

## Chapter 98

### ZONING\*

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## ARTICLE I. IN GENERAL

### Sec. 98-1. Short title.

This chapter shall be known and may be cited as the City of Houghton Zoning Ordinance.(Ord. No. 68, ' 100, 2-26-1986)

### Sec. 98-2. Definitions.

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

*Accessory use* or *accessory* means a use which is clearly incidental to, customarily found in connection with, and located on the same zoning lot as the principal use to which it is related.

*Administrative officer* means the city manager, his deputy or assigns, as authorized by the council.

*Alteration* means any change, addition or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to in this chapter as "altered" or "reconstructed."

*Apartments* means a suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

*Auto repair or service garage* means a place where the following services may be carried out: general repair, engine rebuilding, collision service, painting, and undercoating. The sale of engine fuels and lubricants may be included.

*Basement* means that portion of a building which is partly or wholly below 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 shall not be counted as a story.

*Building* means any structure, either temporary or permanent, having a room supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

*Building height* means the vertical distance measured from the established grade to the highest point of the roof surface; to the deck line of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall, excluding any chimney.

*Building line* means a line formed by the face of the building; and for the purposes of this chapter, a minimum building line is the same as a front setback line.

*Club* means a nonprofit organization of persons for the promulgation of sports, arts, sciences, literature, politics or the like.

*Convalescent or nursing home* means a structure with sleeping rooms where persons are housed furnished with meals, nursing and medical care.

*Development* means the construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

*Drive-in* means a business establishment so developed that its service character is dependent on a driveway approach or parking for motor vehicles so as to serve patrons while in the motor vehicle.

*Dwelling, multiple-family*, means a building or a portion of a building designed exclusively for occupancy by three or more families living independently of each other.

*Dwelling, one-family*, means a building designed exclusively for and occupied exclusively by one family.

*Dwelling, two-family*, means a building or a portion of a building designed exclusively for occupancy for two families living independently of each other.

*Dwelling unit* means a building or portion of a building, designed for occupancy by one family for residential purposes and having cooking facilities. Structures intended for permanent family occupancy shall be considered as dwelling units if the provisions of the city building code can be complied with.

*Erected* means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage and the like.

*Essential services* means the erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution system, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, hydrants and connected similar equipment, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

*Excavation* means any breaking of ground, except common household gardening and ground care.

*Family* means:

1. An individual, or group of two or more persons related by blood, marriage or adoption, together with not more than one (1) additional unrelated person, who are domiciled together as a single housekeeping unit in a dwelling unit; or
2. A collective number of individuals living together in one dwelling unit whose relationship is of a regular and permanent nature and having a distinct domestic character or a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other and all are living and cooking as a single housekeeping unit;

3. A Family does not include any society, club, fraternity, sorority, association, lodge, co-op, organization, or group of students or other individuals where the common living arrangements, or where the basis for the establishment of the housekeeping unit is temporary or for an anticipated limited period.

*Farm* means structures, facilities and lands for carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.

*Floor area, residential*, means the sum of the horizontal areas of each story of the building, which shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Floor area excludes areas of basements, unfinished attics, attached garages, breezeways and porches.

*Floor area, usable (for computing parking)*, means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the building, measured from the interior faces of the exterior walls.

*Garage, private*, means accessory building space designed or used solely for the storage of vehicles, boats, etc., owned and used by the occupants of the building to which it is accessory.

*Garage, service*, means any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

*Gasoline service station* means a place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

*Grade* means to regulate building height, the level of the ground adjacent to the walls of the building. If the ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the dwelling.

*Hotel or motor inn* means a building or part of a building with a common entrance in which the dwelling or rooming units are used primarily for transient occupancy. The hotel or motor inn is distinguished from a motel in that it is more than two stories above the ground. A hotel or motor inn may contain major restaurant, cocktail lounge and conference center facilities, while a motel normally would not.

*Junkyard* means an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junkyard includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

*Kennel, commercial*, means any lot or premises on which three or more dogs, cats or other household pets are either permanently or temporarily boarded, and/or where household pets are bred and sold.

*Loading space* means an off-street space on the same lot with a building for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

*Lot* means a parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and accessory uses, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records.

*Lot, corner*, means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents of the curve, at the two points where the lot lines meet the curve, or the straight street line extended, form an interior angle of less than 135 degrees.

*Lot coverage* means the part or percentage of the lot occupied by buildings, including accessory buildings.

*Lot depth* means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

*Lot, interior*, means any lot other than a corner lot.

*Lot lines* means the lines bounding a lot:

- (1) *Front lot line* means, in the case of an interior lot, that line separating the lot from the street; in the case of a corner lot, or double-frontage lot, that line separating the lot from either street.
- (2) *Rear lot line* means that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, but not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Side lot line* means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line.

*Lot of record* means a parcel of land the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by municipal or county officials, and which actually exists as so shown.

*Lot, through*, means any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double-frontage lots, all sides of lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.

*Lot width* means the horizontal distance between the side lot lines, measured at the two points where the building line, or setback line intersects the side lot lines.

*Lot, zoning*, means a single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this chapter with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot therefore may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record.

*Main building* means a building in which is conducted the principal use of the lot upon which it is situated.

*Main use* means the principal use to which the premises are devoted and the principal purposes for which the premises exist.

*Major thoroughfare, secondary thoroughfares, collector streets* means arterial streets intended to serve as large-volume trafficways for both the immediate municipal area and the region beyond. The city's thoroughfare plan identifies those streets designated thoroughfares and/or collector streets.

*Marihuana* means that term as defined in section 7106 of the public health code, 1978 PA 368 MCL 333.7106.

*Master plan* means the comprehensive plan, including graphic and written proposals, indicating the general location for streets, parks, schools, public buildings and all physical development of the city, and includes any unit or part of such plan, and any amendment to such plan or parts of the plan.

*Medical marihuana dispensary* means any structure used for dispensing marihuana by a primary caregiver or caregivers to one or more qualifying patient(s). A medical marihuana dispensary does not include a qualifying patient's residence if the marihuana transferred is exclusively for the qualifying patient's use.

*Medical marihuana nursery* means any structure which is used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, producing, processing, preparing, packaging, repackaging, or storing medical marihuana for one or more qualifying patients. A medical marihuana nursery does not include a qualifying patient's residence if the marihuana is exclusively for the qualifying patient's use.

*Mobile home* means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

*Motel* means as defined in "Hotel or motor inn."

*Nuisance factor* means an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as but not limited to noise, dust, smoke, odor, glare, fumes, flashes, vibration, objectionable effluent, noise or congregation of people, particularly at night, passenger traffic or invasion of nonabutting street frontage by traffic.

*Nursery, plant materials* means a space, building or structure, or combination, for the storage of live trees, shrubs or plants offered for sale on the premises, including products used for gardening or landscaping. This definition does not include any space, building or structure used for the sale of fruits or vegetables.

*Off-street parking lot* means a facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three vehicles.

*Parking space-Automobile* means an area of definite length and width, which contains a minimum of 160 square feet, exclusive of drives, aisles or entrances giving access to the space, and fully accessible for the storage or parking of permitted vehicles.

*Parking space – Bicycle* means an area that is at least two feet wide by six feet long with a vertical clearance of at least six feet. (Ordinance 2010-216)

*Public utility* means a person, firm, 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, telegraph, transportation, or water.

*Room* means, for the purpose of determining lot area requirements and density in a residential district, a living room, dining room and bedroom, each equal to at least 80 square feet in area. A room shall not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways and storage.

*Setback* means the distance required to obtain front, side or rear yard open space provisions of this chapter.

*Sign* means a graphic device, including its base, foundation or erection supports, upon which is displayed any words, letters, figures, emblems, symbols, designs or trademarks by which any such message or image is afforded public visibility from out-of-doors, on behalf of and for the benefit of any product, place, activity, individual, firm, institution, profession, association, business or organization. A series of painted letters on the exterior surface of a building is also a sign.

