 20 per cent of its

existing gross floor area of provided such enlargement will not result in a requirement for additional parking;

- (3) A change in principal use where such change would not result in a increase in impervious surface, additional off-street parking, access or other external site characteristics or a violation of this Code.

(Ord 476. Passed 7-6-99.)

1366.02 SITE PLAN REVIEW.

(a) Procedure for all site plans.

- (1) **Pre-application conference.** Before submitting an application, an applicant may meet with the Planning Director to review the proposed project, the Traverse City Code of Ordinances, and planning documents that relate to the property.
- (2) **Application.** An applicant shall apply for site plan consideration not less than 21 calendar days before the date on which such site plan shall be reviewed by the Planning Commission. All site plans shall be submitted to the Planning Director for review according to the standards and requirements of this Code and as follows:
- (3) **Official review.** The Planning Director shall circulate site plans to the relevant agencies or officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended.
- (4) **Approval; referral.** Once the Planning Director deems the site plans or site diagram to be complete, a land use permit may be issued, or, if the site plan accompanies a request for Planning Commission special land use permit, planned unit development or change of use that generates more than 500 trip ends per day, the plan shall be referred to the Planning Commission for review with a recommendation to approve, deny or modify the site plan. If modifications are recommended, the applicant shall be notified in advance of the Planning Commission meeting so that adjustments can be made prior to such meeting. A site plan shall be deemed approved only upon the signature of the Planning Director on a land use permit. No land use permit or building permit shall be issued without an approved site plan.
- (5) **Time limits.** Fourteen days are allowed for departmental review of all site plans and site diagrams (seven days for site plans which have been approved by the Planning Commission). If, for any reason, the Planning Director cannot process the plan within these time limits, he or she shall so notify the applicant and shall set a date for finalizing the review.

- (b) **Planning Commission review.** Once a site plan is forwarded to the Planning Commission, the Planning Commission shall review the site plan according to the standards and requirements of this chapter. The Planning Commission shall approve or deny the site plan (not the use) according to the standards and requirements of this Code.

(Ord 476. Passed 7-6-99. Ord. 671. Passed 03-21-05.)

1366.03 SITE PLAN REQUIREMENTS.

- (a) **Requirements.** A land use permit application shall be accompanied by a filing fee established by resolution of the City Commission. Site plans shall be sealed by a registered architect or engineer, except site plans to be referred to the Planning Commission for approval may defer this requirement until receiving Planning Commission approval. Site plans shall be drawn to scale, rendered on a minimum sheet size of 24 inches by 36 inches and shall include the following:
- (1) A legal description, property lines, lot lines and property dimensions;
 - (2) The scale, north arrow, date and vicinity map;
 - (3) The property owner's and applicant's name and address;
 - (4) The preparer's name and address;
 - (5) Street names, existing street and alley widths, the location and width of utility easements, the size and location of existing and proposed public utilities and building service lines;
 - (6) The zoning classification of the site and surrounding properties and, where applicable, the zoning request;
 - (7) Required setback lines, lot size, lot coverage and any variance to be requested;
 - (8) The size and location of existing buildings and improvements on and adjacent to the subject parcel;
 - (9) The existing building use and proposed building use, location, shape, building height, elevations, floor area and unit computations and dimensions and a description of all exterior building materials;
 - (10) A land use tabulation summary provided in the margin of the plan indicating types of uses, acreage for each land use, number of units, densities and land use intensities;
 - (11) The proposed number and location of parking spaces, maneuvering lanes, sidewalks, driveways and loading areas, and their dimensions and proposed points of access to the site from public streets and alleys;
 - (12) The proposed location and dimensions of site drainage areas, walkways, landscaped areas, recreation areas, open space and screen walls;
 - (13) Natural features, such as unique topographic features, wetlands, 100-year flood plain elevations, creeks, springs and others, with an indication as to which are proposed to be maintained, altered or removed during site development; and
 - (14) Any other information necessary to establish compliance with City ordinances.
 - (15) The following additional information if requested by the Planning Director:
 - A. A report describing the soil types and the ability of soils to accommodate the proposed development;
 - B. A tree location survey signed by an engineer, surveyor, landscape architect, showing all existing trees having a diameter at breast height of six inches or greater, the common and/or scientific names and the diameter at breast height of these trees, plus an indication of trees to be preserved, to be transplanted, or to be removed

during site development. Closely grouped trees shall be designated by the predominate species represented, the number present and the diameter at breast height range of the group or clump;

C. The existing and proposed topography at 2 foot contours.

- (b) **Waiver.** The Planning Director may waive any or all site plan requirements if the construction or alteration does not affect existing traffic circulation, drainage, grading, relationship of buildings to each other, landscaping, buffering, lighting, parking and other considerations of site plan review. Any of these requirements may be waived by the Planning Director where, in his or her judgment, such data will not bear on his or her decision or the decision of the Planning Commission.
- (c) **Appeals.** The property owner may appeal a decision of the Planning Director or Planning Commission to the Board of Zoning Appeals.
(Ord 476. Passed 7-6-99.)

1366.04 STANDARDS FOR GRANTING SITE PLAN APPROVAL.

A site plan shall conform to all applicable requirements of the City Fire Marshall, State and federal laws and local ordinances and approval may be conditioned upon the applicant receiving necessary local, State and federal permits before final site plan approval or an occupancy permit is granted. In addition, a development shall conform to the following site development standards which shall be reflected on the site plan:

- (a) Primary structures shall be oriented so that their main entrance faces the street upon which the lot fronts. If the development is on a corner lot, the main entrance may be oriented to either street or to the corner.
- (b) All roof-mounted equipment, including satellite dishes and other communication equipment, must be screened from recreation trails or from a public sidewalk adjacent to the site by a parapet wall or similar architectural feature.
- (c) Reasonable visual and sound mitigation for all dwelling units shall be provided. Fences, walks, barriers and landscaping shall be used appropriately for the protection and enhancement of property and for the privacy of its occupants.
- (d) Every principal building or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.
- (e) Every development shall have legal access to a public or private street.
- (f) The development, where possible, shall provide vehicular and pedestrian circulation systems which reflect and extend the pattern of streets, pedestrian and bicycle ways in the area. Travelways which connect and serve adjacent development shall be designed appropriately to carry the projected traffic.
- (g) A pedestrian circulation system shall be provided which is physically separated and insulated as reasonably possible from the vehicular circulation system.
- (h) All parking areas shall be designed to facilitate safe and efficient vehicular and pedestrian circulation, minimize congestion at points of access and egress to intersecting roads, to encourage the appropriate use of alleys and minimize the negative visual impact of such parking areas.
- (i) Where the opportunity exists, developments shall use shared drives. Unnecessary curb cuts shall not be permitted.
- (j) All loading and unloading areas and outside storage areas, including areas for the storage of trash, which are visible from residential districts or public rights-of-

way shall be screened by a vertical screen consisting of structural and/or plant materials not less than six feet in height.

- (k) Exterior light sources shall be deflected downward and away from adjacent properties and rights-of-way and shall not violate night sky provisions of the Traverse City Code of Ordinances.
- (l) Adequate utilities shall be provided to properly serve the development. All utilities shall be placed underground.
- (m) Sites at which hazardous substances and potential pollutants are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.

(Ord 476. Passed 7-6-99.)

1366.05 CONDITIONAL APPROVALS.

- (a) The Planning Commission or Planning Director may attach conditions to the approval of a site plan when such conditions:
 - (1) Would insure that public services and facilities affected by a proposed land use or activity are capable of accommodating increased service and service facilities loads caused by the land use or activity.
 - (2) Would protect the built and natural environment.
 - (3) Would insure compatibility with adjacent uses of land.
- (b) The Planning Commission or Planning Director may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of this Code and may collect a performance guarantee consistent with these requirements to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:
 - (1) That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;
 - (2) That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

(Ord 476. Passed 7-6-99.)

1366.06 SITE PLAN AMENDMENTS.

No change shall be made to an approved site plan prior to or during construction except upon application to the Planning Director and according to the following procedures:

- (a) **Minor Change.** A change to a site plan or site plan involving minor changes in the siting of buildings, the adjustment of utilities, walkways, traffic ways and parking areas and similar minor changes may be approved by the Planning Director.
- (b) **Major Change.** A change or amendment to a Planning Commission-approved site plan, involving a change in the number and location of accesses to public streets and alleys, an increase or decrease over ten percent in the number of parking spaces, a major relocation or re-siting of a building, an increase in the gross floor area or height of a building, a reduction in open space and similar major changes shall require the approval of the Planning Commission. A major

change to a site plan before or during construction where a Planning Commission-approved site plan was required shall be approved by the Planning Commission. (Ord 476. Passed 7-6-99.)

1366.07 EXPIRATION.

Site plan approval shall automatically expire with the expiration of the land use permit. (Ord 476. Passed 7-6-99.)

1366.08 MASTER SITE AND FACILITIES PLANS.

(a) **Procedure for all master site and facilities plans.**

- (1) **Pre-application conference.** Before submitting a master site and facilities plan, an applicant may meet with the Planning Director to review the proposed plan, the Traverse City Code of Ordinances, and the City Plan.
- (2) **Application.** An applicant shall apply for master site and facilities plan consideration not less than 21 calendar days before the date on which such plan shall be reviewed by the Planning Commission. The plan shall be submitted to the Planning Director for review according to the standards and requirements of this Code and as follows:
- (3) **Official review.** The Planning Director shall circulate the master site and facilities plan to the relevant agencies or officials for comments as to the proposed development.
- (4) **Approval; referral.** Once the Planning Director deems the requirements for the Master Site and Facility Plan have been met, the plan shall be referred to the Planning Commission for review with a recommendation to approve, deny or modify the plan. If modifications are recommended, the applicant shall be notified in advance of the Planning Commission meeting so that adjustments can be made prior to such meeting. The Planning Commission shall review the master site and facilities plan according to the standards and requirements of this chapter. The Planning Commission shall approve or deny the plan (not the use) according to the standards and requirements of this Code.
- (5) **Compliance.** After approval of a master site and facility plan, the land to which it pertains shall be developed and used in its entirety only as authorized and described in this plan. Where there is insufficient information on the plan to determine building and parking locations and alike, the zoning code requirements for the district shall prevail.

(b) **Planning Commission review and approval.** A master site and facilities plan shall be deemed approved only upon the signature of the Secretary for the Planning Commission on the plan. No land use permit or building permit shall be issued without an approved master site and facilities plan and approved site plan in accordance with the provisions of this chapter.

(c) **Master Site and Facilities Plan requirements.**

- (1) **Requirements.** A master site and facilities plan shall be accompanied by a filing fee established by resolution of the City Commission. Plans shall be drawn to scale, rendered on a minimum sheet size of 11 inches by 17

inches and shall include the following:

- (A) A legal description and property lines;
- (B) The scale, north arrow, date and vicinity map;
- (C) The property owner's name and address;
- (D) The contact person's name and address;
- (E) Street names, existing street and alley widths, the location and width of utility easements within and on adjacent public rights of way.(use separate sheet for clarity);
- (F) The zoning classification of the surrounding properties;
- (G) The size and location of existing buildings and improvements adjacent to the subject parcel;
- (H) Natural features, such as unique topographic features, boundaries of regulated wetlands, 100-year flood plain elevations, creeks, springs and others.
- (I) The building code use groups of existing and proposed buildings;
- (J) Location of building envelopes and the maximum height of buildings allowed by the zoning district within these areas;
- (K) The percentage of property allocated for buildings, parking areas and streets;
- (L) A general circulation plan for pedestrians and motorists and general location of parking areas.
- (M) A conceptual plan in a narrative or graphic plan that describes the central storm-water features, if any.

(2) **Waiver.** Any of these requirements may be waived by the Planning Director where, in his or her judgment, such data will not bear on the decision of the Planning Commission.

(3) **Appeals.** The property owner may appeal a decision of the Commission to the Board of Zoning Appeals.

(d) **Standards for Granting Master Site and Facilities Plan Approval.** A master site and facilities plan shall conform to the following site development standards which shall be reflected on the plan:

- (1) Whenever practical, the primary structures shall be oriented so that their main entrance faces a street upon which the lot fronts. If the development is on a corner lot, the main entrance may be oriented to either street or to the corner.
- (2) Every principal building or groups of buildings shall be so arranged as to permit emergency access.
- (3) Every development shall have legal access to a public or private street.
- (4) The plan, where possible, shall provide vehicular and pedestrian circulation systems which reflect and extend the pattern of streets, pedestrian and bicycle ways in the area.
- (5) A pedestrian circulation system shall be provided which is physically separated and insulated as reasonably possible from the vehicular circulation system.
- (6) All parking areas shall be located in a manner which will reduce the visual impact of such parking areas from adjacent public streets.

- (7) Where the opportunity exists, developments shall use shared drives and interconnect with adjacent properties to reduce travel distance.
Unnecessary curb cuts shall not be permitted.
- (e) **Master Site and Facility Plan Amendments.** No change shall be made to an approved site plan prior to or during construction except upon application to the Planning Director and according to the following procedures:
- (1) **Minor Change.** A slight modification to a Master Site and Facilities Plan involving the siting of buildings, the adjustment or extension of utilities, walkways, traffic ways and parking areas and similar modifications may be approved by the Planning Director.
 - (2) **Major Change.** A change or amendment to a Master Site and Facility Plan, involving a significant change in the number and location of accesses to public streets, alleys and parking areas, a major relocation or re-siting of buildings, a significant increase in the building footprint or height of a building, a significant reduction in open space and similar major changes shall require the approval of the Planning Commission.
- (Ord 476. Passed 7-6-99. Ord 588. Passed 1-06-03. Ord. 741. Passed 3-19-07.)

CHAPTER 1368

Size and Area Requirements

- | | | | |
|---------|-------------------------------------------------------------------|---------|---------------------|
| 1368.01 | Building height. | 1368.04 | Condominiums. |
| 1368.02 | Setbacks; yards. | 1368.05 | Compliance required |
| 1368.03 | Lot width, lot area, impervious surface and density requirements. | | |

1368.01 BUILDING HEIGHT.

- (a) **Purpose.** The height standards serve several purposes:
- (1) They promote a reasonable building scale and relationship of one building to another;
 - (2) They promote options for privacy for neighboring properties; and
 - (3) They reflect the general building scale and placement of buildings in the area.
- (b) All maximum heights below may be further limited to ensure the maximum safety in the use of the Cherry Capital Airport.
- (c) **Height requirements.** The maximum and minimum height requirements are indicated in the following chart:

District		Feet (max)
OS		45
RC		45
R-1a/ R-1b		35
R-2		35
R-9		40
R-15		40
R-29		40
HR		45 ⁸
C-1		30 ⁸ (45 ^{3, 8})
C-2		30 ⁸ (45 ^{3, 8})
C-3		45 ⁸
D	See D District chapter ⁸	

District		Feet (min-max)
C-4 ¹	a	30-45 ⁸
	b	30-60(68 ^{2,4,8})
	c	30-85 ^{2,5}
T		45
GP		25-90
I		60 (public utility buildings - 100')
NMC-1		45
NMC-2		90 (On Bay: 50')
H-1		45
H-2	See H District Chapter	
PRD	See PR District chapter	

¹ Buildings in the C-4 District shall have a minimum height of thirty (30) feet, except an

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existing building may have an addition of no larger than the area of the first floor of that building as it existed on the effective date of Ordinance No. 467, which is July 16, 1999.

² Over sixty (60) feet in height may be allowed only by special land use permit or as part of a planned unit development and subject to the requirements listed above.

³ Forty-five (45) feet in height is allowed if at least one floor is designed and used for residential uses.

⁴ Sixty-eight (68) feet in height is allowed if at least 20% of the building is designed and used for dwellings.

⁵ An additional fifteen (15) feet is allowed for rooftop mechanical equipment or elevator shafts, but not to exceed an overall height of one hundred (100) feet. Buildings over 60 feet tall shall have at least 20% of the building designed and used for dwellings.

⁶ Air traffic control towers are exempt from this height requirement.

⁷ All existing buildings may double their existing first floor area.

⁸ All buildings that front the street, except for parking structures, accessory and utility buildings and buildings that are intended and designed to be exclusively developed for residential use shall have a minimum height of 15 feet measured from the street entrance level to the next finished level or roof structure. The Planning Director may grant a first floor building height exception if it has been clearly demonstrated that such provision is unnecessary or that such requirements would create a practical difficulty, as contrasted merely granting an advantage or convenience. (Ord. 476. Passed 7-6-99. Ord. 491. Passed 4-17-00. Ord. 552. Passed 12-17-01. Ord. 628. Passed 3-15-04. Ord. 652. Passed 8-16-04. Ord. 705. Passed 7-17-06. Ord. 742. Passed 3-19-07. Ord. 992. Passed 6-2-14)

1368.02 SETBACKS; YARDS.

(a) Purpose. The setback regulations for buildings serve several purposes:

- (1) They maintain light, air, separation for fire protection, and access for firefighting;
- (2) They reflect the general building scale and placement of buildings in the City's neighborhoods;
- (3) They promote a reasonable physical relationship between buildings; and
- (4) They provide adequate flexibility to site a building so that it may be compatible with the neighborhood, fit the topography of the site, allow for required outdoor areas, and allow for architectural diversity.

(b) Setbacks required. Unless a stated specific setback is established by this Code, the minimum setbacks, the distance between a property line and a building wall, are required as indicated in each district's chapter in this Code and on the following chart:

District	Front	Side setbacks		Rear	Setback from water
		One Side	Aggregate		
OS	Average setback of buildings within 200' on either side or 30' if there are no buildings	10	20	30	50' from ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25' from ordinary high water mark of Boardman River or any dock line established by
RC	Average setback of buildings within 200' on either side or 25' if there are no buildings	10 (None if adjacent to an RC district.)	20 (None if adjacent to an RC District)	30	

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District	Front	Side setbacks		Rear	Setback from water
		One Side	Aggregate		
R-1a	25' minimum	8 ²	20 ²	30	City ordinance (exceptions in OS District for certain buildings).
R-1b	Within 4' of the average setback of principal buildings on the same face block; no closer than 6' from the front property line.	6 ²	14 ²	25	
R-2	A	6 ²	14	25	50' from ordinary high water mark of Grand Traverse Bay and Boardman Lake and 25' from ordinary high water mark of Boardman River or any dock line established by City ordinance (exceptions in OS District for certain buildings).
R-9	A	6	14 ¹	25	
R-15	A	6	14 ¹	25	
R-29	A	6	14 ¹	25	
HR	Within 4' of the average setback of principal buildings on the same face block; no closer than 8' from the front property line.	None, except a minimum 10-foot side setback is required on the side adjoining a residential district.		5 feet, except a minimum 20-foot rear setback is required if adjacent to or across an alley from a residential district.	Build to edge of a public easement; if no
C-1	The lesser of 8' or the average setback of principal buildings on the same face block.	None, except a minimum 10-foot side setback on any side adjoining an R-District.		5 feet, except 20' on any portion abutting or across an alley from an R-District	
C-2	A Maximum 25'			5 feet, except 20 feet if adjoining an R-District.	
C-3	Bldg 25' max Bldg 8' min			5', except 20' on any portion abutting or across an alley from an R-District.	
C-4	2.5 ³ minimum, 15' maximum.				