*Story* means that part of a building, except a mezzanine or basement, included between the surface of one floor and the surface of the next floor above, or if there is no floor above, then the ceiling next above.

*Story, half*, means an uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of at least seven feet. For the purposes of this chapter, the usable floor area is only that area having at least four feet clear height between floor and ceiling.

*Strip Mall*, A strip mall is defined as having three or more stores with a common wall between each store and a common, on site, parking lot.

*Structure* means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including buildings.

*Temporary use or building* means a use or building permitted by the board of appeals to exist during periods of construction of the main building or use, or for special events.

*Travel trailer, camper* means a vehicle either towed or self-propelled designed primarily as a vacation camping unit for short-term seasonal occupancy.

*Trailer or mobile home court* means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a mobile home.

*Use* means the principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

*Yards* means the open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter:

- (1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- (2) *Rear yard* means an open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- (3) *Side yard* means an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building. (Ord. No. 68, ' 200, 2-26-1986; Ord. No. 99-113, 5-23-1999)**Cross reference(s)**--Definitions generally, ' 1-2.

### **Sec. 98-3. Conflicting regulations.**

Whenever any provisions of this chapter conflict with the requirements, regulations, restrictions or limitations imposed by the provisions of any other law or ordinance, the provisions imposed by the more stringent law or ordinance shall govern. (Ord. No. 68, art. XXVII, 2-26-1986)

### **Sec. 98-4. Changes and amendments.**

The council may, on recommendation from the planning commission or on petition, amend, supplement or change the district boundaries or the regulations in this chapter in accordance with the provision of Public Act No. 207 of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.). (Ord. No. 68, art. XXII, 2-26-1986)

### **Sec. 98-5. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of law or ordinance other than this chapter, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises. (Ord. No. 68, art. XXIII, 2-26-1986)

### **Sec. 98-6. Vested rights.**

Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare. (Ord. No. 68, art. XXV, 2-26-1986)

### **Secs. 98-7--98-40. Reserved.**

## **ARTICLE II. ADMINISTRATION\***

\***Cross reference(s)**--Administration, ch. 2.

### **DIVISION 1. GENERALLY**

**Sec. 98-41. Enforcement.**

The provisions of this chapter shall be enforced by the police department. (Ord. No. 68, 1800, 2-26-1986)

**Sec. 98-42. Duties of administrative officer.**

- (a) The administrative officer shall have the power to grant zoning compliance and occupancy permits and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter.
- (b) The administrative officer shall record all nonconforming uses existing at the effective date of the ordinance from which this chapter derives for carrying out the provisions of section 98-190.
- (c) The administrative officer shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of the permit. (Ord. No. 68, 1801, 2-26-1986)

**Sec. 98-43. Plot plan.**

The administrative officer shall require that all applications for building permits shall be accompanied by plans and specifications, including a plot plan, drawn to scale, showing the following:

- (1) The actual shape, location and dimensions of the lot.
- (2) The dimensions and location of all structures existing or to be erected, altered or moved on the lot.
- (3) The existing and intended uses of the lot, including, in residential areas, the number of dwelling units.
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.(Ord. No. 68, 1802, 2-26-1986)

**Sec. 98-44. Permits.**

The following shall apply in the issuance of any permit:

- (1) *Permits for new use of land.* No vacant land shall be used or an existing use of land be changed to a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- (2) *Permits for new use of buildings.* No building or structure shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- (3) *Permits required.* No building or structure shall be erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the city building code, housing law, or this chapter, except for minor repairs or changes not involving any of the aforesaid features. (Ord. No. 68, 1803, 2-26-1986)

**Sec. 98-45. Certificates of occupancy.**

No land or building shall be occupied by, or any use thereof made, until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

- (1) *Certificates required.* No building or structure in a B zoning district which is erected or altered, and no store front that has been renovated, shall be occupied or used, until a certificate of occupancy shall have been issued for such building or structure. Alteration and renovation shall include, but shall not be limited to, painting, residing and installation of new windows.
- (2) *Certificates including zoning.* Certificates of occupancy as required by the city building code for new buildings or structures or for alterations to or changes of use of existing buildings or structures shall also constitute certificates of occupancy as required by this article.
- (3) *Certificates for existing buildings.* Certificates of occupancy shall be issued for existing buildings or structures or existing uses of land if, after inspection, it is found that such buildings or structures or such use of land are in conformity with the provisions of this chapter.
- (4) *Record of certificates.* A record of all certificates issued may be kept on file in the office of the administrative officer, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
- (5) *Certificates for dwelling accessory buildings.* Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- (6) *Application for certificates.*
  - a. Application for certificates of occupancy shall be made in writing to the administrative officer on forms furnished by his office, and such certificates shall be issued within five days after receipt of such application if it is found that the building or structure or the use of land is in accordance with the provisions of this chapter.
  - b. If such certificate is refused for cause, the applicant shall be notified of such refusal and the cause of the refusal within the five-day period.(Ord. No. 68, 1804, 2-26-1986)

#### **Sec. 98-46. Final inspection.**

The holder of every building permit for the construction, erection, alteration, repair or moving of any building or structure shall notify the administrative officer immediately upon the completion of the work authorized by such permit, for a final inspection.(Ord. No. 68, ' 1805, 2-26-1986)

#### **Sec. 98-47. Fees.**

Fees for inspection and the issuance of permits or certificates or copies required or issued under the provisions of this chapter may be collected by the administrative officer in advance of issuance. The amount of such fees shall be established by resolution of the council.(Ord. No. 68, ' 1806, 2-26-1986)

#### **Sec. 98-48. Zoning exceptions and variances.**

- (a) *Exception.* An exception is a use permitted only after review of an application by the board of appeals or a commission other than the administrative officer, such review being necessary because the provisions of this chapter covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by this chapter. Exceptions do not involve undue hardship.
- (b) *Variance.* A variance is a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

(c) *Specific exceptions.* The exceptions that are found in this chapter appear as special approval uses subject to planning commission, council, or board of appeals review. These land uses could not be conveniently allocated to one zone or another, or the affects of such uses cannot be definitely foreseen because of one or more of the following:

- (1) Large site area.
- (2) Infrequent occurrence.
- (3) Unusual amounts of traffic.
- (4) Obnoxious or hazardous character.
- (5) Public safety or convenience need.(Ord. No. 68, ' 200, 2-26-1986)

**Secs. 98-49--98-70. Reserved.**

**DIVISION 2. BOARD OF APPEALS\***

\*Cross reference(s)--Boards, commissions and committees, ' 2-201 et seq.