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District	Front	Side setbacks		Rear	Setback from water
		One Side	Aggregate		
	Buildings shall be set back a minimum of 25' from any bridge abutment unless otherwise approved by the City Engineer if he or she determines that the building will not interfere with the maintenance or reconstruction of the bridge and that utilities will not be adversely impacted.				public easement, 10' from high water mark or dockline established by City ordinance
D	See Chapter 1347 for requirements				
T	25'	0	0	None, except 25' if abutting or adjacent to an R-district	N/A
GP	25' minimum, or as shown on the approved Master Site and Facilities Plan allowing a lessor setback.	None, except 25' if abutting or adjacent to an R-District.	N/A	25 feet	25' inland from the ordinary high water mark or any dockline established by City ordinance
I	25'	0	0	15' minimum	N/A
NMC-1 & NMC-2	100' or as shown on approved Master Site & Facilities Plan.	0	0	5 feet, except 20' if abutting or adjacent to an R-district.	50' from ordinary high water mark of Grand Traverse Bay
H-1	The lessor of 8 feet or the average setback of principal buildings on the same face block.	5 feet, except a 10' setback is required on a side adjoining an R-District.			N/A
H-2	25 feet or as shown on the approved Master Site and Facilities Plan allowing a lessor setback.				

¹ For structures above grade on lots or tracts of land on Grand Traverse Bay, the setback is the greater of 30% of the lot width or the number listed on the chart above.

² 35% of a building wall may be located no closer than 4' from the property line.

³ Existing buildings closer than 2.5 feet that have been damaged by fire, explosion, act of God or similar causes and located closer than 2.5 feet may be restored or rebuilt at the same location using the same foundation unless located in the right-of-way.

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- (c) **Encroachments into the setbacks.** No encroachments into the setbacks are allowed except those indicated in each district chapter and except barrier free ramps as approved by the Planning Director and except in the C-4 district, a building, balcony, porch or deck may project no more than five feet into a rear setback provided these projections are not less than 15 feet above grade and provided they do not project into any public right of way and except eaves, chimneys, sills, belt courses, cornices and ornamental features not to exceed two and a half feet are permitted to extend within the front or rear setbacks.
- (d) **Storage in an R-district yard.** In an R-district, no yard, except the rear yard, shall be used for the location of a swimming pool or for the storage of a boat, motor home, camper, utility trailer or other recreational vehicle or equipment. For the purposes of this Code, storage shall mean parking the vehicle or equipment in an area unused for the purpose for which it was designed for a period of thirty consecutive days or more.
- (e) **Contiguous lots.** Two or more parcels, lots of record or platted lots, when contiguous and when held in common ownership, shall be treated together as a single lot for the purposes of this Zoning Code, provided such lots are located in the same zoning district.
- (f) **Corner lots.** On corner lots, the location of the required rear setback will be determined by the Planning Director, who will use the following guidelines in reaching a decision:
- (1) The required rear setback is commonly located opposite the street frontage having the lessor dimension.
 - (2) The required rear setback is opposite the street upon which the address has been assigned.
 - (3) The required rear setback commonly abuts a public alley.
 - (4) The required rear setback is commonly located to conform to the established development pattern of adjacent properties on the face block.
- (g) **Nonconforming lots.**
- (1) When a lot of record as of the effective date of this ordinance has less area or width than herein required in the district in which it is located, and the owner of such lot does not own any other parcel adjacent thereto, such lot may nonetheless be used for the construction of a dwelling and for normal accessory uses subject to the standards of this Code.
 - (2) Where two or more abutting lots of record, which individually provide less area or width than herein required, are owned by the same party and such lots together create a parcel which complies with the area or width standards of this Zoning Code, such lots shall not thereafter be divided for the purpose of creating another buildable lot or parcel, except in accordance with the requirements of this Code.
- (h) **Compliance Required.** No setback area or lot existing at the time of adoption of this Zoning Code shall be reduced in dimensions or area below the minimum requirements set

SIZE AND AREA REQUIREMENTS

forth herein except as a result of government action. Setbacks or lots created after the effective date of this Zoning Code shall meet at least the minimum requirements established herein.

- (i) **Street-specific setbacks.** The following setbacks are specific to the streets indicated:
 [reserved]
 (Ord. 476. Passed 7-6-99. Ord. 490. Passed 4-17-00. Ord. 510. Passed 9-18-00. Ord. 576. Passed 10-7-02. Ord. 625. Passed 3-15-04. Ord. 653. Passed 8-16-04.)

1368.03 LOT WIDTH, LOT AREA, IMPERVIOUS SURFACE AND DENSITY REQUIREMENTS.

- (a) **Density.** Density standards serve several purposes. They match housing density with the availability of public services and with the carrying capacity of the land. For example, more housing can be allowed on flat areas than on steep, slide-prone zones. At the same time, density standards promote development opportunities for housing and promote urban densities in less developed areas. The density regulations are a tool to judge equivalent density when comparing standard and nonstandard land divisions (such as Planned Unit Developments).
- (b) **Lot size.** In standard land divisions, lot size limits help to preserve the overall character of developed neighborhoods by assuring that new houses will generally have the same size lots as the surrounding built-up area. They also assure that development on a lot will, in most cases, be able to comply with all applicable development standards.
- (c) **Compliance Required.** Every single family dwelling and every two family dwelling erected or structurally altered after the effective date of this Zoning Code in the R-1a, R-1b, and R-2 districts shall be located on a lot.
- (d) **Impervious Surface.** Surface parking areas shall not exceed the total floor areas of all buildings on the lot in the C-4 and GP districts. In the NMC-1 and NMC-2 districts, the surface parking area shall not exceed fifteen percent (15%) of the total area of any lot over ten acres.
- (e) **Table.** The lot width, lot area and impervious surface and density requirements for each district shall be as indicated in each district and as on the following chart:

District	Minimum Lot Width (feet) ¹	Minimum Lot Area (square feet)	Maximum Density (dwelling units per acre)	Maximum Impervious Surface %
OS	20	None	N/A	20
RC	20	None	4.4	20
R-1a	90	9,000	Not applicable	30
R-1b	35/45 ⁶	5,000	Not applicable	45

SIZE AND AREA REQUIREMENTS

District	Minimum Lot Width (feet) ¹	Minimum Lot Area (square feet)	Maximum Density (dwelling units per acre)	Maximum Impervious Surface %
R-2	50 or 35 for a single family dwelling	8,000 per two family dwelling or 4,000 per single family dwelling	Not applicable	45
R-9	50	7,500	9 (18 ⁴)	35 (45 ⁵)
R-15	50	7,500	15 (30 ⁴)	40 (50 ⁵)
R-29	50	7,500	29 (58 ⁴)	50 (68 ⁵)
HR	50	7,500	29; 44 rooms/acre	70
C-1	20	3,750	N/A	60
C-2	20	3,750	N/A	70
C-3	20	3,750	N/A	80
C-4	None	None	N/A	100 ³
D	See Chapter 1347 for requirements			
T	20	None	None	70
GP	20	None	None	70 ²
I	100	None	None	80
PRD	See Chapter 1352 for requirements			
NMC-1	20	None	15	30 ²
NMC-2	20	None	29	50 ²
H-1	20	None	29	70
H-2	20	None	29	60

¹ See access control restrictions, Traverse City Code, Section 1374.04.

² The surface parking area shall not exceed fifteen percent (15%) of the total area of any lot over ten acres.

³ The surface parking area shall not exceed the total floor area of all buildings on the lot.

⁴ A density bonus shall be provided equal to one market-rate unit for each affordable housing unit provided according to the requirements of *Chapter 1376*. Density shall not exceed the maximum density specified.

⁵ The maximum impervious surface percentage may be increased by up to 10 percentage points for projects that include affordable housing units that meet the standards of Chapter 1376, as authorized by the Planning Director, if the modification is necessary to reasonably achieve the permitted density, including the bonus units; or to achieve a greater number of affordable housing units than the defined affordable housing incentives.

⁶ The minimum lot width for parcels located north or east of the US31/M-72, east of Milliken Drive and south of Eastern Ave are 45 feet.

(Ord. 476. Passed 7-6-99. Ord. 489. Passed 4-17-00. Ord. 534. Passed 6-4-01. Ord. 551. Passed 12-3-01. Ord. 555. Passed 2-4-02. Ord. 568. Passed 7-11-02. Ord. 624. Passed 3-15-04. Ord. 654. Passed 8-16-04. Ord. 829. Passed 3-16-09. Ord. 832. Passed 5-4-09. Ord. 890. Passed 11-1-10. Ord. 917. Passed 6-6-11. Ord. 956. Passed 1-7-13)

SIZE AND AREA REQUIREMENTS

1368.04 CONDOMINIUMS.

Dimensional requirements for commercial and multi-family condominiums shall be computed on the basis of the entire condominium project land. Dimensional requirements for residential, single and two-family condominiums shall be computed based on the lot lines as established in the condominium documents, or, if none, based on each separate structure and a hypothetical lot line as approved by the Planning Director after considering common elements, limited common elements, and private elements. The area of streets to be used by more than one separate condominium building shall not be included in lot area computations. (Ord. 476. Passed 7-6-99.)

1368.05 COMPLIANCE REQUIRED.

Any building or structure erected, converted, enlarged, reconstructed or structurally altered shall conform with the height, yard, bulk and other dimensional limits herein established for the district in which located. No portion of one lot, once established and/or improved with a building or structure shall be created unless each lot resulting from each such reduction, division or sale shall conform with all of the requirements established herein. (Ord. 476. Passed 7-6-99.)

CHAPTER 1370

Nonconforming Uses

The intent of this Zoning Code is to allow to continue a lawful use of any building or land existing on the effective date of this Zoning Code, or any amendment thereto, although it may not conform with this Zoning Code or amendment, but to encourage their improvement if it enhances the neighborhood.

1370.01	Classifications.	1370.04	Illegal uses.
1370.02	General regulations.	1370.05	District boundary changes.
1370.03	Loss of nonconforming use status.	1370.06	Elimination.

CROSS REFERENCES

- Zoning and planning in home rules cities - MCLA 117.4i
- Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
- Regulation of buildings; authority to zone - MCLA 125.582
- Regulation of congested areas - MCLA 125.583
- Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a
- Signs - B & H Chapter 1476

1370.01 CLASSIFICATIONS.

There shall be the following classes of nonconforming uses:

- (a) **Class 1.** Those where the use of the building or land does not conform to the zoning district use regulations; and
- (b) **Class 2.** Those where the use of the building or land does comply with the zoning district use regulations, but such use does not meet the dimensional or parking regulations of this Code. Where the only reason for a nonconforming use being Class 2 is noncompliance with current off-street parking regulations, the provisions of this Zoning Code regarding off-street parking and powers of the Board of Zoning Appeals shall take precedence over this section to the extent they are inconsistent. (See Chapters 1324, *Board of Zoning Appeals* and 1374, *Circulation and Parking*.)
- (c) **Class 3.** Those where the use of the building or land was a use as of right or a legal nonconforming use, but is later allowed only by special land use permit in the zone in which located. (Ord. 476. Passed 7-6-99.)

1370.02 GENERAL REGULATIONS.

- (a) **Enlargement or structural alterations.** Nonconforming uses of property shall be subject to the following regulations:
 - (1) A Class 1 nonconforming use shall not be enlarged or structurally altered when such alteration requires a building permit, nor shall they be expanded or increased in intensity of use, unless the Board of Zoning Appeals or Planning Director grants an exception as described in this Zoning Code.

- (2) A Class 2 nonconforming use shall not be enlarged or structurally altered when such alteration requires a building permit, unless the resultant building creates no further violation of this Zoning Code than lawfully existed at the time of the enlargement or alteration. However, upon approval of the Planning Director, a Class 2 nonconforming use may be expanded to add floor space above the first floor level to the extent of the first floor encroachment, and a porch or other architectural feature which once existed and encroached in the required setback may be reconstructed, subject to the following conditions:
- A. Prior to the issuance of a building permit, the building plans for the addition shall be approved by the Planning Director, who will consider the relationship of the addition with the scale, materials and architectural style of the existing structure.
 - B. The addition shall not substantially degrade the light and air available to the neighboring properties.
 - C. The addition shall not include or utilize window or wall air conditioning units or other appliances or devices which may unnecessarily disturb neighbors due to their proximity to adjacent structures.
 - D. Ice, snow and stormwater from the addition shall be maintained within the boundaries of the subject property and shall not present a safety hazard to residents, guests or neighbors.
- (3) A Class 3 nonconforming use shall not be enlarged or structurally altered without first obtaining a special land use permit for the existing use and the alteration, if enlargement or alteration would result in any of the following:
- A. An increase or decrease in the square footage of the building by more than ten per cent,
 - B. Introduction of a new use on the site which is anticipated to increase daily motor vehicle trip-ends,
 - C. Addition of a separate building or structure occupied on a regular basis,
 - D. Addition or deletion of parking spaces, or
 - E. Significant alteration of traffic patterns adjacent to the site.
- (4) A Class 2 nonconforming use shall not be enlarged or structurally altered when such alteration requires a building permit, unless the resultant building creates no further violation of this Zoning Code than lawfully existed at the time of the enlargement or alteration. However, a Class 2 nonconforming use may be expanded to extend an existing sidewall of a one or two-family dwelling that encroaches in the required side setback, subject to the conditions listed in subsection (a)(2) above and the notice and appeal provisions of subsection (c) below, subject to front and rear setback requirements and impervious surface restrictions and providing such expansion or extension meets all applicable building codes.
- (b) **Repair or improvement of nonconforming buildings.** A nonconforming use may be repaired or improved provided that such repair or improvement to a Class

NONCONFORMING USES

1 nonconforming use is approved by the Planning Director and will do one or more of the following:

- (1) Improve the structure only to add an unenclosed porch or another similar architectural feature that is in keeping with the surrounding architectural style.
 - (2) Improve the structure only to provide barrier free access or accommodation.
 - (3) Improve the structure only to accomplish changes recommended by the Historic Districts Commission.
 - (4) Clearly and convincingly improve the health, safety or welfare of the neighborhood.
- (c) **Notice** Before deciding on the request for enlargement of a Class 2 nonconforming use or for repair or improvement of a Class 1 nonconforming use, the Planning Director shall notify all persons to whom real property is assessed within 300 feet of the boundary of the property in question. Notice shall be mailed and shall describe the request and indicate the deadline for written comments to be received by the Planning Director. The Planning Director's decision may be appealed to the Board of Zoning Appeals by an aggrieved person.
- (d) **Reconstruction and Restoration.** A nonconforming use damaged by fire, explosion, act of God or other similar causes may be restored or rebuilt, provided that such restoration for a Class 1 nonconforming use does not exceed fifty percent of its true cash value, exclusive of land and foundations, as determined for property tax assessment purposes.
- (e) **Change of Use.** A Class 1 nonconforming use shall not be changed to other than a permitted use unless the Board of Zoning Appeals grants an exception as described earlier in this Zoning Code.
- (f) **Prior Construction Approval.** Nothing in this Zoning Code shall prohibit the completion of construction and use of a nonconforming building for which a building permit has been properly issued and substantial construction commenced prior to the effective date of this Zoning Code, provided that the entire building shall have been completed according to plans filed with the permit application within one year after the issuance of the building permit.
- (g) **Conconforming Land Uses.** The nonconforming uses of land, where no building is located, may be continued, provided that the nonconforming land use shall not in any way be expanded or extended either on the same property or adjoining property.
- (h) **Nonconforming Use Certificate.** A nonconforming use certificate may be issued by the Zoning Administrator for a nonconforming use. The certificate shall specify the nature of the nonconformity and such other pertinent matters as may be deemed appropriate by the Zoning Administrator. Upon application for a nonconforming use certificate by all owners of record of the land in question, the Zoning Administrator shall issue or deny such certificate within thirty days or such greater time as may be mutually agreed upon. The application shall be in writing upon a form prepared by the Zoning Administrator and shall be accompanied by such information as the applicant deems pertinent or as the Zoning Administrator may request. An applicant may appeal the denial of a

NONCONFORMING USES

certificate to the Board of Zoning Appeals. This administrative remedy shall be exhausted before a person alleges the existence of a nonconforming use by defense to a zoning enforcement action or otherwise.

(Ord. 476. Passed 7-6-99. Ord. 494. Passed 5-1-00. Ord. 593. Passed 1-06-03.)

1370.03 LOSS OF NONCONFORMING USE STATUS.

(a) **Loss.** Status as a nonconforming use shall be lost and the nonconformity shall be deemed a violation of this Zoning Code if any of the following occur:

- (1) **Increasing the non-conformity.** Unless otherwise allowed or except where permitted by the Board of Zoning Appeals, expansion or change of the use or structure in such a way so as to increase the size, degree or intensity of the nonconformity;
- (2) **Zoning violation.** Except for the initial nonconformity, any violation of the Zoning Code; or
- (3) **Abandonment of the use.** Intent to abandon a nonconforming use may be presumed where the use ceases for more than a year and the owner has not expressed in writing an intent to maintain the use within thirty days after being requested in writing to do so. If nonconforming use status is lost, all future use shall be in conformity with this Zoning Code and the initial nonconforming use may not be continued or re-established.
- (4) **Reduction.** If a nonconforming use or structure is reduced or changed in such a way so as to decrease the size, degree or intensity of the nonconformity, the use or structure may not thereafter be expanded or changed to cause an increase in the nonconformity.

(Ord. 476. Passed 7-6-99.)

1370.04 ILLEGAL USES.

Nonconforming uses of buildings or land established without a required building permit or land use permit, or those nonconforming uses which cannot be proven conclusively as existing prior to the effective date of the section upon which the nonconformity is based, are declared illegal uses and shall be discontinued.

(Ord. 476. Passed 7-6-99.)

1370.05 DISTRICT BOUNDARY CHANGES.

Whenever the boundaries of a district are changed so as to transfer an area from one district to another district of another classification, this chapter shall also apply to any existing uses or structures that become nonconforming as a result of the boundary changes.

(Ord. 476. Passed 7-6-99.)

1370.06 ELIMINATION.

In accordance with Act 207 of the Public Acts of 1921, as amended (M.C.L. 125.581 et seq.), the City may acquire properties on which nonconforming uses or structures are located, by condemnation or other means, and may remove such uses and structures. The resultant property may be leased or sold for a conforming use or may be used for a public use. The net cost of such acquisition may be assessed against a benefit district, may be

NONCONFORMING USES

paid from other sources of revenue, or may be paid by a combination of special assessments and other revenue.
(Ord. 476. Passed 7-6-99)

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CHAPTER 1372

Landscaping

The process of development may require the alteration of existing topography and soil structure, the disruption of native vegetation and the expansion of impervious surface area over the development site. The cumulative effects of the land-altering process extend far beyond the property lines of an individual development site and if development is not undertaken within the context of the broader community, it will not only degrade the individual development, but also the community of which it is a part. It is, therefore, the intent of this Chapter to protect and manage vegetation to:

- (a) Aid in the stabilization of the environmental balance through air purification, oxygen regeneration, groundwater protection and recharge and the control of stormwater runoff.
- (b) Safeguard and enhance private and public property values and encourage continued investment in the community.
- (c) Enhance community appearance, identify unique natural beauty, and promote quality development at a suitable scale.
- (d) Provide visual screens between land uses of differing character and use intensities.
- (e) Prevent reductions in the City's urban forest.
- (f) Provide for the preservation of larger native trees which are valuable amenities to the urban environment that, once destroyed, can only be replaced after generations; and
- (g) Ensure that the local stock of native trees and vegetation is replaced.

It is recognized that alternative design concepts exist which, if adopted, could exceed the results envisioned using these development standards. It is intended that the requirements of this chapter be flexible and permit latitude in site design and the use of plant materials when it can be shown that variation from the requirements will provide a development substantially better than that achievable using the minimum standards of this Chapter. The provisions of this chapter shall be considered the minimum development standards and not a design goal.

1372.01	Compliance required.	1372.05	Landscape development
1372.02	Alternative compliance.		internal to a parking area.
1372.03	Standards and materials.	1372.06	Landscape requirements
1374.04	Screening requirements for		for street rights-of-way.
	parking areas.	1372.07	Landscape plan.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i
 Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a

1372.01 COMPLIANCE REQUIRED.

- (a) In all districts except RC, R-1a, R-1b and R-2 and for public parking areas in the C-4 district, compliance with this Chapter shall be required for:
 - (1) Any new building, rebuilding, conversion, enlargement or structural alteration requiring a building permit and having a value of \$50,000 or more;
 - (2) Land clearing as described in this Zoning Code.
- (b) Any time there is compliance required with Chapter 1374, *Circulation and Parking*, landscaping requirements internal to parking areas shall be required except for private parking areas in an RC, R-1a, R-1b and R-2 district.

1372.02 ALTERNATIVE COMPLIANCE.

The Planning Director may approve variations from strict compliance with this Chapter when an applicant can demonstrate that the following apply to a specific development site:

- (a) When topography, shape, size or other natural features make full compliance impractical or impossible.
- (b) When space limitations or prevailing development patterns in the surrounding neighborhood justify alternative compliance for in-fill projects and redevelopment in older established areas of the City.
- (c) When safety considerations warrant alternative compliance.
- (d) When there is not an alternative in the practical siting of a building, location of site access or the location of underground utilities to service the site.
- (e) When the alternative compliance plan is equal to or superior in its ability to fulfill the intent of this Chapter.

1372.03 STANDARDS AND MATERIALS.

- (a) **General Performance Standards** The following general performance standards shall apply whenever compliance is required:
 - (1) All areas not covered by buildings, parking areas, driveways, walkways, pedestrian plazas or other pedestrian-oriented impervious surfaces or water surfaces shall be planted with living vegetation, including canopy trees, shrubbery and ground covers. The combination of plant materials selected shall be placed in harmonious and natural associations and represent the approved indigenous landscape materials and their cultivars listed in Appendix 3.
 - (2) Not less than 80 percent of any landscape area shall be covered by plant materials. Stone and other mulches, grass and other ground covers, pedestrian walks, other impervious surfaces or water surfaces may cover the remaining 20 percent of the landscape area.
 - (3) The general site topography and any natural landforms unique to the property shall be maintained and made part of the development whenever possible to reinforce the local and regional character.
 - (4) All trees shall be located to allow sufficient room for growth.
 - (5) Landscape materials shall not obstruct access to or view of fire hydrants or other fire connections.
- (b) **Landscape Materials.** The following landscape material requirements shall

apply whenever compliance is required:

- (1) All landscape plant materials preserved or used pursuant to the provisions of this Code shall be healthy and compatible with local climate, site soils characteristics, drainage and available water supply.
 - (2) Deciduous canopy trees required by this Code shall not be less than 2 1/2 inches diameter at breast height.
 - (3) Coniferous trees required by this Code shall be at least six feet in height when planted.
 - (4) All shrubs required shall be of a size generally known in the nursery industry as requiring a five gallon container.
- (c) **Irrigation and Maintenance Standards.** The following irrigation and maintenance standards shall apply whenever compliance is required:
- (1) All landscape plant materials required by this Code shall be supplied with a watering system sufficient to maintain the plants in a healthy condition.
 - (2) All plant materials shall be maintained in a healthy growing condition. Dead and unsalvageable plant materials shall be replaced with the same size and variety of plant materials originally required on the site development plan within 30 days of the "Notice to Replace" issued by the City. Replacement may be delayed if the Planning Director determines that circumstances beyond the control of the property owner prevent timely replacement.
- (d) **Utilities.** All utility lines such as electric, telephone, cable television and other similar lines shall be installed underground. All utility junction boxes, access boxes and pad-mounted fixtures shall be appropriately screened with landscape materials.
- (e) **Existing vegetation.** The following standards shall apply to existing site vegetation whenever compliance is required:
- (1) Existing healthy trees, of an approved species listed on Appendix 3, shall be preserved and incorporated into the final development plan.
 - (2) Existing healthy trees and shrubs located within required setbacks and areas not required for development shall be preserved.
 - (3) Trees to be preserved shall be pruned to remove dead, diseased or irregular branching, but the crown form characteristic of the respective species shall be maintained.
 - (4) Preserved trees shall be protected with sturdy, highly visible barriers around the tree or group of trees, at approximately the critical root zone or drip line and a tree preservation plan shall be submitted and approved by the Planning Director.
 - (5) The critical root zone of the tree shall remain undisturbed by cutting, filling or storage of materials and equipment during the development process.
 - (6) Healthy, younger trees on development sites shall be preserved wherever possible to allow normal succession as older trees are lost.

1372.04 SCREENING REQUIREMENTS FOR PARKING AREAS.

Except in RC, R-1a, R-1b or R-2 zoning districts, parking areas shall be screened from

the alley and from neighboring residential properties whenever parking is developed according to the following:

- (a) Unless waived by the Planning Director, screening shall be provided within a required setback area and the screening shall establish an opaque screen at least five feet in height as measured from the finished parking area grade where it adjoins the setback.
- (b) Required screening of parking areas shall be achieved through the use of a decorative masonry screenwall, earth berms and landscape plant materials, either in combination or independently.
- (c) Specific screening elements may be relocated, redesigned or partially eliminated at the direction of the City Engineer to correct clear vision or other safety considerations.
- (d) Required screening may be interrupted to provide reasonable pedestrian or bicycle access to a property from a public right-of-way.

1372.05 LANDSCAPE DEVELOPMENT INTERNAL TO A PARKING AREA.

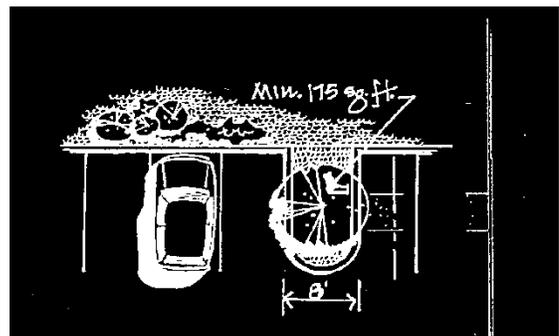
Any use providing or requiring 30 or more parking spaces or 10,000 square feet of impervious surface, whichever is less, shall supply internal landscaping not less than eight percent of the off-street parking area, including access and egress drives and such landscape areas shall comply with the following standards:

- (a) No required landscape area shall contain less than 175 square feet or provide any dimension of less than eight feet.
- (b) All internal landscape areas shall be protected from vehicular encroachment by permanent granite, concrete curb or curb and gutter, except that portions of the curb maybe omitted where approved by the Planning Director to accommodate the secondary use of landscape areas for stormwater detention and snow storage.
- (c) For the purpose of calculating the amount of required internal landscaping in any parking area, pedestrian walks are excluded if the walks are constructed using a separate and contrasting paving material which provides a durable surface.

1372.06 LANDSCAPE REQUIREMENTS FOR STREET RIGHTS-OF-WAY.

The following landscape requirements for street rights-of-way shall apply when compliance is required:

- (a) With the approval of the City Forester, canopy trees shall be provided along the public street in a planting area provided in the treelawn and at a maximum distance of 50 feet between trees. The trees shall be planted so as not to interfere with utilities, streets, sidewalks, street lights, sight distances, clear vision areas, and shall not be planted closer than eight feet to fire hydrants.
- (b) All trees shall have a minimum size of 2 1/2 inches caliper diameter at breast height.
- (c) Subsequent or replacement trees shall conform to the type of existing trees in a given area, provided that, if any deviation is anticipated, it must be done only with



the permission of the City Forester. In a newly planted area, only one type of tree may be used on a given street unless otherwise specified by the City Forester.

- (d) Tree varieties which exhibit desirable characteristics such as full symmetrical form, deep non-invasive root systems and tolerance of drought and road salt should be utilized.
- (e) Trees shall be of sufficient size to be pruned to a seven-foot branching height with one main stem upon planting.
- (f) If existing trees can be preserved within the tree lawn, the requirement for additional street tree plantings may be reduced or eliminated by the Planning Director.

1372.07 LANDSCAPE PLAN.

Where compliance is required, a landscape plan shall be required for any development requiring a site plan and no building or land use permit shall be issued until a landscape plan has been submitted to and approved by the Planning Director. All landscape plans shall utilize the required site plan as a base sheet and shall include the following additional information:

- (a) A tree survey, sealed by a landscape architect, surveyor, engineer or architect licensed to practice in the State of Michigan. The survey shall establish the location, species and assessment of the general health and condition of all trees with a six inch or greater diameter at breast height, their approximate height and spread or crown diameter in the disturbed area of the site.
- (b) A calculation verifying the minimum percentage of landscape area has been met and the percentage of landscape area dedicated to pedestrian ways and inorganic mulches.
- (c) A detailed description of either written or graphic form, indicating the applicant's plans to protect the existing trees to be protected from damage during site development and construction.
- (d) Contour lines at minimum two foot intervals shall be shown for sites with grades in excess of six percent slope; otherwise, proposed and existing elevations at sufficient locations on the site to clearly show drainage patterns.
- (e) Description of the type of equipment and methods to be used to irrigate the required landscape areas.
- (f) Location, height, elevation/section and material of proposed screening walls, fencing, retaining walls and berming. Berms are to be delineated by one-foot contours and designed with slopes not to exceed 1:3 gradient, a minimum of two feet between contour at the top of the berm, and slopes protected with sod, shrubs, or other types of natural ground covers.
- (g) Complete description of plant materials shown on the plan, including common and botanical names, quantities, container or caliper sizes, heights, spread and spacing at installation.

(Ord. 476. Passed 7-6-99)

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CHAPTER 1374

Circulation and Parking

The purpose of chapter is:

- To make Traverse City safe and accessible by pedestrians, cyclists, drivers and passengers.
- To give equal consideration to the pedestrian in the design of all public and private parking areas.
- To promote site designs that help to reduce crashes and conflicts between pedestrians and vehicles.
- To maintain the utility of the public rights-of-way to move goods and people safely and adequately.
- To promote interesting street edges that invite people to walk.
- To encourage a healthier transportation mix.

CROSS REFERENCES

Handicapped parking restrictions - MCLA 257.942a

Parking generally - TRAF 410.03, Ch. 480

1374.01	Pedestrian travel ways.	1374.04	Driveways and access requirements.
1374.02	Bicycle parking.	1374.05	Delivery truck loading requirements.
1374.03	Motor vehicle parking.	1374.06	Drive-through standards.

1374.01 PEDESTRIAN TRAVEL WAYS.

- Compliance required.** All developments except for one and two-family dwellings, shall provide clearly defined pedestrian travelways from the public sidewalk to main entrances of the buildings or uses of the land.
- Requirements.** A sidewalk a minimum of five feet wide free from obstructions shall be constructed from the public walk to main entries of buildings. On lots where there are multiple principal buildings or main entries, sidewalks meeting the requirements above shall be provided.
- Construction standards.** Pedestrian travelways shall be physically separate from the parking area except where they cross a vehicle maneuvering lane, in which case the travelway shall be defined with a separate and contrasting material such as the use of a textured concrete or brick paver.

1374.02 BICYCLE PARKING.

- Compliance required.** Whenever full off-street parking compliance is required, a minimum of one bicycle rack or locker is required and shall be located within 50 feet of the main entrance of a building or inside a building in a location that is easily accessible by bicyclists. For sites that require more than 25 motor vehicle spaces, the ratio is one rack for every 25 motor vehicle spaces. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one

parking space.

(b) **Exception.** The requirements of this section do not apply to residential uses in the RC, R-1a, R-1b and R-2 districts or uses in the C-4 district.

(c) **Standards.**

(1) **Bicycle lockers.** Where required bicycle parking is provided in lockers, the lockers must be securely anchored.

(2) **Bicycle racks.** Where required bicycle parking is provided in racks, the racks must meet the following standards:

A. The bicycle frame and one wheel can be locked to the rack with a high security, U-shaped shackle lock if both wheels are left on the bicycle.

B. A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components; and

C. The rack must be securely anchored.

(3) **Maneuvering areas.**

A. Each required bicycle parking space must be accessible without moving another bicycle; and

B. There must be an aisle at least five feet wide behind all required bicycle parking to allow room for bicycle maneuvering.

(Ord. 774. Passed. 11-5-07.)

1374.03 MOTOR VEHICLE PARKING.

(a) **Compliance required.** In all districts, except the C-4 districts (where the provision of off-street parking is not required) and those properties located within 500 feet of a public parking structure, off-street parking shall be provided as required by this Chapter unless otherwise provided by parking waiver pursuant to this Zoning Code. In the C-4 district and those properties located within 500 feet of a public parking structure, when private parking is provided, it shall meet all requirements of this Chapter with the exception of the parking space requirements of subsection (d). Full off-street parking compliance is required as follows:

(1) **New Construction.** For all newly constructed buildings.

(2) **Enlargement.** Whenever a building is expanded to increase its gross floor area.

(3) **Change in Use.** Whenever the use of a building or portion of a building is changed to accommodate a use requiring more parking pursuant to this Zoning Code than the former use.

(4) **Parking Area Construction and Expansion.** For all new parking areas and whenever existing parking areas are expanded. Normal maintenance, such as regrading of legal non-conforming gravel parking areas or the addition of top coat or sealer to existing paved parking areas, will not trigger full off-street parking compliance; however, pulverizing an existing asphalt, concrete or other paved parking surface, the outright removal or substantial modification of the paved surface in preparation for paving and demolition by neglect which serves to return a parking area substantially to gravel or other aggregate surface, shall, for the purposes of this code, be considered a new parking area.

(b) **Land use permits; plans; improvement guarantees.** Land use permits shall be required for parking area construction or expansion in all districts. In addition, the

following shall be submitted:

- (1) **Plans.** For any parking construction or expansion a plan shall be submitted to and approved by the City Engineer prior to the commencement of construction. Such plan shall include:

- A. Setbacks, spacing and size of spaces,
- B. Landscaping and lighting (where applicable),
- C. Ingress and egress,
- D. Surfacing and drainage,
- E. Proposed and existing grades,
- F. General specifications,
- G. Parking details and any other information as shall be deemed necessary by the Planning Director or City Engineer prior to the issuance of a land use permit.

Except for parking areas and driveways for one and two-family dwellings, such plans shall be sealed by a registered professional engineer or architect who is licensed to do business in the State. Specific plan requirements may be waived by the Planning Director or City Engineer when, in their opinion, the proposed changes do not warrant full compliance. In such cases, a written opinion by the Planning Director must be filed with the application for the permit.

- (2) **Improvement Guarantees.** For any parking construction, screening or other site development for which a land use permit is required, a certificate of surety, performance bond, or other financial guarantee, as approved by the Planning Director, in the amount of 110 percent of the estimated construction costs, shall be submitted prior to the issuance of a land use permit or building permit and shall be retained until such site development is completed and found to be in full compliance with the site plan approved by the Planning Director. Where landscape materials are required to be provided or mature trees are required to be saved in any development, the financial guarantee shall include the cost of plant materials and the total appraised value of individual trees to be saved and shall remain in effect for not less than one growing season after planting or completion of project site work, whichever is last.

- (3) **Leased parking.** The owner or occupier of the property to be served shall own or lease all property utilized to meet minimum parking requirements. The lease shall include a provision that the lease may not be canceled without the permission of the Planning Director. The Planning Director may allow cancellation of all or part of a lease where parking compliance is achieved in some other way or a parking exception is granted.

- (c) **Location of parking areas.** Off-street parking areas shall be located in the same district as the use they are intended to serve, in a district that allows the use, or as provided by a special land use permit or the granting order of a planned unit development. In addition, parking areas are to meet the following requirements:

- (1) **Front setbacks.** Except as otherwise contained in this Zoning Code or as indicated below, parking shall be provided behind or to the side of a principal building as follows:

- A. **R-1a:** 3 feet minimum.

B. **R-1b:** 3 feet minimum.

All other districts: Other than in the R-1a, R-1b and R-2 Districts, a parking area shall be set back a distance equal to the setback of the principal building or 25 feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than 25 feet from the front property line

- (2) **Side setbacks.** In the R-1a, R-1b and R-2 districts, the side setback shall be 2 feet. In all other districts, any parking area which is contiguous to the side property line of an R-District shall provide a minimum side setback of 10 feet from the side contiguous to the R-District. All other parking areas shall maintain a minimum 5 foot side setback. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels. See Appendix 2, Figure 1-5.
- (3) **Rear setbacks.** In the R-1a, R-1b and R-2 districts, no rear setback is required. In all other districts, a rear setback of 20 feet shall be required for any parking area abutting, adjacent to or across a public alley from an R-District and a 5 foot rear setback shall be required otherwise with the exception of the following:
 - A. A rear setback requirement may be waived by the Planning Director to allow parking designed to back directly into a public alley when it can be demonstrated that the property exhibits site constraints which preclude or render permitted parking configurations impractical. Whenever such parking is approved, an area no less than ten feet in depth shall be provided immediately in front of the parking and the provided area shall be developed according to the landscaping requirements of Section 1372.05 (a) and (b). See Appendix 2, Figure 1-6.
 - B. A required 20 foot rear setback may be reduced in depth by up to 50 percent when a decorative masonry screenwall at least five feet in height is constructed along the 10 foot setback line and the area between the wall and the rear property line is landscaped according to the requirements for front yards in Section 1372.05, *Landscape Development Internal to a Parking Area*.
- (4) **Off-site locations.**
 - A. All off-street parking areas, except in R-districts, shall be located on the immediate premises or within 500 feet as measured from the nearest point of the parking area to the nearest point of the building intended to be served.
 - B. The required number of parking spaces may be reduced on a 1/1 ratio for permit parking spaces and leased spaces in a public parking area within 500 feet of the building to be served. The termination of such a permit or lease shall require replacement of the parking spaces so reduced.
- (5) **Use of public right-of-way.**
 - A. The required number of off-street parking spaces for a specific use may be reduced in recognition of the number of available on-street parking spaces on a curbed street abutting the property.
 - B. Parking is prohibited on the treelawn portion of the right-of-way except where permitted by sign.