**Sec. 98-71. Creation and membership.**

There is established a board of zoning appeals, which shall perform its duties and exercise its powers as provided in section 5 of Public Act No. 207 of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done. The board shall consist of five members appointed by the council.(Ord. No. 68, 1900, 2-26-1986)

**Sec. 98-72. Meetings.**

All meetings of the board of appeals shall be held at the call of the chairman and at such times as the board may determine. All hearings conducted by the board shall be open to the public. The city clerk or his representatives shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall also keep records of its hearings and other official action. Four members of the board shall constitute a quorum for the conduct of its business. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files and other evidence pertinent to the matter before it.(Ord. No. 68, ' 1901, 2-26-1986)

**Sec. 98-73. Appeal.**

- (a) An appeal may be taken to the board of appeals by anyone affected by a decision of the administrative officer. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by filing with the administrative officer and with the board of appeals a notice of appeal, specifying the grounds of the appeal.
- (b) The administrative officer shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrative officer certifies to the board of appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of record.
- (c) The board shall select a reasonable time and place for the hearing of the appeal and give due notice to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.(Ord. No. 68, 1902, 2-26-1986)

**Sec. 98-74. Fees.**

The council may prescribe and amend by resolution a reasonable schedule of fees and manner of payment to be charged to applicants for appeals to the board of appeals.(Ord. No. 68, ' 1903, 2-26-1986)

**Sec. 98-75. Jurisdiction.**

- (a) The board of appeals shall have the following powers, and it shall be its duty to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made in the enforcement of this chapter.
- (b) In hearing and deciding appeals, the board of appeals shall have the authority to grant such variances as may be in harmony with the general purpose and intent of this chapter, public safety and welfare secured, and substantial justice done, including:
  - (1) Interpreting the provisions of this chapter in such a way to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, where street layout actually on the ground varies from the street layout as shown on the map.
  - (2) Permitting the erection and use of a building or use of premises for municipal or public utility purposes and making exceptions to the height and bulk requirements which the board considers necessary for the public convenience or welfare.
  - (3) Permitting the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
  - (4) Permitting such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification.
  - (5) Permitting temporary buildings and uses for periods not to exceed 12 months, provided adequate conditions of performance are required to assure public safety and compatibility with surrounding uses or properties.
- (c) Where, owing to special conditions, a literal enforcement of the use provisions of this chapter would involve practical difficulties or cause unnecessary hardships within the meaning of this chapter, the board shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this chapter, so that public safety and welfare are secured and substantial justice done. No such variance or modification of the use provisions of this chapter shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:
  - (1) That there are exceptional or extraordinary circumstances or conditions applicable to the property or its use that do not apply generally to other properties or uses in the same district.
  - (2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.
  - (3) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the district in which the property is located.
  - (4) That the granting of such variance will not adversely affect the purposes or objectives of the zoning plan of the city.

Nothing contained in this section shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map, such power and authority being reserved to the council in the manner provided by law.

- (d) In consideration of all appeals and all proposed variances to this chapter, the board shall first determine that the proposed variance will not:
- (1) Impair an adequate supply of light and air to adjacent property;
  - (2) Unreasonably increase congestion in public streets;
  - (3) Increase the danger of fire or endanger the public safety;
  - (4) Unreasonably diminish or impair established property values within the surrounding area;  
or
  - (5) In any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the administrative officer or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.(Ord. No. 68, 1904, 2-26-1986)

**Sec. 98-76. Orders.**

In exercising its powers, the board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative officer from whom the appeal is taken.(Ord. No. 68,1905, 2-26-1986)

**Sec. 98-77. Notice.**

The board of appeals shall make no recommendation except in a specific case and after a public hearing conducted by the board. It shall determine the interested parties who, in the opinion of the board, may be affected by any matter brought before it, which shall in all cases include all owners of record of property within 300 feet of the premises and occupants of single- and two-family dwellings within 300 feet of the premises in question, such notices to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. The board may require any party applying to the board for relief to give such notice to other interested parties as it shall prescribe.(Ord. No. 68, 1906, 2-26-1986)

**Sec. 98-78. Time limitations.**

- (a) No order of the board of appeals permitting the erection of a building shall be valid for a period 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) No order of the board permitting a use of a building and/or premises shall be valid for a period longer than one year unless such use is established within such period; however, where such use permitted 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 such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.(Ord. No. 68,1907, 2-26-1986)

**Secs. 98-79--98-100. Reserved.**

DIVISION 3. ZONING COMMISSION\*

\*Cross reference(s)--Boards, commissions and committees, ' 2-201 et seq.

**Sec. 98-101. Designation of planning commission.**

The city planning commission is designated as the commission specified in section 4 of Public Act No. 207 of 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), and shall perform the zoning duties of that commission as provided in the statute in connection with the amendment of this chapter.(Ord. No. 68, art. XX, 2-26-1986)

**Secs. 98-102--98-125. Reserved.**

**DIVISION 4. PLANNING COMMISSION\***

\*Cross reference(s)--Boards, commissions and committees, ' 2-201 et seq.; planning commission, ' 2-226 et seq.

**Sec. 98-126. Approval.**

- (a) In cases where the city planning commission is empowered to approve certain use of premises under the provisions of this chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required for the proper consideration of the matter.
- (b) The planning commission shall investigate the circumstances of each such case and shall notify such parties who may in its opinion be affected of the time and place of any hearing which may be held as required under its rules of procedure.
- (c) The planning commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this chapter.
- (d) Any approval given by the planning commission under which premises are not used or work is not started within 12 months or when such use or work has been abandoned for a period of 12 months shall lapse and cease to be in effect.(Ord. No. 68, art. XXI, 2-26-1986)

**Secs. 98-127--98-150. Reserved.**

**DIVISION 5. ENFORCEMENT AND PENALTIES**

**Sec. 98-151. Authorized City Official.**

The Administrative Officer is hereby designated as the authorized city official to issue municipal civil infraction citations and municipal civil infraction violation notices as provided by this Code.

**Sec. 98-152. Public nuisance per se.**

Any building or structure which is erected, altered or converted, or any use of premises or land which has begun or changed in violation of any of the provisions of this Chapter is hereby declared to be a public nuisance per se, and may be abated by order of any Court of competent jurisdiction.

**Sec. 98-153. Municipal Civil Infraction.**

A person who violates any provision of this Chapter is responsible for a municipal civil infraction, subject to a payment of a civil fine of not less than \$50 plus costs and other sanctions, for each infraction. Repeated offenses under this Chapter shall be subject to increased fines as provided by Chapter 13 of this Code.

**Sec. 98-154. Each day a separate offense.**

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.(Ord. No. 68, ' 2603, 2-26-1986)

**Secs. 98-155--98-185. Reserved.**

## ARTICLE III. ZONING DISTRICTS

### Sec. 98-186. Districts established.

For the purpose of this chapter, the city is divided into the following districts:

*Residential districts:*

R-1	One-family residential district
R-2	Two-family residential district
R-3	Multiple-family residential district

*Nonresidential districts:*

B-1	Local business district
B-2	Community business district
B-3	General business district
I-1	Industrial district
RSV	Reserve district
MU	Multiple-use district

(Ord. No. 68, ' 300, 2-26-1986)

### Sec. 98-187. District boundaries.

The boundaries of the city's zoning districts are established as shown on the zoning map which accompanies the ordinance from which this chapter is derived, which map, with all notations, references and other information shown, shall be as much a part of this chapter as if fully described in this section. Copies of such zoning map shall remain on file and be available to members of the public at the office of the city clerk. (Ord. No. 68, ' 301, 2-26-1986)

### Sec. 98-188. Zoning of annexed areas.

Whenever any area is annexed to the city, one of the following conditions will apply:

- (1) Land that is zoned previous to annexation shall be lawfully zoned as being in whichever district of this chapter most closely conforms with the zoning that existed prior to annexation, such district to be recommended by the planning commission within 90 days.
- (2) Land not previously zoned shall be automatically zoned R-1 until a zoning map for the area is lawfully adopted by the council, after a recommendation by the city planning commission. This map shall be prepared within 90 days.(Ord. No. 68, ' 302, 2-26-1986)

### Sec. 98-189. District requirements.

- (a) All buildings and uses in any district shall be subject to the provisions of articles I and IV of this chapter.
- (b) All buildings and uses in any district shall also be subject to the provisions and requirements in article XIV, limiting the height and bulk of buildings, the minimum size of lot permitted, the maximum density permitted and minimum yard requirements (setbacks).
- (c) Accessory buildings and uses customarily incident to any permitted use in any district established by this chapter are assumed permissible uses under the terms of this chapter. (Ord. No. 68, 303, 2-26-1986)