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(d) **Requirements.** The number of required off-street parking spaces shall be provided by a property owner according to the following schedule. **All requirements are minimum unless otherwise noted.**

Residential	1 per dwelling unit*
Specialized Housing	
Adult foster care home	1 per three residents
Child care center	1 per ten children
Residential care and treatment facilities	1 per three beds
Independent living	1 per unit
Institutions	
High schools, colleges	3 per 10 students
All other schools	1.5 per classroom
Places of worship	1 per 4 seats in main area of worship
Hospitals	1 per 400 square feet gross floor area
Governmental offices, post offices	1 per 400 square feet
Auditoriums (excluding schools)	1 per 3 seats
Commercial	
Office, financial institutions, retail (Max. 1 per 150 sq. feet)	1 per 350 square feet gross floor area
Medical office (Max. 1 per 150 sq. feet)	1 per 300 square feet gross floor area
Furniture, antique and bicycle shops	1 per 850 square feet gross floor area
Theaters	1 per 3 seats
Restaurants <i>Family</i>	0.4 per seat (alt. 2 for every 5 seats)
<i>Fine / Banquet Halls/ Fast Food</i>	0.7 per seat (alt. 3 for every 4 seats)
Lodging facilities	1 per room or suite
Marinas	1 per boat slip
Grocery, hardware /all other uses	1 per 325 square feet gross floor area
Industrial	
Office	1 per 350 square feet gross floor area
Assembly/ Warehouse/Manufacturing	1 per 600 square feet gross floor area

* *No parking is required for Accessory Dwelling Units*

- **Uses not listed.** Any use not specifically addressed or referred to in this list shall have parking requirements determined by the Planning Director.
- **Fractional spaces.** When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.
- **Bicycle rack.** In all except R- districts, one on-site bicycle rack accommodating four bicycles may replace no more than one motor vehicle parking space.

- **Multiple uses.** Where a building has a multiple use occupancy of any two or more residential, commercial, office or industrial uses, the parking required shall be computed on the basis of the gross floor area in each use.
 - **Upper story dwellings.** Additional parking is not required for upper story dwellings above a first floor commercial or office use in a C-1, C-2, C-3 or H-1 district, however, any parking area supplied shall conform to the provisions of this Code.
 - **Buildings less than 500 square feet gross floor area** for non-residential uses are exempt from parking space requirements.
- (e) **Parking exception.** The Planning Director may grant a parking exception which reduces parking space requirements or location requirements of this Zoning Code, if it has been clearly demonstrated that the provisions of full parking or location requirements are unnecessary or that such requirements would create a practical difficulty with the use of the lot, as contrasted with merely granting an advantage or convenience. Storage areas, other than warehousing space, deemed by the Planning Director to be impractical for the other occupancies, shall require no off-street parking.
- (f) **Limitations on use of parking areas.**
- (1) The required parking area shall be used solely for the parking of private passenger vehicles or vehicles used in the business operation.
 - (2) No commercial repair work or service of any kind, and no sale, display or storage of new or used vehicles which are not for the use of the occupant, employees and patrons, shall be conducted in such required parking area.
 - (3) A parking area in an R-district for a residential use shall be restricted to the use of its owner or lessee and under no circumstances shall such facility be used for a non-residential use or in conjunction with any non-residential use, including the provision of access to a non-residential use or the storage of snow removed from non-residential property or use.
 - (4) No truck, trailer or other vehicle having an auxiliary refrigeration unit shall be parked overnight within 150 feet of any residence district while the refrigeration unit is in operation.
- (g) **Design and construction standards.** The following standards for off-street parking areas apply to all uses in all districts except as specifically noted:
- (1) **Layout.** Off-street parking areas shall be designed, constructed, and maintained as follows and in accordance with the standards set forth in the table and drawing following the text of this Chapter.
 - A. All maneuvering lanes shall permit only one-way traffic movements, with the exception of the 90 degree pattern where two-way traffic may be permitted.
 - B. Each parking space shall have direct unimpeded access to a maneuvering lane and dead-end maneuvering lanes shall be permitted only with the 90 degree pattern where the maneuvering lane has been extended by a minimum of four feet beyond the last parking space to create a back-up area for exiting vehicles.
 - C. Maneuvering lanes shall not be located within a required setback. A driveway may cross a setback from the street to the parking area.
 - D. Stacking of parking spaces may be allowed by the Planning Director for

employee parking only.

- (2) **Surfacing.**
 - A. All parking areas, other than for a single or two-family residential use, shall be paved with concrete, bituminous asphalt, perforated concrete, brick or other permanent equal as approved by the City Engineer.
 - B. Any parking area for single or two-family residential use shall, at a minimum, be surfaced and the area clearly defined with gravel, crushed stone, concrete, asphalt, brick or equal material, and be maintained substantially free of dust, mud and standing water.
 - C. All parking spaces other than for single and two-family residential use shall be striped with suitable paint, reflective tape or other approved contrasting material which is applied upon or as an integral part of the pavement.
- (3) **Curb Types.** All parking areas except those for single and two family dwellings shall have permanent 4 inch minimum high granite, concrete curb or concrete curb and gutter to channel the flow of vehicular traffic, define and contain parking, protect landscaped areas and individual trees and to define and separate pedestrian travelways in the interest of safety and efficient parking area utilization. In the Industrial District, curbing is required only for that portion of a parking area including the approach driveways and parking lot facing the street. See Appendix 2, Figure 1-7. All landscaped islands shall be protected from vehicular encroachment by curbing, however limited areas of the curb may be lowered to parking area grade, as approved by the City Engineer to accommodate the secondary use of landscape areas for the retention of storm-water runoff and snow storage. The Planning Director may approve variations from strict compliance with the curbing requirements when the applicant can provide an alternative design that is equal to or superior in its ability to channel the flow of vehicular traffic, define and contain parking, protect landscaped areas and individual trees and to define and separate pedestrian travelways.
- (4) **Storm-Water Management.** All parking areas shall provide for storm water management pursuant to Traverse City Code Chapter 1068, *Groundwater Protection and Stormwater Runoff Control*.
- (5) **Screening.** Screening shall be provided pursuant to Traverse City Code Chapter 1372, *Landscaping*.

(Ord. 476. Passed 7-6-99. Ord. 537. Passed 6-4-01. Ord. 540. Passed 7-16-01. Ord. 536. Passed 6-4-01. Ord. 569. Passed 7-1-02. Ord. 575. Passed 8-19-02. Ord. 766. Passed 7-2-07. Ord. 923. Passed 10-3-11. Ord 967. Passed. 6-3-13. Ord 1018. Passed 4-6-15.)

1374.04 DRIVEWAYS AND ACCESS REQUIREMENTS.

- (a) **Intent.** It is the intent of this section to regulate the number, location and spacing of driveway entrances to public streets from private property and to encourage the joint use of driveways and alternative access ways wherever possible so as to minimize the frequency of traffic conflict points, increase safety and protect the traffic carrying capacity of arterial and collector streets.
- (b) **Restrictions.** After the effective date of this Zoning Code:
 - (1) No new driveways are permitted on a new primary arterial or new collector street.

- (2) No new driveways are permitted from streets in the C-4 District, except to service parking areas on properties that do not have access to an alley provided the standards in Section 1346.01 are met.
- (3) A service driveway for a dumpster(s) in the C-4 District with a minimum capacity of 3 cubic yards is allowed provided the property does not have access to an alley. The driveway width shall not exceed 10 feet.
- (4) For a single or two-family residential use, parcels without alley access are limited to one driveway opening per parcel.
- (c) **Minimum spacing regulations.** The following minimum driveway spacing requirements shall apply to arterial and collector streets in all districts. Driveways located in proximity to another driveway on the same side of the street shall not be closer than the linear footage established by the following:

<u>Street Type</u>	<u>Alternate Access Available</u>	<u>No Alternate Access Available</u>
Arterial	200 feet	100 feet
Collector	200 feet	100 feet

- (d) **Minimum distance from street intersections.** Driveways shall not be located nearer to street intersections than established by the following. Minimum spacing is measured along the street curbline and is determined by the linear footage from the end of the intersection curb radius to the end of the driveway curb radius

If a driveway enters a street classified as:	And the intersecting street is classified as:	Minimum spacing for driveways entering a lane approaching the intersection (feet):	Minimum spacing for driveways entering a lane leaving the intersection (feet):
Access	Access, collector or arterial	15	15
Collector	Access, collector or arterial	50	50
Arterial	Access	50	50
Arterial	Collector	50	50
Arterial	Arterial	50	50

- (e) **Exceptions.** In all districts:
 - (1) **Improvement and enlargement of existing buildings and sites.**
 - A. A building or site existing at the time of adoption of this Zoning Code having driveway access which does not meet the requirements set forth in subsection (c) hereof may be improved, enlarged or structurally altered, provided no additional driveways are constructed.
 - B. A building that is replaced or enlarged or a site which is altered to an extent more than twenty percent of its value, as determined for tax assessment purposes, must comply fully with these public street access regulations.
 - (2) **Residential lots.** Any residential building or driveway constructed after the effective date of this zoning code which has access to a maintained alley shall not have access to a street nor shall a parking area be located in the front yard. For parcels having alley access, the parking of a boat, motor home, camper, utility

trailer or other recreational vehicle is limited to the rear yard.

- (3) **Further exceptions.** Further exceptions to driveway minimum spacing regulations in paragraphs (c) and (d) hereof may be granted upon approval of the City Engineer. The distance requirement may be reduced by no more than 50 percent if the City Engineer determines that the requested exception, along with possible additional exceptions in the same area, will meet the following findings:
 - A. The character of the street or neighborhood shall not be diminished or negatively impacted.
 - B. It is necessary for reasonable use of the lot.
 - C. It shall not contravene the intent and purpose of this Zoning Code.
 - D. It meets other conditions the City Engineer may specify regarding the health and safety aspects of the exception.
- (f) **Design standards for single or two-family uses.** The minimum width of a driveway measured at the throat is 8 feet and the maximum width is 16 feet on all streets or private streets for single or two-family uses. A parking area and driveway width in the front yard shall be the lessor of 40% of the lot width or 32 feet.
- (g) **Design standards for all other uses.** For all other uses:
 - (1) **Minimum angle to street.** The minimum angle of the driveway to the street shall be 60 degrees.
 - (2) **Maximum width at throat.**
 - A. The maximum width of a driveway measured at the throat shall be 24 feet on arterial and collector streets.
 - B. The maximum width of a drive measured at the throat on all other streets shall be 20 feet.
 - C. Such width may be increased upon approval of the City Engineer to a maximum of 32 feet on major streets so designated under the Major streets Plan pursuant to 1951 Public Act 51.
- (h) **Backing into streets or alleys.** Except for one and two-family dwellings located in districts other than the C-4 District, backing from a private parking area directly into a street or private street is prohibited. Under certain circumstances described in this chapter backing into an alley is permitted for all uses.

(Ord. 766. Passed 7-2-07. Ord. 794. Passed 4-7-08. Ord. 826. Passed 2-2-09.)

1374.05 DELIVERY TRUCK LOADING REQUIREMENTS.

- (a) **Purpose.** It is the intent of these regulations that the necessary loading and unloading of motor vehicles shall not unduly interfere with the use of public streets and alleys, and that every use which customarily receives or distributes goods by motor vehicles shall provide for the on-site storage and handling of such motor vehicles.
- (b) **Parking Spaces for Carriers.** Except in the C-4 districts where the provisions of this section would be impractical, uses which customarily receive or distribute goods by motor vehicle shall provide, on the premises, in addition to the off-street parking required, sufficient space for that number of carrier vehicles that will be at the premises at the same time on an average day.
- (c) **Design and Construction Requirements.** Except in the C-4 districts where the provisions of this section would be impractical, there shall be provided off-street, on-site space adequate for the standing, docking, loading, maneuvering and unloading of motor

vehicles. This area shall not substantially interfere with required off-street parking areas, and shall be designed as follows:

- (1) **Access and maneuvering.** Access to a truck standing, loading and unloading space or berth shall be arranged as to provide sufficient off-street maneuvering space without utilizing such street and alley for this purpose.
- (2) **Loading docks and berths; location and screening.** Loading docks shall be located so as not to be visible from a public street or from any R-district. Where any loading space or berth adjoins or is visible from a public street or R-District, there shall be provided a masonry wall not less than six feet in height and a landscape area providing at least one canopy tree to provide screening to a height of 14 feet within five years of installation, between such street or R-district and the loading space.
- (3) **Development requirements.** Off-street loading spaces and access drives shall be paved and shall conform to all drainage and lighting requirements of this Code.
- (d) **Exception.** The Planning Director may grant an exception which changes the loading requirements of this Zoning Code if it has been clearly demonstrated that the provision of loading facilities is unnecessary or that such requirements would create a practical difficulty with the use of the lot, as contrasted with merely granting an advantage or convenience.

(Ord. 987. Passed 1-6-14)

1374.06 DRIVE-THROUGH STANDARDS.

Purpose: The regulations of this chapter are intended to allow for drive-through facilities by reducing the negative impacts they may create. Of special concern are noise from idling cars and voice amplification equipment, and queued traffic interfering with off-site traffic and pedestrian flow. The specific purposes of this chapter are to:

- Reduce noise and visual impacts on abutting uses, particularly residential uses.
- Promote safer and more efficient on-site vehicular and pedestrian circulation.
- Reduce conflicts between queued vehicles and traffic on adjacent streets.

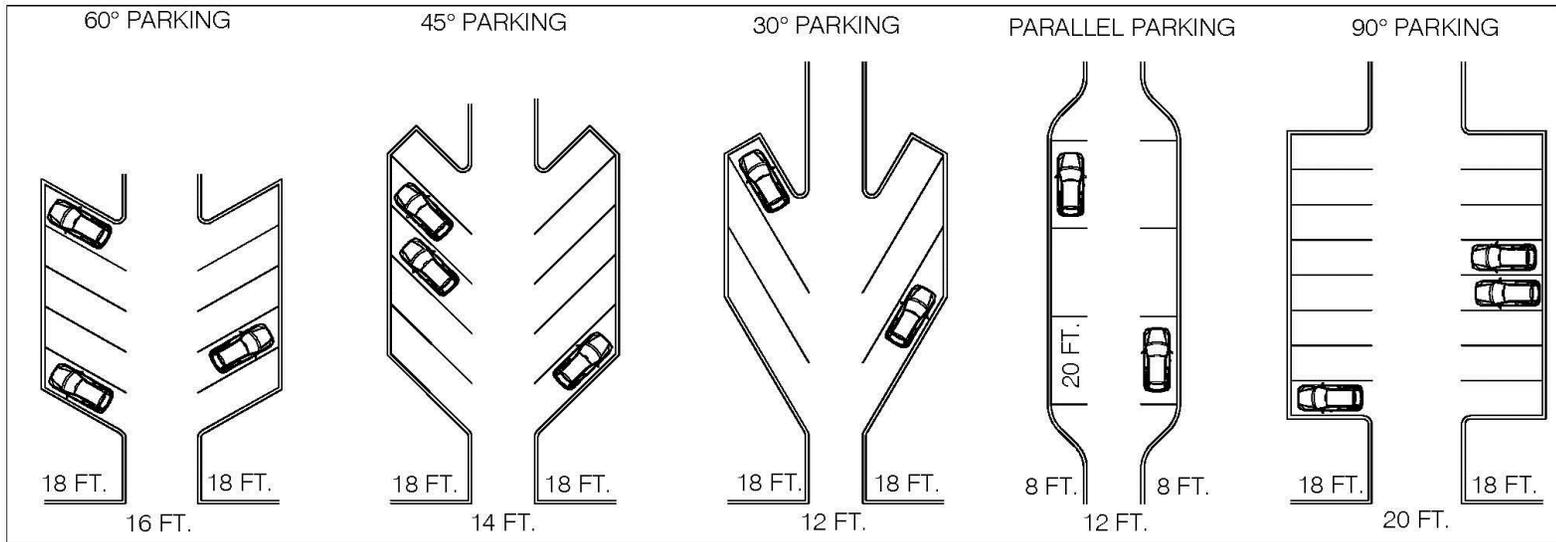
Standards for all drive-through facilities are as follows:

- (a) The service lanes shall provide sufficient space so that motor vehicles will not impede the circulation of pedestrians, cyclists, and motorists.
- (b) Provisions shall be made to safely accommodate customers without motor vehicles at any time the drive-through operation is in service.
- (c) The drive-through facility shall be accessory to a full-service, indoor, on-site use.
- (d) The service lanes shall meet the landscape requirement of section 1372.04.
- (e) The service lanes shall not be located between the associated building and public street.
- (f) Regardless of the street classification, all driveways must be at least 50 feet from a street intersection.
- (g) When abutting R zoned land, drive-through facilities with outdoor speakers must document in advance the facility will meet the requirements of the noise control chapter.

(Ord. 476. Passed 7-6-99. Ord 529. Passed 4-2-01. Ord. 860. Passed 2-16-10.)

CIRCULATION AND PARKING

Circulation and Parking		1374.03(g)(l)				PARKING LAYOUT STANDARDS	
PARKING ANGLE (DEGREES)	MINIMUM MANEUVERING LANE WIDTH (FEET)	PARKING LANE WIDTH (FEET)	PARKING SPACE LENGTH (FEET)	TOTAL MINIMUM WIDTH OF 1 TIER PLUS MANEUVERING LANE (FEET)	TOTAL MINIMUM WIDTH OF 2 TIER PLUS MANEUVERING LANE (FEET)		
0	12	8	20	20	28		
30	12	8	18	30	48		
45	14	8	18	32	50		
60	16	8	18	34	52		
75	18	8	18	36	54		
90	20	8	18	38	56		



CIRCULATION AND PARKING

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CHAPTER 1376

Affordable Housing Standards

Because the remaining land appropriate for new residential development in the City is limited, and because there is a documented shortage of affordable housing that is available to low-income and very low-income households in the City, it is essential that a reasonable proportion of such land be developed into housing units affordable to the City's workforce. The affordable housing section is for the purpose of accommodating and encouraging diverse and balanced neighborhoods with quality, well-designed housing that is affordable to the City's low-income and very low-income residents.

- 1376.01 Compliance required.
- 1376.02 Standards.
- 1376.03 Affordable housing incentives.

CROSS REFERENCES

Zoning and planning in home rule cities – MCLA 117.4i
Regulation of land development and establishment of districts; provisions; uniformity of regulations; limitations – MCLA 125.3201

1376.01 COMPLIANCE REQUIRED.

Any project receiving a density bonus or dimensional modification incentive must meet the requirements of this chapter.
(Ord. 822. Passed 1-5-09.)

1376.02 STANDARDS.

Prior to approval of any site plan including a density bonus, applicants must submit documentation indicating compliance with the following:

- (a) **Integration:** Affordable dwelling units shall be constructed on-site dispersed throughout the project.
- (b) **Design:** Affordable units shall be comparable in bedroom mix, design, and overall quality of construction to the market-rate units in the development. The exterior appearance of affordable units shall be visually compatible with the market rate units in the development, and exterior building materials and finishes shall be substantially the same in type and quality for affordable and market-rate units.
- (c) **Phasing.** Affordable housing units shall be constructed concurrently with the market-rate units. If a project is constructed in phases, affordable housing units shall be integrated proportionately in each phase of the project.
- (d) **Long-term affordability:** Affordable housing units shall remain affordable for a period of at least 30 years.
- (e) **Affordability level and pricing:** Maximum rental rates and sale prices shall be established annually by the City based on unit size and household income, as follows:
 - 1. Sale prices for owner-occupied units shall be calculated based on monthly payment including an available fixed rate thirty-year mortgage, a down-payment not exceeding 5% of the purchase price, property tax estimates, homeowner's

- insurance, and any applicable condominium association fees. The monthly payment that is used to calculate the sale price shall be no more than 30% of the monthly income of a household earning at or below 80% of the area median income, as determined by HUD and adjusted for household size and corresponding number of bedroom units.
2. Monthly rental rates shall be calculated on the basis of 30% of the gross monthly income of households earning 60% of the area median income, as determined by HUD and adjusted for household size and corresponding number of bedroom units.
 3. In calculating the rental and sales prices of affordable housing units, the following relationship between unit size and household size shall apply.
 - i. Efficiency units: 1-person household
 - ii. One-bedroom units: 2-person household
 - iii. Two-bedroom units: 3-person household
 - iv. Three-bedroom units: 4-person household
 - v. Four-bedroom and larger units: 5-person household
- (f) **Sale or Rent to Eligible Households.** Affordable housing units shall be sold or rented only to qualified households or eligible nonprofits.
- (g) **Sale of Affordable Housing Units:** Affordable housing units for sale as owner-occupied units shall be sold to eligible nonprofits or qualified households as follows:
1. **Eligible housing nonprofit purchase:** An eligible housing nonprofit agency may purchase the affordable housing units for subsequent sale to qualified households. If the affordable housing unit is purchased by an eligible housing nonprofit, the agency shall submit any documents deemed necessary by the City Attorney, including restrictive covenants and other legal documents, to ensure the continued affordability of the units in accordance with this section.
 2. **Private party purchases:** In all other sales of affordable housing units, the parties to the transaction shall execute and record such documentation as necessary to ensure the continued affordability of the affordable housing units in accordance with this section.
- (h) **Rental of Affordable Housing Units:** Rental units shall be rented to and occupied by eligible very-low income households at an affordable cost in keeping with the requirements of this section. If the owner of affordable rental units regulated by this section converts the development to condominiums, the development shall be subject to the for-sale affordable housing requirements of this section.
- (i) **Affordability Agreement.** Prior to issuing approval, an agreement in a form acceptable to the City Attorney that addresses price and resale restrictions, homebuyer or tenant qualifications, procedures for determining eligibility, long-term affordability, and any other applicable topics of the affordable housing units shall be submitted to the Planning Department. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant.
- (j) **Failure to Rent or Sell Affordable Housing Units.** For affordable housing units constructed under the terms of this Chapter, marketing begins on the date when the affordable housing unit is completed and available for viewing.
1. If, after 365 days of marketing, an affordable owner-occupied housing unit is not sold to an eligible housing nonprofit or household at or below 80% AMI, the unit

may be marketed as an affordable housing unit for an eligible household with income at or below 100% of the area median income.

2. If, after 365 days of marketing, an affordable rental housing unit is not rented to a household at or below 60% AMI, the unit may be marketed to a household at or below 80% of the area median income.
3. Any of the affordable housing units that are marketed under this provision remain subject to the long-term affordability and eligibility criteria included in this Chapter.

(Ord. 822. Passed 1-5-09.)

1376.03 AFFORDABLE HOUSING INCENTIVES.

- (a) **Density Bonus.** A density bonus shall be provided equal to one market-rate unit for each affordable housing unit that meets the standards defined in Section 1376.02. Density shall not exceed the maximum density specified in Chapter 1368, Size and Area Requirements.
- (b) **Dimensional Standards Modification.** The maximum impervious surface percentage, as specified in Chapter 1368, Size and Area Requirements, may be increased by up to 10 percentage points over that percentage permitted without an affordable housing incentive, if necessary to accommodate the density bonus units on-site.
- (c) **Property tax exemption.** A property providing affordable housing maybe eligible for a property tax exemption as established in the City Code of Ordinances, Chapter 881, Low Income Housing Tax Exemption.

(Ord. 822. Passed 1-5-09.)

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Chapter 1377

Accessory Dwelling Units Overlay Districts

The purpose of the Accessory Dwelling Units Overlay Districts in certain areas of the City is to permit small secondary dwellings on single-family zoned parcels to help owners pay expenses, making the house itself more affordable, increase the efficiency of developed land and provide additional housing options.

CHAPTER 1377 – ACCESSORY DWELLING UNITS OVERALAY DISTRICTS

Repealed.

(Ord. 1019. Passed 4-6-15.)

Nothing in this ordinance of the repeal of any inconsistent ordinances shall be construed to affect any suit or proceeding impending in any court, or any rights acquired or liability incurred, or any cause of action required or existing, under any act or ordinance hereby repealed, nor shall any just or legal right or remedy of any charter be lost, impaired or affected by this ordinance.

CHAPTER 1378

Renewable Energy

The purpose of this chapter is to provide regulations governing renewable energy systems such as wind and solar, to provide for appropriate locations for wind and solar energy systems, to ensure compatibility with surrounding uses, and to promote safe, effective and efficient use of renewable energy systems to increase opportunities for generation of renewable energy.

1378.01 DEFINITIONS

Guy wire means a cable, wire, or rope that is used to brace something.

Rotor Diameter means the cross-sectional dimension of the circle swept by the rotating blades of a wind energy turbine.

Solar energy system means any solar collection system device (i.e. solar photovoltaic cell, panel, or array, or solar hot air or water collector device) where the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat.

Solar energy system, freestanding-mount means any solar collection system device mounted on a pole(s).

Solar energy system, structure-mount means any solar collection system device mounted on a structure or accessory building.

Wind energy system means any device that converts the kinetic energy of wind into mechanical or electrical energy that is either pole-mounted, tower-mounted or building-mounted through the use of equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other components used in this system.

Wind energy system, height of, means the vertical distance to the uppermost vertical extension of any blade, or the maximum height reached by any part of the wind energy system. For tower/pole-mounted wind energy system, height is measured from the ground level at the base of the tower/pole. For building-mounted wind energy systems, height is measured from the highest point of the roof or roof deck, excluding chimneys, antennae and other similar protuberances.

Wind energy system, building-mount, means a wind energy system mounted on a roof of a building or accessory building.

Wind energy system, pole-mount, means a wind energy system ground-mounted on a long, cylindrical, often, slender piece of wood, metal, etc. and does not include guy wires.

Wind energy system, tower-mount, means a wind energy system ground-mounted on steel lattice or tubular steel and may include guy wires.

(Ord. 938. Passed 4-2-12)

1378.02 WIND ENERGY SYSTEMS WILL BE ALLOWED IN THE FOLLOWING DISTRICTS WITH RESTRICTIONS:

(a) **Residential Conservation (RC), Single-Family Dwelling (R-1a and R-1b), Two-Family Dwelling (R-2), Multiple Family Dwelling (R-9, R-15 and R-29)** subject to the following:

- (1) Wind energy systems mounted on a building or an accessory building may be erected to a height not exceeding 10 feet above the highest point of the roof,

excluding chimneys, antennae and other similar protuberances. Wind energy systems must be spaced at least 10 feet apart and quantity is limited to two (2) per parcel. Guy wires are not allowed.

- (2) Wind energy systems mounted on a pole may be erected to a height not exceeding 10 feet above the height limit of the district and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots. Pole-mounted wind energy systems shall be setback a distance equal to the height of the wind energy system from any adjoining lot line. The setback can be reduced by up to 50% or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the pole is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind energy system. Pole-mounted wind energy systems are limited to one (1) per parcel. Guy wires are not allowed.
 - (3) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
 - (4) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04 (h). A wind energy system emits a pure tone and would be subject to a reduction of five dBA.
- (b) ***Hotel Resort (HR), Office Service (C-1), Neighborhood Center (C-2), Community Center (C-3), Regional Center (C-4), Hospital (H-1 and H-2), Development (D), Government/Public (GP), Northwestern Michigan College (NMC-1 and NMC-2) and Transportation (T)*** subject to the following:
- (1) Wind energy systems mounted on a building or an accessory building may be erected to a height not exceeding 20 feet above the highest point of the roof deck, excluding chimneys, antennae, rooftop mechanical equipment and other similar protuberances. Wind energy systems must be spaced at least 20 feet apart and quantity is limited to three (3) per building. Guy wires are allowed.
 - (2) Wind energy systems mounted on a pole or tower are not allowed in C-1, C-2, C-4, D or HR.
 - (3) Wind energy systems mounted on a pole or tower are allowed in C-3, H-1, H-2, GP, NMC-1, NMC-2 and T. Wind energy systems mounted on a pole or tower may be erected to a height not exceeding 20 feet above the height limit of the district and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots. Tower-mounted wind energy systems shall be setback a distance equal to the height of the wind energy system from any adjoining lot line. The setback can be reduced by up to 50% or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse,

fall, curl or bend within a distance or zone shorter than the height of the wind energy system. Pole/Tower-mount wind energy systems must be spaced one (1) per parcel if less than one (1) acre and (1) per acre on parcels larger than one (1) acre. Guy wires are not allowed.

- (4) Wind energy systems mounted on a building will not be considered rooftop equipment
 - (5) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
 - (6) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04 (h). A wind energy system emits a pure tone and would be subject to a reduction of five dBA.
- (c) **Industrial District (I)** subject to the following:
- (1) Wind energy systems mounted on a building or an accessory building may be erected to a height not exceeding 20 feet above the highest point of the roof deck, excluding chimneys, antennae and other similar protuberances. Wind energy systems must be spaced at least 20 feet apart. Guy wires are allowed.
 - (2) Wind energy systems mounted on a pole or tower may be erected to a height not exceeding 120 feet pending FAA review and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots. Tower-mounted wind energy systems shall be setback a distance equal to the height of the wind energy system from any adjoining lot line. The setback can be reduced by up to 50% or a minimum of 20 feet from the lot line if it can be demonstrated through a registered architect or professional engineer that the tower is designed to collapse, fall, curl or bend within a distance or zone shorter than the height of the wind energy system. Pole/Tower-mount wind energy systems must be spaced one (1) per 120 ft radius. Guy wires are allowed.
 - (3) Wind energy systems mounted on a building will not be considered rooftop equipment
 - (4) The wind energy pole or tower-mounted system and operating equipment shall comply with the general standards for approval contained in this chapter. Any wind energy system that is not in operation for a continuous period of 12 months is considered abandoned, and the owner shall remove the same within 90 days of receipt of notice from the City. Failure to remove an abandoned wind energy system within said 90 days may be removed by the City at the owner's expense.
 - (5) The wind energy system will meet the standards set in the City of Traverse City Code of Ordinances, Chapter 652, Noise Control, specifically section 652.04 (h). A wind energy system emits a pure tone and would be subject to a reduction of five dBA.

- (d) ***Open Space (OS) District*** subject to the following:
 - (1) Wind energy systems shall be subject to review from the Parks and Recreation Commission with final approval from the City Commission.

(Ord. 938. Passed 4-2-12. Ord. 953. Passed 10-1-12)

1378.03 SOLAR ENERGY SYSTEMS WILL BE ALLOWED IN THE FOLLOWING DISTRICTS WITH RESTRICTIONS:

- (a) ***Residential Conservation (RC), Single-Family Dwelling (R-1a and R-1b), Two-Family Dwelling (R-2), Multiple Family Dwelling (R-9, R-15 and R-29)*** subject to the following:
 - (1) Solar energy systems- structure-mounted on a building or an accessory building are allowed by right subject to the following:
 - a) With a flat or mansard style roof may be erected to a height not exceeding 10 feet above the highest point of the roof, excluding chimneys, antennae and other similar protuberances.
 - b) With a pitched roof style shall not exceed the peak height of the roof.
 - c) Will not be considered rooftop equipment.
 - d) Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
 - (2) Solar energy systems- freestanding-mount are allowed by right subject to the following:
 - a) Be erected to a height not exceeding 15 feet and area of 150 square feet per unit and will only be permitted in the rear yard except can be located streetward on lots on navigable water and be located streetward of the principal building on the less traveled street on through lots unless deemed impractical by the Planning Director.
 - b) Must be setback 20 feet from side and rear property lines and are limited to two (2) per parcel. Guy wires are not allowed.
 - c) Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
 - d) Shall meet the impervious surface requirements of the district.
- (b) ***Industrial District (I), Hotel Resort (HR), Office Service (C-1), Neighborhood Center (C-2), Community Center (C-3), Regional Center (C-4), Hospital (H-1 and H-2), Development (D), Government/Public (GP), Northwestern Michigan College (NMC-1 and NMC-2), Open Space (OS) and Transportation (T)*** subject to the following:
 - (1) Solar energy systems- structure-mounted on a building or an accessory building are allowed by right subject to the following:
 - a) With a flat or mansard style roof may be erected to a height not exceeding 10 feet above the highest point of the roof, excluding chimneys, antennae and other similar protuberances.
 - b) With a pitched roof style shall not exceed the peak height of the roof.
 - c) Will not be considered rooftop equipment.

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- e) Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
- (2) Solar energy systems- freestanding-mount are allowed by right subject to the following:
 - a) Be erected to a height not exceeding 20 feet and area of 200 square feet per unit.
 - b) Must be setback 10 feet from side and rear property lines and shall have no quantity limit. Guy wires are not allowed.
 - c) Shall be designed and located in order to prevent reflective glare toward any inhabited structure on adjacent properties as well as adjacent street rights-of-way.
 - d) Shall meet the impervious surface requirements of the district.

(Ord. 953. Passed 10-1-12)

1378.04 EXCEPTIONS:

- (a) For wind energy systems that exceed what is allowed by right, the City Commission Special Land Use Permit, Section 1364.08, would apply.
- (b) Historic Districts- Historic District Commission requires that roof-mounted solar and wind energy systems be located on the rear portion of the roof or an accessory building in the rear yard for designated Historic Districts. Also, structure-mounted solar energy systems must receive aesthetic approval from the Historic District Commission.

(Ord. 938. Passed 4-2-12. Ord. 953. Passed 10-1-12)

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CHAPTER 1399

Transition

The purpose of this transition chapter is to apply the revised Zoning Code to applications and approvals which may be in progress as of the effective date of this new code.

- 1399.01 General transition.
- 1399.05 Planned unit developments.
- 1399.02 Zoning permits and building
- 1399.06 Prosecution and litigation permits.
- 1399.07 Variances and Board of Zoning Appeals matters.
- 1399.03 Site plans.
- 1399.04 Special land use permits.

CROSS REFERENCES

Zoning and planning in home rules cities - MCLA 117.4i
Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581
Regulation of buildings; authority to zone - MCLA 125.582
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a

1399.01 GENERAL TRANSITION.

The intent of this chapter is to make the Zoning Code fully effective as soon as possible, but to allow for the continuation of all vested rights and approved special land use permits and planned unit developments.

1399.02 ZONING PERMITS AND BUILDING PERMITS.

All zoning permits and building permits which have been previously issued, but which have not been acted upon by the permit holder by starting substantial construction, are hereby revoked. Other such permits may be continued if construction is diligently pursued and timely completed.

1399.03 SITE PLANS.

All site plans, preliminary and final, which have been authorized, but which have not been acted upon by the owner of the site through initiation of substantial construction, are revoked. If substantial construction has been initiated, construction may continue as authorized by the site plan if work is prosecuted diligently and continuously within one year from the date hereof or within one year from the date of the site plan, unless the site plan approval has authorized a greater time for completion. No further extensions of any previously authorized site plans shall be given.

1399.04 SPECIAL LAND USE PERMITS.

All pending applications for special land use permits which have not been finally approved by the City Commission as of the effective date of this zoning ordinance shall

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be returned to the applicant and the applicant shall proceed under this zoning ordinance. The fee shall be returned to the applicant. All special land use permits which have been finally granted by the City Commission, but which have not been acted upon by the permit-holder through the commencement of substantial construction may timely proceed to completion pursuant to the terms of the permit. All special land use permits which have been finally granted by the City Commission as of the effective date of this ordinance and for which substantial construction has been commenced may proceed to completion pursuant to the terms of the special land use permit. Full construction and use under the terms of the previously issued special land use permit, even if not fully constructed or used at the time of adoption of this ordinance, shall be considered a legal non-conforming use of the appropriate class as outlined in this ordinance.

1399.05 PLANNED UNIT DEVELOPMENTS.

All pending applications for planned unit developments which have not been finally approved by the City Commission as of the effective date of this ordinance shall be returned to the applicant and the applicant shall proceed under this Zoning Code. The fee shall be returned to the applicant. All planned unit development permits and orders which have been finally granted by the City Commission, but which have not been acted upon by the owner through the commencement of substantial construction, may timely proceed to completion pursuant to the terms of the granting order. All planned unit development permits and orders which have been finally granted by the City Commission as of the effective date of this Code, and for which substantial construction has commenced, may proceed to completion pursuant to the terms of the planned unit development granting order. Full construction and use under the terms of the planned unit development granting order, even if not fully constructed or used at the time of the adoption of this Code, shall be considered a legal nonconforming use of the appropriate class as outlined by this Code.

1399.06 PROSECUTION AND LITIGATION.

All lawsuits currently filed for enforcement or violation of the prior Zoning Code may continue under the terms of that Code and all right to the City to enforce the prior Zoning Code are hereby preserved and continued.

1399.07 VARIANCES AND BOARD OF ZONING APPEALS MATTERS.

Except as may be specifically contrary to this zoning code, all previous actions of the Board of Zoning Appeals, including nonconforming use permits, variances and exceptions, are hereby preserved and continued.