## Sec. 98-190. Nonconformities.

- (a) *Intent.*
- (1) It is recognized that there exists within the districts established by this chapter or by amendments, lots, structures and uses of land which were lawful before this chapter was passed or amended, which would be prohibited or restricted under the terms of this chapter or future amendment.
  - (2) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival.
- (b) *Board of appeals variance.* Although it is the intent of this chapter to restrict the expansion and perpetuation of nonconforming uses of land and/or buildings, the board of appeals, subject to a hearing, may allow an expansion or enlargement provided that it is conclusively shown that such extension or enlargement will:
- (1) Not further reduce the value or otherwise limit the lawful use of adjacent premises.
  - (2) Essentially retain the character and environment of abutting premises.
  - (3) Not materially increase or perpetuate the nuisance aspects of the use upon adjacent uses (noise, glare, traffic congestion, land overcrowding, vibration, signs, hours of operation and related).
  - (4) Be limited to the minimum requirements in article XIII.
- (c) *Nonconforming lots.* A permitted single-family dwelling and customary accessory building may be erected on any single lot on record at the effective date of adoption or amendment of this chapter, even though such lot may fail to meet the district requirements for area or width, or both. Yard dimensions and other requirements not involving area or width, or both, shall conform to the regulations of the district in which such lot is located. Variance to yard requirements shall be obtained through the board of appeals.
- (d) *Nonconforming use of land and/or structures.*
- (1) No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of the ordinance from which this chapter derives.
  - (2) No nonconforming use of land or building shall be moved in whole or in part to any other portion of the lot or parcel occupied.
  - (3) No nonconforming structure may be enlarged or altered in a way which increases its nonconformity.
  - (4) Should a nonconforming structure be destroyed by any means to an extent of more than 60 percent of the usable cubic space of floor area, it shall not be reconstructed except in conformity with the provisions of this chapter.
  - (5) Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.
  - (6) Any nonconforming use of a structure, land, or structure and land may be changed to another nonconforming use provided that the proposed use is equally or more appropriate to the district than the existing nonconforming use as determined by the zoning board of appeals.
  - (7) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located; and the nonconforming use may not thereafter be resumed. There may be changes in tenancy and ownership of nonconforming premises.

- (8) When a nonconforming use of land, structure, or structure and land in combination is discontinued or ceases to exist for 12 consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
  - (9) Removal or destruction of the use and/or structure shall eliminate the nonconforming status of the land (premises).
- (e) *Repairs and maintenance.* Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
  - (f) *Uses under exception provisions not nonconforming uses.* Any use for which a general exception or special condition is permitted as provided in this chapter shall not be deemed a nonconforming use but shall without further action be deemed a conforming use in such district. (Ord. No. 68, ' 1600, 2-26-1986)

**Sec. 98-191. Accessory buildings.**

- (a) *Intent.* It is the intent of this chapter that accessory buildings be placed on the lot in such a manner that they can be maintained on all sides and there is no undue encroachment upon adjacent properties, and sunlight, movements of air and views from adjacent residential premises are not impaired beyond a reasonable point. Therefore, some premises which have extremely limited land areas may not be capable of supporting an accessory building.
- (b) *Minimum requirements.* Accessory buildings shall comply with the minimum requirements for main buildings, except as follows:
  - (1) Unless structurally attached, accessory buildings shall not be located closer than five feet to any main building.
  - (2) Accessory residential buildings may be located on a side lot line only in instances where cluster buildings are contemplated or the cooperative use of driveways is legally established, and the accessory building is structurally attached to an adjoining property's accessory building.
  - (3) In rear yards, accessory residential buildings shall maintain a minimum setback of 15 feet from any property line through which vehicular access is provided; except that a minimum setback of ten feet shall be required where access is not provided.
  - (4) In districts other than R-1 districts (except in cluster situations), accessory buildings may locate in required side yards or required front yards subject to approval by the board of appeals, who shall determine that:
    - a. There is at least 15 feet vehicular backing space between a residential garage and any sidewalk or similar pedestrian walkway.
    - b. There is no undue encroachment upon adjacent premises; and sunlight, air flow and views from the adjacent property's dwellings are not impaired by shadows, high walls and related obstructions. A minimum side yard of eight feet shall be provided. (Ord. No. 68, ' 1601, 2-26-1986)

**Sec. 98-192. Parking requirements.**

- A. Automobile off-street parking space shall be provided in all districts in accordance with the following provisions:
  - (1) Off-street parking shall not be permitted within a required front yard or a side yard setback unless otherwise provided in this chapter, but is allowed in the back yard.

- (2) Dedicated off-street parking for nonresidential uses shall be either on the same lot or within 400 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the parking lot.
- (3) Required residential off-street parking spaces providing free and unobstructed access to the street, consisting of a parking strip, parking bay, driveway, garage or combination and containing a minimum of 130 square feet shall be located on the premises they are intended to serve.
- (4) Any area once designated as required off-street parking or any existing off-street parking area shall not be changed to any other use unless it is on surplus parking area and/or until equal facilities are provided elsewhere.
- (5) In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the board of appeals may grant an exception to the spaces required.
- (6) The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited on required off-street parking spaces.
- (7) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the board of appeals considers is similar in type.
- (8) For computing the number of parking spaces required, the definition of Ausable floor area shall govern.
- (9) All uses and buildings, except lodging facilities, within the area bounded by a line 100 feet south of Montezuma, north to the Portage Waterway, between Bridge Street and Franklin Street, shall be exempt from the minimum parking space requirements listed in subsection (b)(10) of this section, this area being defined as the central business district in the city's comprehensive land use plan.
- (10) The following is a schedule of the minimum number of off-street parking spaces required by type of use, excluding the central business district:

*Minimum  
Parking Spaces  
Required per  
Unit of Measure*

*Land Use  
Residential:*

Dwellings, per dwelling . . . . .	2
Elderly housing, per two units . . . . .	1
Roominghouse, per one occupant of maximum capacity . . . . .	1
Fraternity or sorority, per two beds or per five active members, whichever is greater . . . . .	1
Trailer court, per unit . . . . .	2

*Institutional and public:*

Church or temple, per three seats or each six feet of pew . . . . .	1
Hospital, per bed . . . . .	1
Nursing home, per two beds . . . . .	1
Nursery, elementary, or junior high school, per employee . . . . .	1
Senior high school, per employee . . . . .	1
Plus, per ten students . . . . .	1
Membership clubs, per three persons of legal capacity . . . . .	1
Golf, swim or tennis club, per two member families . . . . .	1
Public golf course, per green or golf hole . . . . .	6
Plus, per employee . . . . .	1
Par 3 and/or miniature golf, per hole or green . . . . .	2
Sport arena or stadium, per three seats or per six feet of bench . . . . .	1
Theater or auditorium, per three seats or per three persons of legal capacity . . . . .	1
Planned shopping center, per 100 square feet of floor area . . . . .	1
Auto wash, automatic, per employee . . . . .	1
Plus, per 20 feet of wash line . . . . .	2
Auto wash, self-service, per wash stall plus the wash stall . . . . .	5
Barbershop or beauty shop, per employee . . . . .	1

Plus, per service chair . . . . .	1
Dance hall, rinks or assembly building (no fixed seats), per three persons of legal capacity . . . . .	1
Banks, per 100 square feet of floor area . . . . .	1
Doctor or dentist office, per 50 square feet of waiting room . . . . .	1
Plus, per service chair . . . . .	1
Business offices, per 200 square feet . . . . .	1
Billiard hall, per game table . . . . .	2
Taverns, per 50 square feet of floor area . . . . .	1
Restaurants, per three persons of seating capacity . . . . .	1
Plus auto stalls if drive-in type	
Furniture, appliances, plumber, electricians, minor repair services, per 800 square feet of floor area . . . . .	1
Gasoline station, per service stall . . . . .	2
Plus, per employee . . . . .	1
Laundromat, per three machines for washing . . . . .	1
Funeral home, mortuary, per 50 square feet of slumber room . . . . .	1
Hotel or motel, per rental unit . . . . .	1
Plus, per employee . . . . .	1
Vehicle sales, per 200 square feet of showroom floor area . . . . .	1
Retail groceries, per 250 gross square feet. . . . .	1
Other retail stores:	
a. Zero to 9,000 square feet per 225 gross square feet. . . . .	1
b. 9,001 square feet and up, per 275 gross square feet. . . . .	1

*Industrial:*

Welding shop, per employee . . . . .	2
Industrial office or research, spaces per employee . . . . .	1 1/2
Warehouse and wholesale, per employee . . . . .	1

*Notes:*

- a. Square feet refers to square feet of usable floor area.
- b. One per unit of measure shall be interpreted to mean one per each unit, as one per each three persons.
- c. Space requirements are cumulative; hence, a country club may require parking for the golf use as well as restaurant or bar use.
- d. Employees refer to all permanent staff and part-time equivalents.
- e. Legal capacity is the occupancy load as permitted by fire or health standards.