(Ord. 476. Passed 7-6-99)

**APPENDIX 1
ZONING MAP CHANGES**

The following is a list of those ordinances enacted after the initial adoption of this Zoning Ordinance (July 6, 1999) that effect a change in the Zoning Map adopted by Section 1326.02 of these Codified Ordinances, including the ordinance number, its date of passage and a description of the change.

<u>Ord. No.</u>	<u>Passage Date</u>	<u>Change No. And Description</u>
499	5-15-00	#1. 417 Munson - Part of the SW1/4 of the SE1/4, Sec. 1, T27N, R11 W, City of Traverse City. C-1 and R-15 to HR.
500	5-15-00	#2. 230 Munson - Lots 123, 124 and 125, Foster & Crotchers Addition (also vacated alley), City of Traverse City. C-1 to HR
501	5-15-00	#3. 218 E. 14th - Part of Lot 8 and all of Lot 9, Block 3, Wilhelm's Addition, City of Traverse City. R-9 to C-2.
504	7-17-00	#4. 220/226 E. 16th Street - That part north of the centerline of the alley (extended) of Government Lot 3, Sec. 10, T27N, R11W, lying south of the south line of 16th Street and west of the west line of the railroad right of way, from R-1b, Single Family Dwelling District, to C-1, Office Service District.
515	11-6-00	#6. 1144 Boon - Part of the NW1/4 of Sec. 13, T27N, R11W, des. as comm. at the NW corner of said Sec. 13; th. S89°24'E 440' to POB, th. S0°09'W 153'; th. S89°24'E 100'; th. N0°09'E 55'; thence N89°24' W 610' to POB, exc. N33' thereof for street ROW, from T, Transportation, to I, Industrial.
515A	10-2-00	#5. 1212 Veteran's Drive - Part of Block 1, Griffin & Winnie's Addition, des. as comm. at the NE corner of Lot 4, thence N25', thence W211.26', m/l, th. S00°41'58"E 94.68', th. E 37.5', m/l, th. S5', th. E 177.5', th. N75' to the POB, containing Lots 4,5, 6 and part of Lot 10 and vacant alleys therein, subject to utility and drainage easements. from R-29, Multiple Family, to C-1, Office Service.
516	11-6-00	#7. 1222 Veteran's Drive - Lots 7, 8 and 9, Block 1, Griffin and Winnie's Addition; also the E½ of vacated alley from R-29, Multiple Family, to C-1, Office Service and 519 W. 14th Street - The N 70' of Lots 11, 12, 14 and 16, also vacated alley lying N of the above parcel, Block 1, Griffin & Winnie Addition, from R-29, Multiple Family, to C-1, Office Service.
525	2-20-01	#8. 700 E. Front Street. Lots 14, 15, 16, 17, 18, 19, 20 and 21, Block A, Hannah & Lay Company's

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<u>Ord. No.</u>	<u>Passage Date</u>	<u>Change No. And Description</u>
		Seventh Addition to the City of Traverse City, except part of W 300' lying southerly of RR track; Part of Gov. Lot 3 comm. At SE cor. Lot 21, etc.; part of W 300' of Lots 14 to 21, Block A, Hannah & Lay Company's 7th Addition lying south of RR truck, from NMC-1 to NMC-2.
532	6-4-01	#9. 701-727 Eastgate Place. Part of SE1/4 of NE1/4, Sec. 12, T27N, R11W, from R-9 to R-2.
553	12-3-01	#10. 302 Washington Street. The North 165 feet of Block 20, Original Plat. Also the West half of vacated Court Street, Traverse City, Grand Traverse County, Michigan, from R-29 to GP.
567	7-1-02	#11. 220 Circle Drive (Lots 5 and 6 and Lot 4 with exception, Westbrook Addition) 1100 Sixth Street (Lots 9, 10, 11 and 12, Block 2, Lay Park Addition), 1120 Sixth Street (South 25' of Lot 22 and Lots 23 and 24, Block 2, Lay Park Addition) 1212 Sixth Street (Lots 2 and 3, Westbrook Addition), 1224 Sixth Street (Lot 4, Westbrook Addition), and 217 South Madison (Lot 21 and the South 1/2 of Lot 20 and North 1/2 of Lot 22, Block 2, Lay Park Addition) 228 South Madison Street (Lot 1, Westbrook Addition), from H-1 to H-2.
571	8-19-02	#12. 1320 Veterans Drive. Part of the South Half of the East Half of Government Lot 7, Section 10, etc., from R-1b to R-2.
572	8-19-02	#13. 602, 604, 610 and 612 Second Street. Lots 13 through 19, Block 2, Hannah Lay & Co's 4th Addition, from C-2 to R-1b.
605	7-7-03	#14. 217 and 227 Fair Street. That part of Lots 10 and 11 and the North 10 feet of Lot 12, Foster and Crotters Addition to Traverse City; Lot 12, except the North 10 feet, Lots 13 and 14, except the South 30, Foster and Crotters addition to Traverse City, from R-1b to R-29.
660	1-3-05	#15. 3963 and 3975 North Three Mile Road. [No legal description on file] from T to I.
673	03-21-05	#16. 600 Front St. Part of Gov't Lots 3 & 4, Sec. 2, T27N, R11W, City of Traverse City, from OS to HR.
678	05-02-05	#17. 1204 Barlow St., Lots 6-8, Hannah Lay & Co's 15th Replat, City of Traverse City 1216 Barlow St., Lots 10-12-14-16, Hannah Lay & Co's 15th Replat, City of Traverse City 1230 Barlow St., Lots 18 & 20, Hannah Lay & Co's

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Ord. No.	Passage Date	Change No. And Description
690	10-17-05	<p>Replat of 15th Sub, City of Traverse City 1234 Barlow St., Lots 22 & 24, Hannah Lay & Co's Replat of 15 Sub, City of Traverse City 1242 Barlow St., Lots 26 & 28, Hannah Lay & Co's Replat of 15th Add, City of Traverse City, from I to R-1B</p> <p>#18. far eastern 0.81 acres of the Oakwood Cemetery - That part of the Northeast 1/4 of Section 12, Township 27 North, Range 11 West, described as: Commencing at the North 1/4 Corner of Said Section; thence South 88°30'04" East, along the centerline of Eighth Street, 1728.40 feet; thence South 01°26'00" West, 1306.20 feet to the Southeast Corner of the recorded plat of "Cromwell Terrace" and the Point of Beginning; thence South 88°58'33" East, on the extension of the South line of said plat, 316.82 feet to the westerly right-of-way of Airport Access Road; thence 223.67 feet along said right-of-way on the arc of a 2111.92 foot radius curve to the right a chord bearing of South 55°56'36" West, 223.57 feet; thence continuing along said right-of-way South 58°58'38" West, 159.73 feet; thence North 01°26'00" East, along the extension of East line of said plat, 213.25 feet to the Point of Beginning. Containing 0.81 acres of land. Subject to easements, right-of-ways, reservations and restrictions of record.</p>
695	2-6-06	<p>#19. 1248 Hastings Street - That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-3, Community Center: THE NORTH 140FT OF THE E1/2 OF LOT 13 OF BLK 4, PLAT OF OAKWOOD ADDITION; PART OF THE WEST 112 OF SECTION 12, T27N, R11W. Commonly referred to as 1234 Hastings Street. E 1/2 OF LOTS 13 AND 15, BLK 4 OAKWOOD ADDITION, EXC N 140 FEET OF E 1/2 OF LOT 13.</p>
703	6-19-06	<p>#20. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-3: PRT OF SE 1/4 OF SEC 33 T28N R11W COMM AT THE S 1/4 COR OF SAID SEC TH N 00053'43" E 516.05 FT TH 89037'16" E 36.04FT TO POB TH S 89037'16" E 491.21 FT TO THE C/L OF ABANDONED RR TH ALONG C/L 280.01 FT ALONG THE ARC</p>

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Ord. No.	Passage Date	Change No. And Description
712	10-2-06	<p>OF A 2663.21 RAD CURVE TO THE RIGHT (LONG CHORD=N 000039'35"E 279.76FT) TH N 88004'07" W 231.30 FT TH N 01046'19" E 131.76FT TH N 89035'39"W 262.84FT TH S 00036'56"W 417.66FT TO POB. Commonly referred to as 13900 SW Bayshore Drive.</p> <p>#21. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-3: 624-A N 270.6 FT OF W ½ OF S ½ OF GOV LOT 7 SEC 10 T27N R11W EXC ST ROW ALSO EXC E335 FT OF ABOVE DES PARCEL SUBJ TO EASEMENTS & RESTRICTIONS OF REC. EXTENDED S SUB TO EASEMENTS & RESTRICTIONS OF REC. Commonly referred to as 1329 South Division.</p>
800	6-16-08	<p>#22. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as OS (Open Space District).PART OF THE NW 1/4 OF SEC 4, T27N, R11W, MORE FULLY DES AS: COMM AT THE W 1/4 CORNER OF SAID SEC 4; TH N 054'04" E, 1460.13 FT, ALONG THE W LINE OF SAID SEC 4, TH S 71'35'35" E 1361.16 FT TO THE POB; TH S 71'35'35" E, 20.92 FT; TH S 049'58" W, 2.3 FT; TH S 27'10'02" E, 110.11 FT; TH S 62'49'58" W 58.55 FT; TH S 049'58" W, 456.37 FT, ALONG THE W 1/8 LINE OF SAID SEC 4, TO THE APPROX CENTER THREAD OF A CREEK; THENCE N 89'10'02" W, 20 FT, ALONG SAID APPROX CENTER THREAD; TH N 049'58" E 445.74 FT, PARALLEL WITH AND 20 FT W OF THE W 1/8 LINE OF SAID SEC 4; TH S 62'49'58" W, 118.8 FT; TH N 27'10'02" W 110 FT; TH N 62'49'58" E, 177.28 FT; TH N 049'58" E, 19.40 FT TO POB. Commonly referred to as 1505 Wayne Street.</p>
802	6-16-08	<p>#23. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as D-1. The W 17 FT of Lot 14 & all of Lots 15, 16,17, 18 & The E 16.5 FT of the vacated alley lying adjacent to Lot 18. ALL IN BLOCK 5 HANNAH LAY AND CO. 1st ADDITION. Commonly referred to as 115 East Eighth Street.</p>

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<u>Ord. No.</u>	<u>Passage Date</u>	<u>Change No. And Description</u>
833	5-18-09	#24. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as OS (Open Space District). PRT OF HANNAH LAY & CO'S 11TH ADD COM ON S LINE LOT 17 3 FT W'LY OF SE COR TH N'LY PAR WITH E LINE LOT 17 126.5 FT TH TO RIGHT ON A 45 DEG ANGLE 19.8 FT TH N'LY PAR WITH & 11 FT E OF E LINE LOT 17 TO BAY SHORE TH W'LY ALONG WATER TO W LINE OF LOT 18 EXTENDED TO BAY TH S ALONG W LINE LOT 18 TO SW COR LOT 18 TH E'LY ALONG S LINE LOTS 17 & 18 TO POB EXC RR R/W'S.
834	5-18-09	#25. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as OS (Open Space District). LOT 10 ARBUTUS COURT. Commonly referred to as the Arbutus Park, or 1250 Arbutus Court.
835	5-18-09	#26. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as T (Transportation District). E ½ OF SW ¼ SEC 12; SW ¼ OF SEC 12 EXC PARCEL DEEDED TO US GOVT FOR ARMORY SITE. ALSO EXC PROTION N OF PARSONS RD IN NE ¼ OF SE ¼. EXC PORTION PLATTED TO TC INDUSTRIAL ARK. ALSO EXC THT PORTION RETAINED BY US TREASURY FOR US COAST GUARD PURPOSED & ALL ST & RR R/W'S. SEC 12 T27N R11W. Commonly referred to as the Coast Guard Pump Station, or located at the southeast corner of Parsons Road and Airport Access Road.
838	6-15-09	#27. That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as OS (Open Space District). PRT OF GOV'T LOT 6 SEC1 T27N R11W PLAT OF HIGHLAND PARK CITY OF TRAVERSE CITY, GRAND TRAVERSE COUNTY, STATE OF MICHIGAN; DESC AS HIGHLAND PARK PARK A STRIP OF LAND 100FT WIDE ± LYING WEST OF LOTS 22 THROUGH 26 OF SAID PLAT WITH TWO 15' WIDE PUBLIC WALKWAYS FOR INGRESS AND EGRESS ONE BEING BETWEEN LOTS 21 AND 22 THE OTHER BETWEEN LOTS 26 AND 27.

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Ord. No.	Passage Date	Change No. And Description
		<p>RECORDED IN LIBER 7 OF PLATS PAGE 21. PARK A, HURON HILLS #3, FURTHER DESCRIBED AS BEG AT NE CORNER OF LOT 57, HURON HILLS #3, TH S20.5255E 164.89 FT, TH S00.3100W 975.70, TH S89.5300E 12 FT, TH N00.3100E 510 FT, TH S89.2900E 125.50 FT, TH N001330E 140 FT, TH S88.1110E 150.93 FT, TH N00.1330E 12.02 FT, TH N88.1110W 150.93 FT, TH N00.1330E 255 FT, TH N62.5947W 138.62+/- FT, TH N20.A5255W 168.61 FT, TH 12.03 FT TO THE POB. The rezoned properties are commonly referred to as the access points to Highland Park and Huron Hills Park.</p>
915	5-16-11	<p>#28 That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as R-9A. 10597 East Traverse Highway. Property ID 45-51-033-042-00.</p>
933	2-21-12	<p>#29: That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-3 (Community Center). Commonly referred to as 606, 612, 618, 620 and 626 West Front Street. Legal description: 606 W Front St - LOTS 17-18, BLOCK 15, HANNAH LAY & CO'S 10TH ADD.612 W Front St - LOTS 19-20 BLOCK 15, HANNAH LAY & CO'S 10TH ADD.618 W Front St - LOTS 21-22 & E 1/2 OF LOT 23, BLOCK 15, HANNAH LAY & CO'S 10TH ADD.620 W Front St - LOT 24 & W 1/2 OF LOT 23 BLOCK 15. EXCEPT RIGHT OF WAY RIGHTS OF ADJOINING PROPERTY OWNERS HANNAH LAY & CO'S 10TH ADD.626 W Front St - LOTS 25-26-27-28 BLOCK 15, HANNAH LAY & CO'S 10TH ADD. EXCEPT THAT PART OF LOT 28 DESCRIBED AS COMMENCING AT THE SOUTHWEST CORNER OF LOT 28; THENCE EAST 10 FT;THENCE NORTHWESTERLY TO A POINT ON THE WEST LINE LOT 28, 10 FEET NORTH OF SOUTHWESTCORNER; THENCE SOUTH 10 FEET TO THE POINT OF BEGINNING. ALSO EXCEPT THE WEST 3 FEET OFSAID LOT 28.</p>
934	2-21-12	<p>#30: That the following described property shall hereinafter be designated on the Zoning Map of the City of Traverse City as C-2 (Neighborhood Center) District. Commonly referred to as 230 East 14th Street. Legal Description: THAT PART OF GOVERNMENT LOT 3, SEC 10, T27N R11W, LYING SOUTH OF 14TH ST & WEST OF PMRR</p>

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Ord. No.	Passage Date	Change No. And Description
952	10-1-12	<p>R/W & NORTHEAST OF STATE OF MICH RR SPUR TRACK RIGHT OF WAY.</p> <p>#31: That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as R1a.1612 E. Eighth St., 1828 E. Eighth St., 1900 E. Eighth St.503 Terrace Dr., 504 Terrace Dr., 511 Terrace Dr., 519 Terrace Dr., 520 Terrace Dr., 523 Terrace Dr., 524 Terrace Dr., 532 Terrace Dr., 537 Terrace Dr., 539 Terrace Dr., 540 Terrace Dr., 547 Terrace Dr., 548 Terrace Dr., 603 Terrace Dr., 604 Terrace Dr., 611 Terrace Dr., 612 Terrace Dr., 619 Terrace Dr., 620 Terrace Dr., 627 Terrace Dr., 628 Terrace Dr., 635 Terrace Dr., 636 Terrace Dr.504 Woodland Dr., 505 Woodland Dr., 510 Woodland Dr., 511 Woodland Dr., 519 Woodland Dr., 520 Woodland Dr., 523 Woodland Dr., 524 Woodland Dr., 527 Woodland Dr., 531 Woodland Dr., 535 Woodland Dr., 536 Woodland Dr., 542 Woodland Dr., 548 Woodland Dr., 603 Woodland Dr., 604 Woodland Dr., 611 Woodland Dr., 612 Woodland Dr., 623 Woodland Dr., 624 Woodland Dr., 627 Woodland Dr., 634 Woodland Dr., 643 Woodland Dr., 644 Woodland Dr.510 Belmont Dr., 511 Belmont Dr., 519 Belmont Dr., 520 Belmont Dr., 526 Belmont Dr., 527 Belmont Dr. 532 Belmont Dr., 537 Belmont Dr., 541 Belmont Dr., 542 Belmont Dr., 547 Belmont Dr., 548 Belmont Dr., 602 Belmont Dr., 603 Belmont Dr., 611 Belmont Dr., 612 Belmont Dr., 619 Belmont Dr., 620 Belmont Dr., 627 Belmont Dr., 628 Belmont Dr., 635 Belmont Dr., 636 Belmont Dr., 643 Belmont Dr. 508 Cromwell Dr., 514 Cromwell Dr., 517 Cromwell Dr., 522 Cromwell Dr., 525 Cromwell Dr., 529 Cromwell Dr., 532 Cromwell Dr., 537 Cromwell Dr., 538 Cromwell Dr., 545 Cromwell Dr., 548 Cromwell Dr., 602 Cromwell Dr., 605 Cromwell Dr., 612 Cromwell Dr., 613 Cromwell Dr., 624 Cromwell Dr., 625 Cromwell Dr., 630 Cromwell Dr., 631 Cromwell Dr., 635 Cromwell Dr., 636 Cromwell Dr., 643 Cromwell Dr., 644 Cromwell Dr.</p>
986	3-18-13	<p>#32: That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-3(A). 626 EAST FRONT STREET Property ID 28-51-102-003-10, 636 EAST FRONT STREET Property ID 28-51-102-006-00</p>
980	9-3-13	<p>#33: That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-2. 28-51-482-099-00, TBA CREDIT UNION, 1139 E EIGHTH ST, TRAVERSE CITY, 49686, LOTS</p>

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Ord. No.	Passage Date	Change No. And Description
981	9-3-13	<p>42-43-44-45, BLOCK 8 BAYSIDE ADD</p> <p>#34: That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as R-29; R-9. (R-29), 28-51-682-015-01, MJLB LAND LLC, 1350 LAKE RIDGE DR, TRAVERSE CITY 49684: WEST PORT ON BOARDMAN CONDO SUB PLAN 368 UNIT1 FORMERLY THT PRT OF LOT 8 HANNAH LAY & CO'S 16TH ADD SEC 10 T27N R11W DES AS COM AT NW COR OF ORIG SAID LOT 8 AT A PT ON S LINE OF VAC 15TH ST TH S89°51'51"E 101.13 FT ALONG SAID LINE OF VAC ST TO WSTLY LINE OF LAKE RIDGE DR (FORMERLY RACE ST EXT) & POB TH ALONG SAID LINE S16° 15' W 378.18 FT TO N LINE OF 16TH ST TH ALONG SAID N LINE N89°58'10"W 58.68 FT TO W LINE OF SAID LOT 8 TH ALONG SAID LOT LINE 403.02 FT ALONG ARC OF 2814.79 FT RADIUS CURVE TO THE RIGHT WITH CHORD = N10°14'30"E 402.67 FT TO CTR LINE OF VAC 15TH ST TH ALONG SAID CTR LINE S89°51'51"E 102.52 FT TO WSTLY LINE OF LAKE RIDGE DR TH ALONG SAID LINE S16°15'W 34.35 FT TO POB EXC FLOWAGE RIGHTS 2014 ROLL SPLIT FROM 28-51-682-015-00 INTO 28-51-682-015-01 & 28-51-682-015-10 - PER MD FILING - WEST PORT ON BOARDMAN MD</p> <p>28-51-682-015-10: MJLB LAND LLC, 1350 LAKE RIDGE DR, TRAVERSE CITY 49684 THT PRT OF LOT 8 HANNAH LAY & CO'S 16TH ADD SEC 10 T27N R11W DES AS COM AT NW COR OF ORIG SAID LOT 8 AT A PT ON S LINE OF VAC 15TH ST TH S89°51'51"E 101.13 FT ALONG SAID LINE OF VAC ST TO WSTLY LINE OF LAKE RIDGE DR (FORMERLY RACE ST EXT) & POB TH ALONG SAID LINE S16° 15' W 378.18 FT TO N LINE OF 16TH ST TH ALONG SAID N LINE N89°58'10"W 58.68 FT TO W LINE OF SAID LOT 8 TH ALONG SAID LOT LINE 403.02 FT ALONG ARC OF 2814.79 FT RADIUS CURVE TO THE RIGHT WITH CHORD = N10°14'30"E 402.67 FT TO CTR LINE OF VAC 15TH ST TH ALONG SAID CTR LINE S89°51'51"E 102.52 FT TO WSTLY LINE OF LAKE RIDGE DR TH ALONG SAID LINE S16°15'W 34.35 FT TO POB EXC FLOWAGE RIGHTS EXPANDABLE AREA - 1 TO 6 UNITS 2014 ROLL SPLIT FROM 28-51-682-015-00 INTO 28-51-682-015-01</p>

ZONING CODE

<u>Ord. No.</u>	<u>Passage Date</u>	<u>Change No. And Description</u>
		& 28-51-682-015-10 - PER MD FILING - WEST PORT ON BOARDMAN MD
		28-51-760-001-00: MJLB LAND LLC, 1290 LAKE RIDGE CIRCLE, TRAVERSE CITY 49684 , UNIT 1 , MASTER DEED LAKE RIDGE LANDING RECORDED AT GRAND TRAVERSE COUNTY REGISTER OF DEEDS #2007C-00043. LOT 7, OF THE PLAT OF HANNAH, LAY & CO'S SIXTEENTH ADDITION TO TRAVERSE CITY AS RECORDED IN LIBER 3 OF VILLAGE PLATS, PAGES 6 AND 7, GRAND TRAVERSE COUNTY RECORDS.
		28-51-760-002-00: MJLB LAND LLC, 1280 LAKE RIDGE CIRCLE, TRAVERSE CITY 49684, UNIT 2 , MASTER DEED LAKE RIDGE LANDING RECORDED AT GRAND TRAVERSE COUNTY REGISTER OF DEEDS #2007C-00043. LOT 7, OF THE PLAT OF HANNAH, LAY & CO'S SIXTEENTH ADDITION TO TRAVERSE CITY AS RECORDED IN LIBER 3 OF VILLAGE PLATS, PAGES 6 AND 7, GRAND TRAVERSE COUNTY RECORDS.
		28-51-760-003-00: NICHOLS GARY G & SUE A, 1260 LAKE RIDGE CIRCLE, TRAVERSE CITY 49684, UNIT 3 , MASTER DEED LAKE RIDGE LANDING RECORDED AT GRAND TRAVERSE COUNTY REGISTER OF DEEDS #2007C-00043. LOT 7, OF THE PLAT OF HANNAH, LAY & CO'S SIXTEENTH ADDITION TO TRAVERSE CITY AS RECORDED IN LIBER 3 OF VILLAGE PLATS, PAGES 6 AND 7, GRAND TRAVERSE COUNTY RECORDS.
		28-51-760-004-00: MJLB LAND LLC, 1240 LAKE RIDGE CIRCLE, TRAVERSE CITY 49684 , UNIT 4 , MASTER DEED LAKE RIDGE LANDING RECORDED AT GRAND TRAVERSE COUNTY REGISTER OF DEEDS #2007C-00043. LOT 7, OF THE PLAT OF HANNAH, LAY & CO'S SIXTEENTH ADDITION TO TRAVERSE CITY AS RECORDED IN LIBER 3 OF VILLAGE PLATS, PAGES 6 AND 7, GRAND TRAVERSE COUNTY RECORDS.
		28-51-760-005-00: MARRESE JAMES & JILL, 1210 LAKE RIDGE CIRCLE, TRAVERSE CITY 49684, UNIT

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Ord. No.	Passage Date	Change No. And Description
		<p>5 , MASTER DEED LAKE RIDGE LANDING RECORDED AT GRAND TRAVERSE COUNTY REGISTER OF DEEDS #2007C-00043. LOT 7, OF THE PLAT OF HANNAH, LAY & CO'S SIXTEENTH ADDITION TO TRAVERSE CITY AS RECORDED IN LIBER 3 OF VILLAGE PLATS, PAGES 6 AND 7, GRAND TRAVERSE COUNTY RECORDS.</p>
		<p>28-51-760-013-00: DILWORTH TRUST. 1281 LAKE RIDGE CIRCLE, TRAVERSE CITY 49684, UNIT 13 , MASTER DEED LAKE RIDGE LANDING RECORDED AT GRAND TRAVERSE COUNTY REGISTER OF DEEDS #2007C-00043. LOT 7, OF THE PLAT OF HANNAH, LAY & CO'S SIXTEENTH ADDITION TO TRAVERSE CITY AS RECORDED IN LIBER 3 OF VILLAGE PLATS, PAGES 6 AND 7, GRAND TRAVERSE COUNTY RECORDS.</p>
		<p>28-51-760-014-00: MUNGER BENSON S & BETTE L, 1291 LAKE RIDGE CIRCLE, TRAVERSE CITY 49684, UNIT 14, MASTER DEED LAKE RIDGE LANDING RECORDED AT GRAND TRAVERSE COUNTY REGISTER OF DEEDS #2007C-00043. LOT 7, OF THE PLAT OF HANNAH, LAY & CO'S SIXTEENTH ADDITION TO TRAVERSE CITY AS RECORDED IN LIBER 3 OF VILLAGE PLATS, PAGES 6 AND 7, GRAND TRAVERSE COUNTY RECORDS.</p>
<p>985</p>	<p>12-2-13</p>	<p>(R-9), 28-51-878-026-00: SNYDER DOROTHY E (LE), 212 E FOURTEENTH ST, TRAVERSE CITY 49684, THE E 16 FT OF LOT 6, ALL OF LOT 7, AND THE W 11.25 FT OF LOT 8 BLOCK 3 WILHELM'S ADD #35: That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-4b (Regional Center) District.</p>
		<p>221 Cass Street THT PRT OF LOTS 17 & 18 BLK 7 ORIG PLAT DES AS COM AT A POINT 90 FEET SOUTH OF THE NW COR LOT 18; TH N 90 FT; TH E 132 FEET; THENCE S 123.4 FEET; THENCE W 136 FEET TO POB.</p>
		<p>215 Washington Street LOT 16 & W 26 FT OF LOT 15 BLOCK 7 ORIGINAL PLAT EXCEPT THAT PART THEREOF SURVEYED</p>

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Ord. No.	Passage Date	Change No. And Description
		FOR STREET BY DEED RECORDED AT LIBER 11, PAGE 237.
		223 Washington Street W 1/2 OF LOT 14 & E 40 FT OF LOT 15 BLK 7 ORIG PLAT EXC ST ROW
991	04-07-14	229 Washington Street 111 E 1/2 OF LOT 14 BLK 7 ORIG PLAT. #36 That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as R1-b MU. 10597 East Traverse Highway. Property ID 45-51-033-042-00.
1016	04-06-15	#37 That the following described property shall hereafter be designated on the Zoning Map of the City of Traverse City as C-2 (Neighborhood Center).
1017	04-06-15	314 East Eighth Street THT PRT OF LOT 3 DES AS COM ON S LINE 8TH ST 65 FT E OF NE'LY LINE OF P M R/W TH E 100 FT TH S 150 FT TH TO PM R/W TH NE'LY ALONG R/W TO PT S OF POB TH N TO POB H L & CO'S 16TH ADD #38 That the following described properties shall hereafter be designated on the Zoning Map of the City of Traverse City as C-2 (Neighborhood Center).
		1015 Hannah Avenue LOT 99 & E 1/2 OF LOT 100 OAK HEIGHTS ADD
		1025 Hannah Avenue LOTS 98 97 & W 10 FT OF LOT 96 OAK HEIGHTS ADD