(Ord. No. 68, ' 1602, 2-26-1986) **Cross reference(s)**--Parking, stopping and standing generally, ' 82-61 et seq.

B. Bicycle off-street parking space shall be required in all districts except for R-1 and the Downtown as defined in Section 98-192(9).

- 1) Accessory off street parking for bicycles shall include provisions for secure storage of bicycles. Such facilities shall provide lockable racks, enclosed lockers, or equivalent structures in which a bicycle may be locked by the user. Structures that require a user supplied locking device shall be designated to accommodate U-shaped locking devices. All racks and lockers must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location. The servicing of such enclosed facilities shall be designed and maintained to be clean. (See Appendix F for recommended bike racks).
- 2) Bicycle parking facilities shall be located in a clearly designated, well-lighted, safe, and convenient location. The design and location of such facility shall be harmonious with the surrounding environment. The facility location shall be at least as convenient as a majority of the automobile parking spaces provided.
- 3) The following is a schedule of the minimum number of off-street parking spaces required by type of use. In all cases where bike parking is required, no fewer than two spaces shall be provided.

Multiple family/roominghouse/fraternity/sorority (per occupant).....1

Hotels and Motels (per 10 FTEs).....	1
Schools (per 20 students).....	1
Other Commercial or Manufacturing Facilities (per 10 auto spaces).....	1
All others will be determined by the Zoning Administrator Based upon the above guidelines.....	1

**Sec. 98-193. Off-street parking space construction.**

- (a) Parking lots required under the terms of this chapter shall be approved by the zoning administrator, subject to any construction specification and standards adopted by the city and due consideration for the following:
  - (1) Safe ingress and egress from public streets.
  - (2) Effective storm drainage and dust control measures.
  - (3) Safe maneuvering lanes and effective spacing between vehicles.
  - (4) A logical circulation system in parking lots.
  - (5) Backing directly onto a public street shall be avoided.
- (b) On any side of a nonresidential off-street parking area which abuts a residential district, there shall be provided a continuous screening device (fence, wall or greenbelt) not less than four feet six inches in height. All screening devices shall be maintained in good condition and shall consist of materials which complement the residential environment of the area as well as a regard for continuity with any existing screening devices.(Ord. No. 68, ' 1603, 2-26-1986)

**Cross reference(s)**--Parking, stopping and standing generally, ' 82-61 et seq.

**Sec. 98-194. Off-street loading and unloading.**

- (a) On the same premises with every building or structure involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained on the lot, adequate space for standing, loading and unloading.
- (b) All designated loading spaces shall be approved by the administrative officer; and such space shall be in keeping with the character of the use and the normal size of vehicles serving the use (e.g. small vans and panel trucks, large vans, and/or semitrailer rigs, etc.). Uses in the central business district exempt from meeting the off-street parking requirements shall also be exempt from off-street loading requirements.(Ord. No. 68, ' 1604, 2-26-1986)**Cross reference(s)**--Parking, stopping and standing generally, ' 82-61 et seq.

**Sec. 98-195. Uses not otherwise included within a specific use district.**

Because the uses referred to in this section possess unique service and site characteristics making it impractical to include them in a specific use district, they may be permitted subject to the conditions specified for each.

- (1) *Swimming pools.* Whenever an outdoor swimming pool is constructed under this chapter, the pool area shall be provided with a protective fence five feet in height; and entry shall be provided by means of a controlled self-latching gate, capable of being securely locked. Raised pools may be exempted by the administrative officer whenever a fence may not be practical.
- (2) *Commercial television and radio towers and public utility microwaves, and public utility TV transmitting towers.* Radio and television towers, public utility microwaves and public utility TV transmitting towers, and their attendant facilities shall be permitted as a principal use in any B, I or unplatted RSV district area by the board of appeals, provided

such use shall be located centrally on a continuous parcel of not less than 1 1/2 times the height of the tower measured from the base of the tower to all points on each property line.

- (3) *Recreation resorts.* Public or private outdoor recreational facilities of a resort character may be permitted in any district by the board of appeals, after a hearing, provided:
- a. The use occupies a total site area of at least 40 acres.
  - b. The site has physical characteristics readily adapted for the proposed use with minimum disturbance to natural site features.
  - c. There is no conflict with the comprehensive land use plan relative to neighborhood units and industrial park areas.
  - d. All principal site uses and facilities are set back at least 100 feet from the property line.
- (4) *Riding academies or stables.* Facilities for horseback riding, accessory trails and stables may be allowed by the board of appeals in RSV, B-3, and I districts, or on farms in unplatted areas, provided that animal housing facilities or enclosures are located at least 300 feet from any off-premises residential structure. Under a temporary permit basis, riding trails may extend into the rugged and/or undeveloped portions of any district.

(Ord. No. 68, ' 1605, 2-26-1986)

### **Sec. 98-196. Plant materials in greenbelts.**

Whenever in this chapter a greenbelt or planting is required, it shall be planted within six (6) months from the date of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided.

- (1) *Plant material spacing.*
- a. Plant materials shall not be placed closer than four feet from the fence line or property line.
  - b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
  - c. Evergreen trees shall be planted not more than 30 feet on centers and shall be not less than five feet in height.
  - d. Narrow evergreens shall be planted not more than six feet on centers and shall be not less than three feet in height.
  - e. Tree-like shrubs shall be planted not more than ten feet on centers, and shall be not less than four feet in height.
  - f. Large deciduous shrubs shall be planted not more than four feet on centers, and shall not be less than six feet in height.
  - g. Large deciduous trees shall be planted not more than 30 feet on centers, and shall be not less than eight feet in height.
- (2) *Trees not permitted.* The following trees are not permitted:
- a. Box Elder.
  - b. Soft Maples (Red-Silver).
  - c. Elms.
  - d. Poplars.
  - e. Willows.
  - f. Horse Chestnut (nut bearing).
  - g. Tree of Heaven.

h. Catalpa.

SUGGESTED PLANT MATERIALS

<i>Evergreen Trees</i>	Minimum five feet in height
Juniper	
Fir	
Spruce	
Hemlock	
Pine	
Douglas-Fir	
<i>Narrow Evergreens</i>	Minimum three feet in height
Column Hinoki Cypress	
Blue Columnar Chinese Juniper	
Pyramidal Red-Cedar	
Swiss Stone Pine	
Pyramidal White Pine	
Irish Yew	
Douglas Arbor-Vitae	
Columnar Giant Arbor-Vitae	
<i>Tree-Like Shrubs</i>	Minimum four feet in height
Flowering Crabs	
Mountain Ash	
Redbud	
Hornbeam	
Magnolia	
Russian Olives	
Dogwood	
Rose of Sharon	
Hawthorn	
<i>Large Deciduous Shrubs</i>	Minimum six feet in height
Honeysuckle	
Mock-Orange	
Lilac	
Cotoneaster	
Euonymus	
Buckthorn	
Viburnum	
Forsythia	
Ninebark	
Hazelnuts	
Privet	
Sumac	
<i>Large Deciduous Trees</i>	Minimum eight feet in height
Oaks	
Hackberry	
Planetree (Sycamore)	
Ginkgo	
Sweet-Gum	
Linden	
Hard Maples	
Birch	
Beech	
Honeylocust	
Hop Hornbeam	

(Ord. No. 68, ' 1606, 2-26-1986) Cross reference(s)--Vegetation, ch. 90.

**Sec. 98-197. Corner clearance.**

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.(Ord. No. 68, ' 1607, 2-26-1986)Cross reference(s)--Traffic and vehicles, ch. 82.

**Sec. 98-198. Exterior lighting.**

All outdoor lighting in all use districts used to light the general area of a specific site, sign, parking lot or use shall be shielded, designed or of low intensity to prevent glare and shall be so arranged as to direct lights away from adjacent residential districts or adjacent residences, and shall not interfere with the vision of persons on streets or highways.(Ord. No. 68, 1609, 2-26-1986)

**Sec. 98-199. Fences, walls and hedges generally.**

- (a) Fences, walls and hedges may be permitted in any district subject to the following limitations and conditions:
  - (1) If mutually agreeable to the abutting property owners, a fence may be erected on the property line; otherwise the fence may be erected one foot inside and parallel to the property line with the finished side facing the abutting property.
  - (2) Fences or walls in a required rear yard shall not exceed six feet in height in residential districts.
  - (3) In residential districts, fences, walls or hedges shall not exceed a height of six feet in required side yards and four feet in required front yards, subject to the provisions in section 98-197.
  - (4) Privacy fences, walls or hedges may be erected in any nonrequired rear yard to a maximum height of eight feet.
  - (5) Fences on residential lots of record shall not contain barbed wire or be electrified.
  - (6) No fence, wall or hedge shall be constructed nearer than five feet to any public street or alley right-of-way. (See section 98-197.)
  - (7) Fences or walls which enclose public or institutional parks, playgrounds or landscaped grounds in platted areas shall not exceed a height of ten feet and shall not obstruct vision to an extent greater than 25 percent of the fence or wall surface area.
  - (8) Fences, walls and/or hedges may be modified with respect to height limitations by the zoning administrator, provided a signed agreement between the two abutting property owners consent to any modification, and there is no interference with sight distances at street corners or driveway entrances.
  - (9) The design and construction materials for fences shall be of a type approved by the zoning administrator, or be in accordance with any official city standards, and further shall be consented to by a signed agreement between the abutting property owners. In cases of disagreement, the board of appeals shall rule on fence construction features.
- (b) Requirements for fences, walls and hedges are not intended to restrict landscaping features that exist or may be planted as a part of the beautification of any premises provided such planting does not constitute a hedge that obstructs the vision of drivers on streets or driveways and does not obstruct natural light and air on adjacent premises.(Ord. No. 68, ' 1610, 2-26-1986)

**Sec. 98-200. Fence and wall buffers.**

- (a) For those use districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall or fence as required. These

requirements do not apply whenever the use, storage area, etc., is more than 200 feet from the adjacent residential district boundary.

Use	Required Height of Buffer(feet)	Primary Purpose To Be Served
Off-street parking lots for all uses except one- and two-family residence	6	Screening and protective
B-1, B-2 and I district uses	6 to 8 where indicated	Screening and/or containment
Open outdoor storage areas larger than 200 square feet	6	Screening
Hospital and funeral home service entrances	6	Screening
Utility service buildings and/or substations	6	Screening and protective

- (b) All plans and specifications for buffer walls and fences must be approved by the administrative officer for materials, entranceways, locations, basic design and related materials. All fences shall be designated to fulfill the primary function of protection, containment and/or screening and further shall be maintained in a pleasing appearance.
- (c) Depending on continuity and property owner agreement, required buffer walls or fences may be located on the opposite side of an alley right-of-way from a nonresidential district whenever a nonresidential district abuts a residential district.
- (d) The board of appeals may waive or modify wall and fence requirements where cause can be shown that no good purpose would be served by strict compliance. Greenbelts and naturally wooded areas may be substituted for buffer walls and fences upon approval of the board of appeals. (Ord. No. 68, ' 1611, 2-26-1986)

**Sec. 98-201. Performance standards.**

No use otherwise allowed shall be permitted within the use district which does not conform to the following:

- (1) *Smoke, dust, dirt, fly ash, odor and fumes.* It shall be unlawful for any person to permit the emission or discharge of any smoke, dust, dirt, fly ash, or odor and fumes in quantities sufficient to create a nuisance within the city.
- (2) *Glare and radioactive materials.* Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful rays shall be permitted in such a manner as not to extend beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.
- (3) *Fire and explosive hazards.* Either on the inherent nature of the use or whenever, the zoning administrator deems the storage, utilization or manufacture of any materials to be a fire hazard or potential fire hazard, the city fire chief shall prescribe buildings, setbacks and other requirements necessary to assure safe property use conditions. Also, the storage and handling of flammable liquids, liquefied petroleum, gases and explosives shall comply with the state rules and regulations as established by Public Act No. 207 of 1941 (MCL 29.1 et seq., MSA 4.559(1) et seq.). (Ord. No. 68, ' 1612, 2-26-1986)

**Sec. 98-202. Site Plan Review**

It is recognized by this ordinance that there is a value to the public in establishing a safe, orderly, and beneficial development pattern; there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this ordinance requires site plan review and approval by the City Planning Commission for certain buildings, structures and projects that can be expected to have a

significant impact on natural resources, traffic patterns, on adjacent land usage, and on the character of future development. It is important that consultation and cooperation between the applicant and the City Planning Commission take place in order that applicant may accomplish their objectives in the utilization of their land and the public interest is upheld.

**A. Buildings, structures and uses requiring site plan review**

A site plan shall be submitted for review and approval to the City Planning Commission for the following uses:

- (1) An apartment building containing three (3) or more dwelling units.
- (2) More than one multiple-family building on a lot, parcel or tract of land, or a combination of lots under single ownership.
- (3) Mobile Home Park
- (4) Subdivision consisting of four or more dwellings.
- (5) Any commercial, office, industrial, business, recreational or institutional structures/uses including any changes in exterior material, landscaping, parking, and new additions to buildings.
- (6) All other uses requiring site plan review and approval as required by this Ordinance.
- (7) Any earthwork greater than 40,000 sf.

**B. Application procedure.**

An application for site plan review shall be made to the City Clerk along with a fee as required. The application shall, at a minimum, contain the following information:

- (1) The applicant's name, address, phone number and signature.
- (2) The property owner's address, phone number and signature.
- (3) The project address and parcel number.
- (4) Project description.

The City Clerk, upon receipt of the application and related materials, drawings, other necessary data, and payment of required fee, shall forthwith transmit the copies to the Planning Commission.

Within forty-five (45) days of receipt of all required information, a meeting of the Planning Commission shall take place in which the site plan is approved, denied or approved with conditions. Written notice shall be sent to the applicant stating the time and place of the review of the site plan by the City Planning Commission. The site plan shall be presented to the Planning Commission by the applicant or a plan representative. All meetings of the Planning Commission shall conform to the provisions of the Open Meeting Act, Act 267 of the Michigan Public Acts of 1976 as amended.

**C. Site plan content**

Site plans should be submitted on both 24" x 36" and 11" x 17' plan sheets. Site Plans submitted for review shall be drawn at a scale of 1 inch = 200 feet or greater and shall contain the following information:

- (1) Vicinity map illustrating the location of the site within the City.
- (2) Date site plan was prepared.
- (3) Name, address or preparer. Professional seal of preparer if available.
- (4) North arrow.
- (5) Legal description based upon most current survey.
- (6) Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of ten (10) feet outside the boundary lines of the site.
- (7) Direction of storm water drainage and how storm water runoff will be handled.