APPENDIX 2

FIGURES

FIGURE 1-1 BASEMENT AND STORY

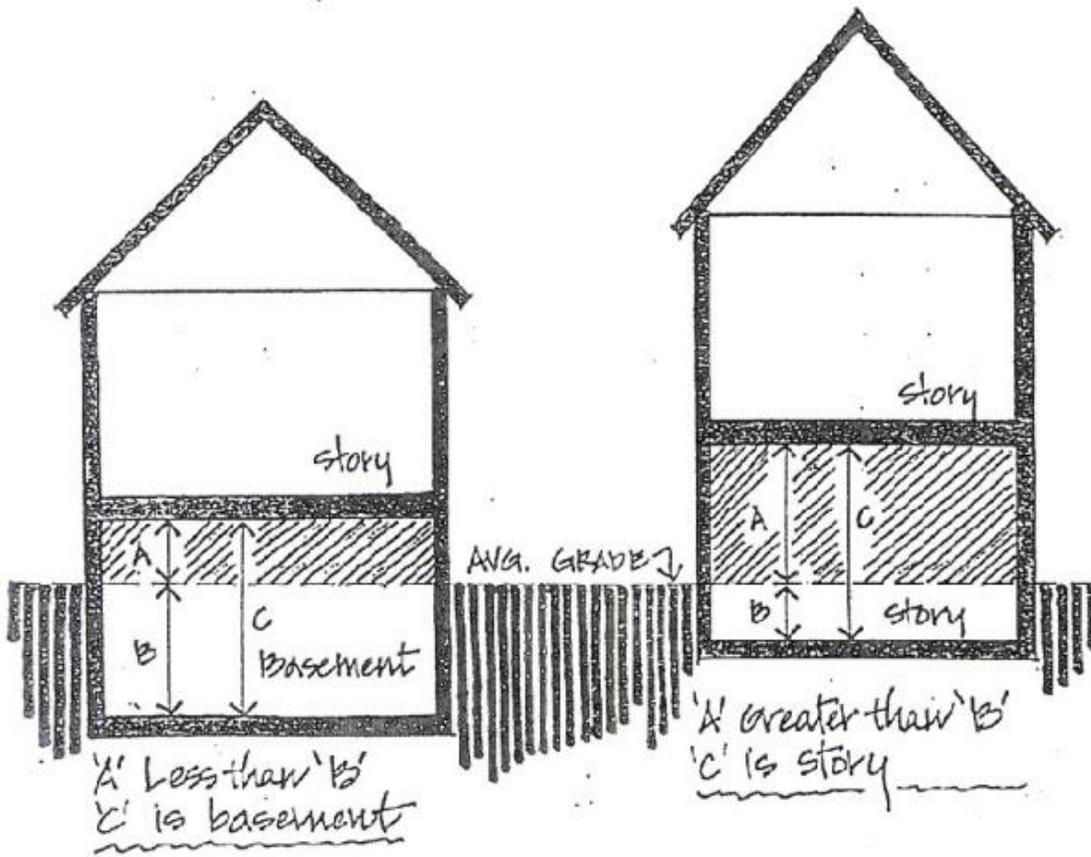


FIGURE 1-2 AVERAGE GRADE

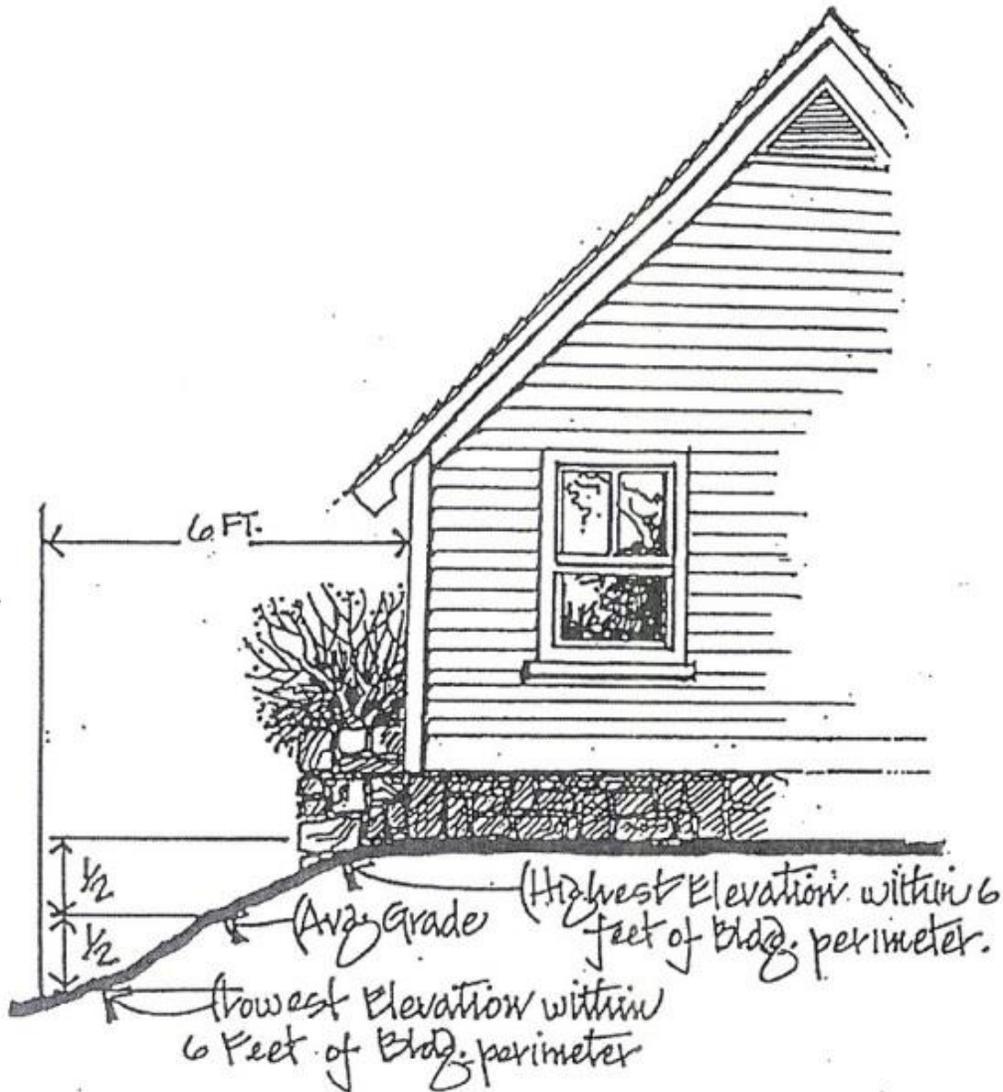


FIGURE 1-3 BUILDING HEIGHTS

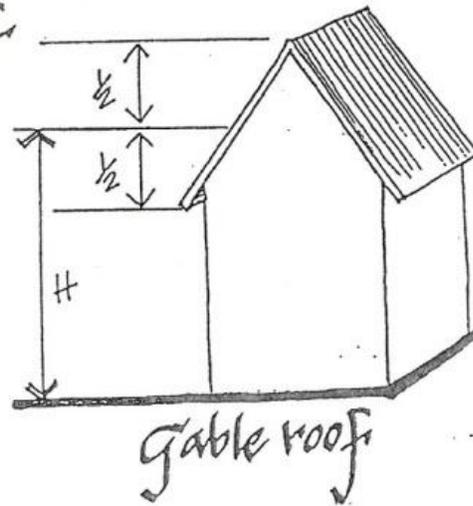
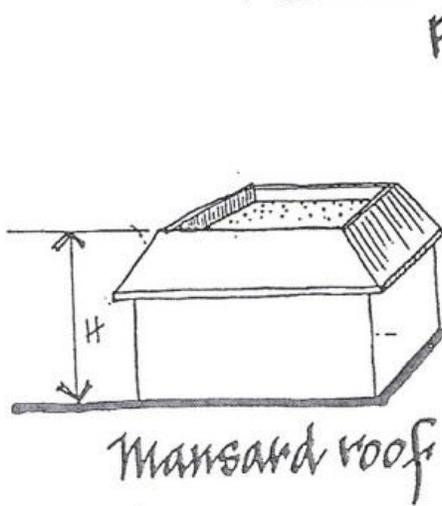
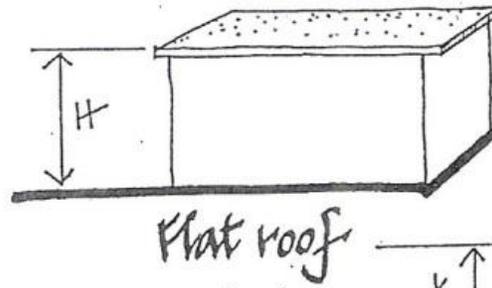
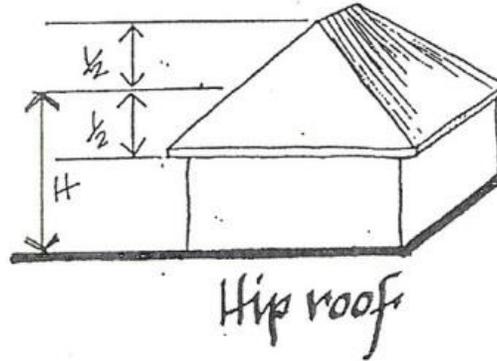
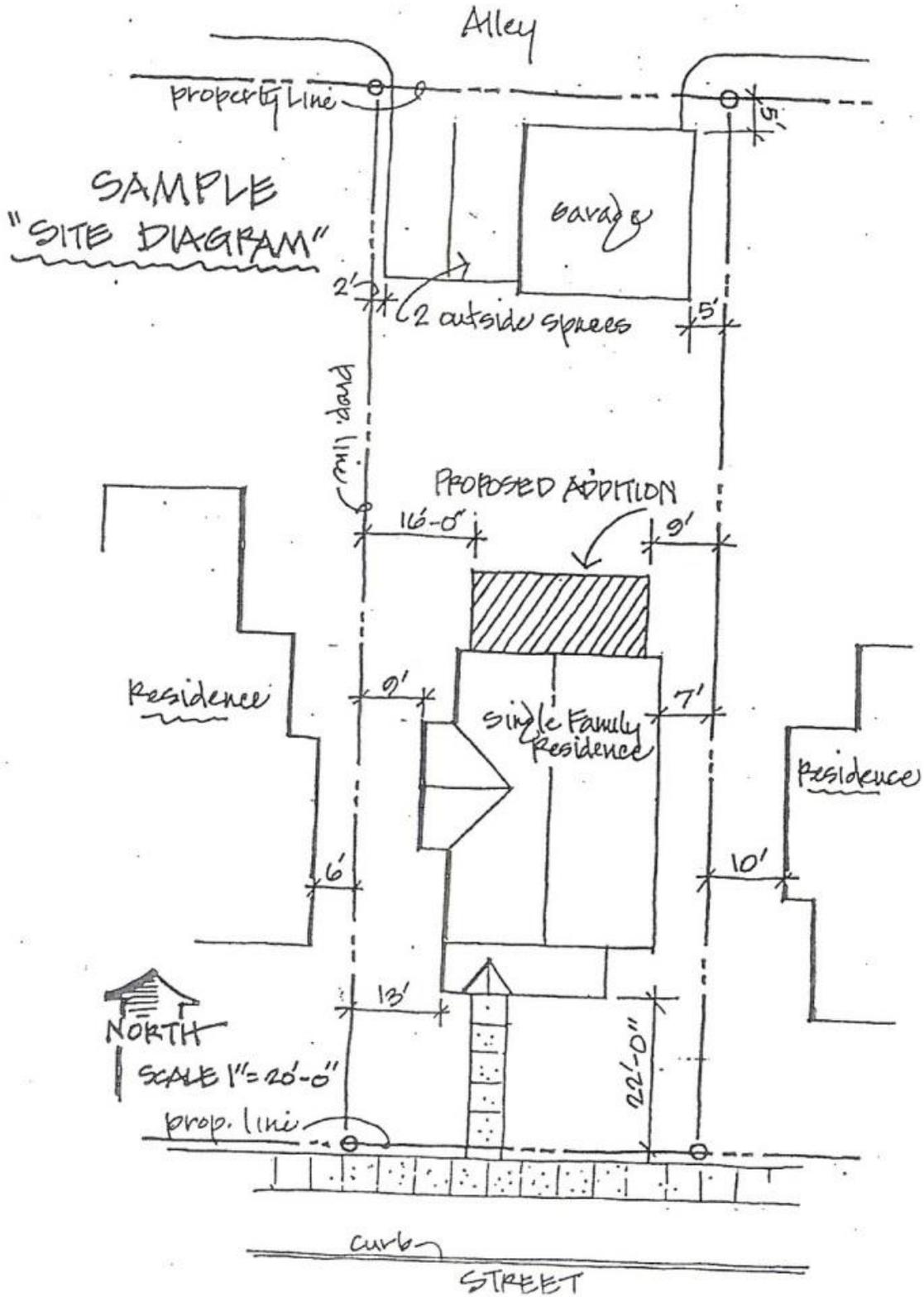


FIGURE 1-4 SITE DIAGRAM (SAMPLE)



**FIGURE 1-5 SIDE SETBACK REQUIRED AND REAR SETBACK REDUCTION
WHEN SCREENWALL IS PROVIDE**

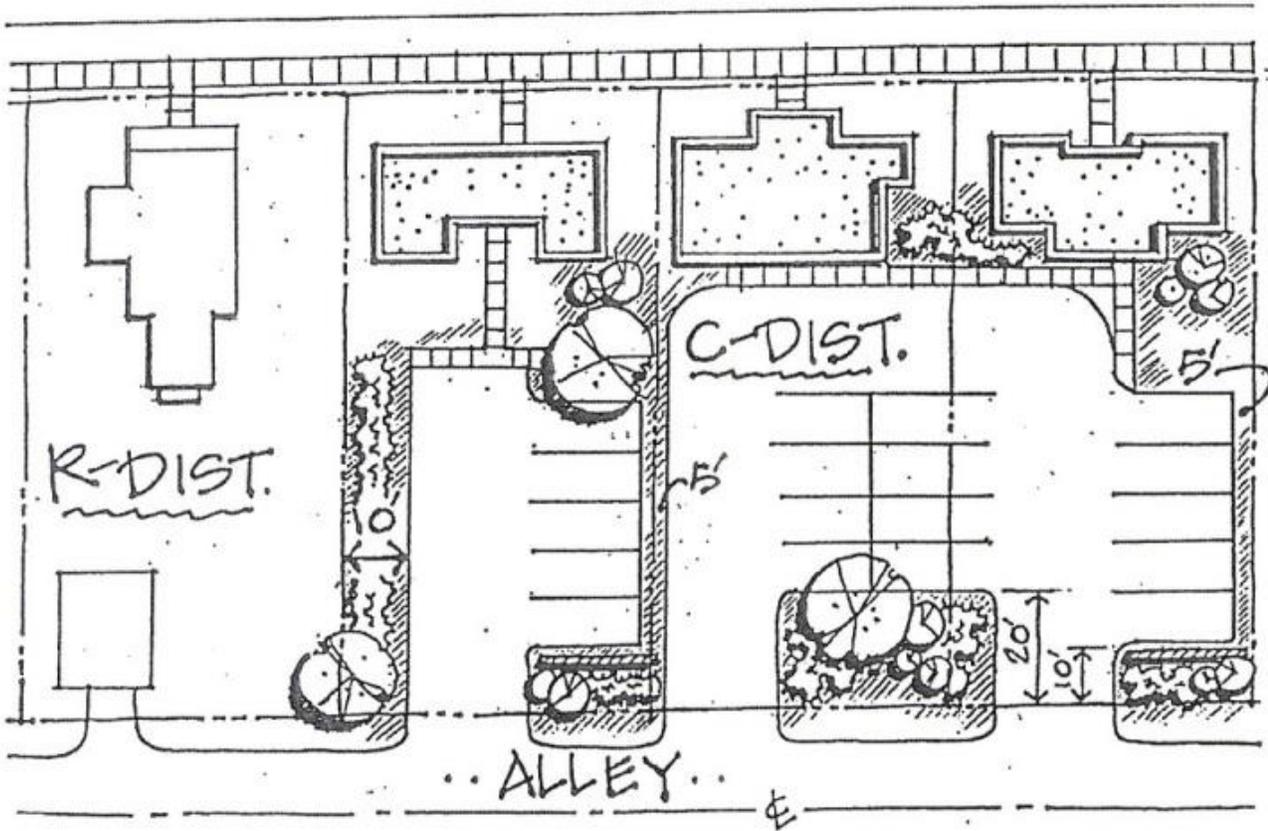


FIGURE 1-6 REAR SETBACK WAIVER FOR BACKING INTO ALLEY

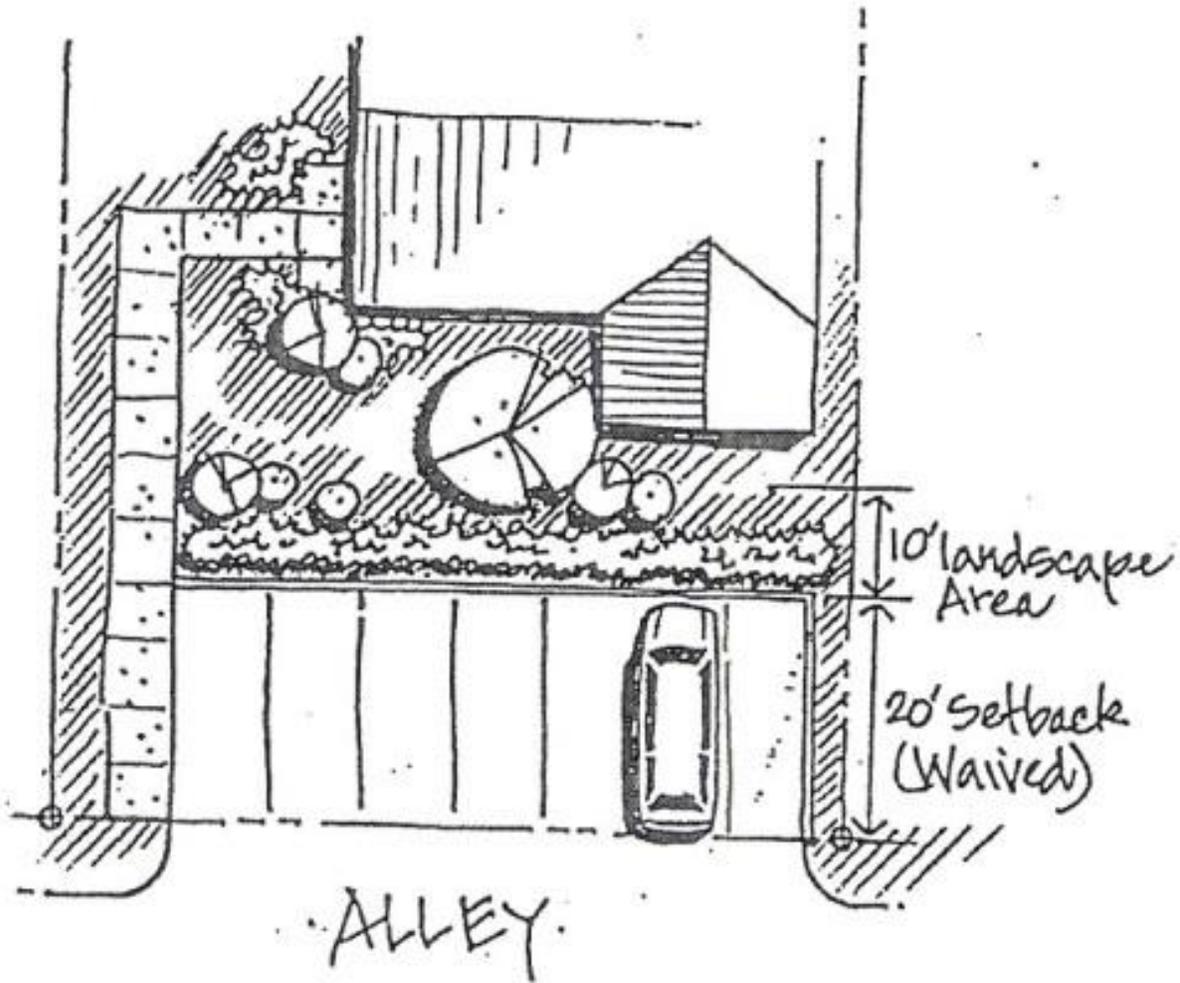
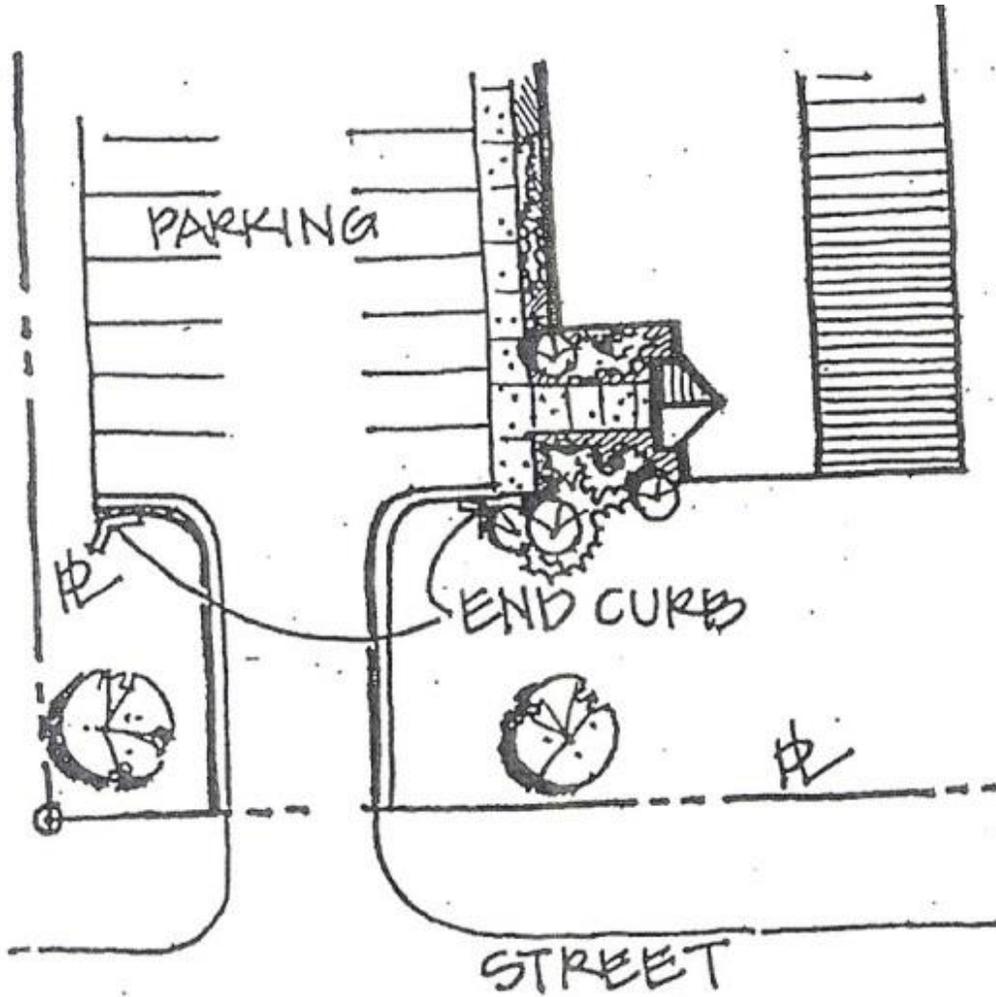


FIGURE 1-7 INDUSTRIAL DISTRICT CURBING



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**APPENDIX 3
APPROVED REGIONAL LANDSCAPE CHARACTER PLANT LIST**

In order to be successful, plant materials need to be suited to the conditions found on a specific development site. The conditions are numerous and individual sites will likely exhibit multiple conditions.

Listed below are examples of varying conditions which dictate plant materials chosen for a development site.

1. SOIL CONDITIONS:

- Sandy soils. Light
- Loam soils. Medium
- Clay soils Heavy

2. LIGHT CONDITIONS:

- Full sun. 8 or more hours
- Partial sun/shade 3-8 hours
- Shade 3 or less hours

3. TOPOGRAPHICAL CONDITIONS:

- Low damp areas. Poor drainage common
- High areas. Exposure to winds common
- Retention/detention areas. . . Areas designed to accommodate varying amounts of water and serve to store plowed snow during winter months

4. ENVIRONMENTAL CONDITIONS:

- Proximity to high traffic streets
- Potential damage from snow removal
- Salt tolerance
- Proximity to parking areas
- Proximity to building exhaust

5. ZONE HARDINESS OF PLANT MATERIALS:

The City's location adjacent to Grand Traverse Bay provides an opportunity to utilize plant species that would not be hardy further inland.

6. PHYSICAL CHARACTERISTICS OF PLANT MATERIALS:

Species selection will be limited for some sites, e.g. nut and fruit-bearing trees would not be suitable for parking areas, over pedestrian walkways and the areas to buildings, due to the potential for damage to vehicles and the messy litter. Individual growth habit of plant materials must be considered to assure the selected plant will fit the confines of the planting bed.

The following is a partial list of plant materials which is preferred to exotic plants

when the location is visible from public rights-of-way or adjacent to areas of natural vegetation. This list is not necessarily a guideline for interior courtyards and single family residential development.

WET TO MEDIUM MOISTURE SITES:

LARGE TREES:

- Abies balsamea. Balsam Fir
- Acer rubrum Red Maple
- Acer sacharum Sugar Maple
- Fraxinus nigra. Black Ash
- Larix laricina. Larch
- Picea mariana Black Spruce
- Pinus strobus White Pine
- Prunus serotina Black Cherry
- Salix nigra Black Willow
- Tilia americana Basswood

SMALL TREES:

- Amelanchier laevis. Serviceberry
- Betula lenta. Sweet Birch
- Betula nigra. River Birch
- Cornus altemifolia. Alternate-Leaved Dogwood
- Thuja occidentalis. White Cedar

LARGE SHRUBS:

- Aronia arbutifolia. Red Chokeberry
- Cephalanthus occidentalis Buttonbush
- Cornus rasemosa Gray Dogwood
- Cornus siricea. Redosier Dogwood
- Hamamelis virginiana. Common Witchhazel
- Ilex verticillata Michigan Holly
- Sambucus canadensis American Elderberry
- Vaccinium corymbosum. Highbush Blueberry
- Viburnum dentatum Arrowwood
- Viburnum lentago. Nannyberry
- Viburnum trilobum American Cranberry Bush

SMALL SHRUBS:

- Juniperus communis. Common Juniper
- Potentilla fruticosa. Bush Cinquefoil
- Taxus canadensis. Canada Yew

DRY, SANDY SITES:

LARGE TREES:

- Abies balsamea. Balsam Fir

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- Acer sacharum Sugar Maple
- Fagus grandifolia American Beech
- Fraxinus americana White Ash
- Pinus resinosa Red Pine
- Quercus alba White Oak
- Quercus rubra Red Oak

SMALL TREES:

- Amelanchier laevis Serviceberry
- Crataegus crus-galli Cockspur Hawthorn
- Crataegus mollis Downey Hawthorn
- Crataegus punctata Dotted Hawthorn
- Crataegus viridus Green Hawthorn
- Juniperus virginiana Eastern Red Cedar
- Malus Ioensis Prairie Crab
- Morus rubra Red Mulberry
- Ostrya virginiana Ironwood
- Prunus pensylvanica Pin Cherry
- Prunus virginiana Choke Cherry
- Rhamnus carolinianus Carolina Buckthorn
- Sorbus americana Mountain Ash
- Viburnum lentago Nannyberry

LARGE SHRUBS:

- Corylus americana American Filbert
- Hamamelis virginiana Common Witchhazel
- Ilex verticillata Michigan Holly
- Rhus glabra Smooth Sumac

SMALL SHRUBS:

- Ceanothus americanus New Jersey Tea
- Dievilla lonic Bush Honeysuckle
- Rubus alleghaniensis Blackberry