- (8) Location of existing and proposed buildings, their intended use, the length, width and height of each building and the square footage of each building.
- (9) Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet of the site.
- (10) Location and size of all water and sanitary sewer lines and storm drainage lines as well as fire hydrants and catch basins, and location of septic tanks and drain fields and utility easements.
- (11) Location of all sidewalks, bike paths, and other walkways.
- (12) Location and size of any walls, fences or other screening provisions.
- (13) Location of all proposed landscape materials, including size and type of planting. Location of significant trees and other important landscape features on the site.
- (14) Location of all proposed accessory structures, including light poles or fixtures, flagpoles, storage sheds, transformers, dumpsters and recycle areas, signs, and existing and proposed utility poles.
- (15) Proposed parking areas for both automobiles and bicycles plus access drives showing number and size of spaces, aisles, and loading areas.
- (16) Location and type of significant existing vegetation, water courses and water bodies including county drains and manmade surface drainage ways, and wetlands.
- (17) Statement of FEMA floodplain map of flood hazard to include FEMA Flood insurance rate map number.
- (18) Zoning of the site.
- (19) Zoning of adjacent sites.
- (20) Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, hazardous materials as well as any containment structures or clear zones required by this Ordinance or any other state or federal agencies.
- (21) Building Elevations - Building Elevation Plan showing all sides of the building including material and color of all sides. Elevation drawings may be submitted at a later date, but must still be approved by the Planning Commission prior to the issuance of a building permit.

#### **D. Standards**

The Planning Commission shall review each site plan according to the standards for site plan review and any other applicable regulations of this Ordinance. In addition, the Planning Commission is empowered to seek the review and recommendations of appropriate county, state or federal agencies, Houghton County Sheriffs Office, City Fire Department, other City officials, other professionals, consultants, or agencies, as the Planning Commission deems necessary to assist it in its review in establishing a safe, orderly and beneficial development pattern. The Planning Commission shall review the site plan for compliance with the requirements of this ordinance and conformance with the following general standards:

- (1) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be developed to not impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance.
- (2) Electric, telephone and cable television liens on site shall be underground where practicable. Any utility installations remaining aboveground shall be located so as to have a harmonious relationship to neighboring properties and the site.
- (3) The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications that result in greatest harmony with adjacent areas.

- (4) Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.
- (5) The site plan shall provide reasonable, visual, and sound privacy for all dwelling units located herein. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
- (6) All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access.
- (7) Every structure or dwelling unit shall have access to a public street, walkway, or other area dedicated to common use.
- (8) There shall be provided a pedestrian circulation system that is insulated as completely as reasonably possible from vehicular circulation system.
- (9) All loading and unloading areas and outside storage areas including areas for the storage of trash shall be screened by a vertical buffer consisting of structural and/or plant materials no less than six (6) feet in height.
- (10) Exterior lighting in commercial zoning districts shall be designed and constructed in such a manner to insure that all glare and lighting is confined to the development site: that any point light sources are not directly visible from beyond the boundary of the site. See Attachment A for examples of acceptable and unacceptable fixtures.
- (11) All streets shall be constructed in accordance with the requirements and specifications of the Houghton County Road Commission.
- (12) Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary State and Federal permits before final approval is granted.
- (13) Site plans shall conform to the City master plan.

**E. Expiration of site plan**

Site Plan Review is valid for one year. If applicant does not receive a building permit within one year of the site plan approval; or, if after one year the building permit is revoked or suspended, then applicant must go through Site Plan Review again.

**F. Revocation of site plan approval**

The Planning Commission may, upon notice and hearing, revoke approval of a site plan if the Commission determines that any information on the approved site plan is erroneous. Upon revocation, work on the affected part of the development, or on the entire development, as determined by the Planning Commission, shall cease. The Planning Commission may direct the Zoning Administrator to issue a stop work order to enforce its determination. Upon revocation, the Planning Commission may require the applicant to amend the site plan in a manner appropriate to reflect the corrected information. Any work so suspended shall not resume until the Planning Commission approves an amended site plan.

**G. Amendment of an approved site plan**

Amendments to an approved site plan shall be permitted only under the following circumstances:

- (1) The owner of property for which a site plan has been approved shall notify the zoning administrator of any desired change to the approved site plan. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - (a) Reduction of the size of any building and/or sign.
  - (b) Movement of buildings and/or signs by no more than ten (10) feet.

- (c) Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
  - (d) Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of any required parking.
  - (e) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
- (2) All amendments to a site plan approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning administrator to sign and date all approved amendments.

**Sec. 98-203. Landscaping requirements.**

In any case where a site plan review is required, all site landscaping improvements shall conform to the following standards:

- (1) *General requirements.*
  - a. Whenever any yard (front, side or rear) is not designated for a building, off-street parking, loading and unloading, storage or other purpose within the terms and requirements of a given zoning district, it shall be landscaped with either approved natural materials or living plant materials which shall be maintained in an aesthetically pleasing condition.
  - b. All landscaping shall consist either of approved natural materials or living plant materials. All landscaped areas shall be protected from the encroachment of vehicles by curbing or other suitable device.
  - c. A detailed landscape plan for all yard areas shall be submitted to the city showing the names (common and botanical), location, spacing, starting size and planting and staking details of all plantings to be installed, and the location and types of all natural materials proposed to be included in the landscape treatment of the yard areas. This provision shall apply to all landscape yards including those expanded beyond the minimum setback requirements of this article.
  - d. Existing significant trees, tree stands, natural vegetation, and wildlife habitat shall be integrated into the site landscape plan to the maximum extent possible.
  - e. Subsequent phases of the site shall be seeded, mowed and maintained.
  - f. The administrative officer may approve constructed features of other materials, such as masonry walls or brick, stone and cobblestone pavement, as a supplement or substitute, upon a showing by the applicant that general plantings will not prosper at the intended location.
  - g. Landscaping shall be planted, landscape elements shall be installed, and earth moving or grading performed in a sound workmanlike manner and according to accepted good planting and grading procedures, with the quality of plant materials and grading as described in this chapter.
  - h. The owner of property required to be landscaped by this section shall maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. All plant materials shall be continuously maintained in a sound, weed-free, healthy and vigorous growing condition, and shall be kept free of plant diseases, weeds and insect pests. All unhealthy and dead material shall be replaced within one year or the next appropriate planting period, whichever comes first.

- i. Plant and grass materials shall be of acceptable varieties and species, hardy in the county. No plant materials used to satisfy some or all planting requirements of this section shall be comprised of nonliving materials, except as provided herein.
- j. Approved ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one complete growing season, with at least three plants per square foot.
- k. Grass areas shall be planted in species normally grown as permanent lawns in the county. Grass may be plugged, sprigged, hydroseeded, seeded or sodded, except that rolled sod, erosion reducing net or suitable mulch shall be used in swales or other areas subject to erosion.
- l. Landscaping, in accordance with the approved site plan, must be completed six months after occupancy of the building or project. (Ordinance 2009-206)

(2) *Design objectives.* The following general design objectives and criteria shall be considered in the evaluation of landscape plans:

- a. Ample variety and quantity of ornamental plants, trees and shrubs should be provided. A few dominant types are usually chosen with subordinate types interspersed for accent. Repeating some types creates unity, but no types should be overused. Variety should be achieved with respect to seasonal changes, species selected, texture, color and size at maturity.
- b. Landscaping should be encouraged that will serve the functions of enhancing the visual environment, ensuring public safety, moderating the microclimate and minimizing nuisances.
- c. Landscaping should serve to integrate the project with the site, with a particular sensitivity to the natural topography, drainage and existing native vegetation. It should enhance the architecture of surrounding structures, when possible, by being of similar scale.
- d. Visual variety would be the aim of landscaping treatment. Landscaping should be used to break up large expanses of pavement.
- e. Local soil, water, and other climatic conditions should be considered when choosing landscape material to create optimum conditions for their survival and to ensure that they will thrive with a minimum amount of maintenance.
- f. Landscaping should be protected from vehicular and pedestrian encroachment. Raised planting surfaces and use of curbs may be used to achieve this objective.
- g. Species that are a public nuisance or that cause litter should be avoided.

(3) *Plants and materials.*

- a. All plant materials used shall be placed in fertile soil with good surface drainage and shall be given reasonable maintenance necessary to ensure their healthy existence and survival. All natural materials shall be maintained or refurbished as necessary to ensure a positive aesthetic quality.
- b. All proposed landscaped plantings shall meet the minimum size requirements specified in the table on the following pages.

(4) *Prohibited plant materials.* Where a landscape plan is required, the following plant materials are specifically prohibited:

- a. Box Elder.
- b. Soft Maple.
- c. Elm.
- d. Poplar.
- e. Tree of Heaven.

- f. Catalpa.
- g. Willow.
- h. Horse Chestnut (nut bearing).

PLANT MATERIAL SIZE  
Minimum Size Allowance

	Height	Caliper
Evergreens	5'--6'	
Narrow evergreens	3'--4'	
Large deciduous trees		2 1/2"
Small deciduous trees		2"
Evergreen shrubs	2'--3'	
Small deciduous shrubs:	18"--2'	

(5) *Parking lot landscaping requirements.*

- a. *Interior parking lot landscaping.* The interior portion of parking lots shall incorporate and provide curbed tree planting spaces providing not less than 100 square feet of land area per each tree planted. Trees shall be placed somewhat evenly, either symmetrically or asymmetrically, throughout the parking area. The number of trees required shall be based on a ratio of one tree for each six parking spaces, or fraction thereof. Small parking areas of less than 20 spaces may have the required trees placed next to the parking area, rather than within the lot proper. The minimum size of all parking lot trees shall be 1 inch caliper at the time of planting. Appendix E of Chapter 98 has the list of approved trees.
- b. *Frontage landscaping.* Street landscaping shall be required along any public right-of-way line of any street, road or highway in the required front yard setback in districts where parking is not permitted. One tree shall be planted for each 30 linear feet of the landscaping strip and shall be located within said required front yard setback.
- c. *Vision clearance.* To ensure that landscape materials do not constitute a driving hazard, clear vision site triangles shall be established at all street intersections and at the intersection of site driveways and streets. Internal parking lot landscaping improvements should be located to avoid blocking the vision of drivers within the parking lot.(Ord. No. 99-916, ' 1614, 5-12-1999)

98-204. Conditional Rezoning.

A. Intent. It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 4g of the City Zoning Act (MCL 125.584(g)) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and Offer of Conditions.

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

3. The owner=s offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
  4. The owner=s offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
  5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
  6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
  7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
  8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission=s public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.
- C. Planning Commission Review. The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
- D. City Council Review. After receipt of the Planning Commission=s recommendation, the City Council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The City Council=s deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in this Ordinance. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.
- E. Approval.
1. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.
  2. The Statement of Conditions shall:
    - a. Be in a form recordable with the Houghton County Register of Deeds, or, in the alternative, be accompanied by a recordable Affidavit of Memorandum prepared and

signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.

- b. Contain a legal description of the land to which it pertains.
  - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - d. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions, if any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit of Memorandum giving notice thereof may be recorded by the City with the Houghton County Register of Deeds.
  - f. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
  4. The approved Statement of Conditions or an Affidavit of Memorandum giving notice thereof shall be filed by the City with the Houghton County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.
  5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. Compliance with Conditions.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. Time Period for Establishing Development or Use. Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the City Council if (1) it is demonstrated to the City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the City Council finds that there has not been a change in circumstances that would render the

current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

- H. Reversion of Zoning. If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.
- I. Subsequent Rezoning of Land. When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions; whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the City Clerk shall record with the Houghton County Register of Deeds a notice that the Statement of Conditions is no longer in effect.
- J. Amendment of Conditions.
  - 1. During the time period for commencement of an approved development or use specified pursuant to Subsection G above or during any extension thereof granted by the City Council, the City shall not add to or alter the conditions in the Statement of Conditions.
  - 2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.
- K. City Right to Rezone. Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the City Zoning Act (MCL 125.271 et seq.)
- L. Failure to Offer Conditions. The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

#### **ARTICLE IV. GENERAL EXCEPTIONS**

##### **Sec. 98-236. Area, height and use exceptions.**

The regulations in this chapter shall be subject to the following interpretations and exceptions:

- (1) *Essential services.*
  - a. Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intention of this chapter to exempt such essential services from the application of this chapter.
  - b. Major essential services such as high-tension transmission towers, electric substations, gas regulator stations, sanitary fill sites, incinerators, and the like shall require special approval from the board of appeals before being allowed in any area that abuts a residential district.
- (2) *Voting place.* The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as an official public voting place.

- (3) *Height limit.* The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flagpoles, public monuments or wireless transmission towers; however, the board of appeals may specify a height limit for any such structure when such structure requires authorization as a conditional use.
- (4) *Lot area.* Any lot existing and of record on the effective date of the ordinance from which this chapter derives may be used for any principal use permitted in the district in which such lot is located, whether or not such lot complies with the lot area requirements of this chapter, but not conditional uses for which special lot area requirements are specified in this chapter, and except as provided in section 98-190. Such use may be made provided that all requirements other than lot area requirements prescribed in this chapter are complied with, and provided that not more than one dwelling unit shall occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.
- (5) *Lots adjoining alleys.* In calculating the area of a lot, for the purposes of applying lot area requirements of this chapter, half the width of an adjoining alley shall be considered as part of such lot.
- (6) *Yard regulations.* When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.
- (7) *Porches.* An open, unenclosed and uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.
- (8) *Access through yards.* Access drives may be placed in required front or side yards so as to provide access to rear yards and/or accessory structures. Any walk, terrace or a like surface area not in excess of nine inches above the grade upon which placed shall not be considered a structure, and shall be permitted in any required yard.
- (9) *Lots having lake frontage.* Those residential lots having lake frontage and abutting a public street shall maintain the yard on the lake side as an open unobscured yard, excepting that a covered or uncovered boat well shall be permitted after review and approval of plans by the board of appeals. (Ord. No. 68, ' 1700, 2-26-1986)

Secs. 98-237--98-269. Reserved.

## **ARTICLE V. R-1 ONE-FAMILY RESIDENTIAL DISTRICT**

### **Sec. 98-270. Intent.**

The R-1 one-family residential district is designed to provide for an environment of predominantly one-family detached dwellings along with other residentially related facilities which serve the residents in the district. (Ord. No. 68, ' 400, 2-26-1986)

### **Sec. 98-271. Principal uses permitted.**

In R-1 districts, no building or land shall be used and no building shall be erected except for one or more of the following:

- (1) One-family detached dwellings.
- (2) Publicly owned and operated libraries, parks, parkways and recreational facilities.
- (3) Cemeteries which lawfully occupied land on February 26, 1986.
- (4) Public, parochial and other private elementary intermediate and secondary schools, offering courses in general education, and not operated for profit.
- (5) Nursery schools and child care centers without a dormitory adjunct.

(6) Agriculture on those parcels of land outside the boundaries of a platted subdivision.  
(Ord. No. 68, 401, 2-26-1986)

**Sec. 98-272. Registration required.**

If any building located within an R-1 one-family residential district, on the effective date of the ordinance from which this section is derived, is occupied by four unrelated persons, such use of the structure may continue until such time as such use is discontinued for a period of one year or longer and provided, however, that within 120 days of the effective date of the ordinance from which this section is derived, the owner or operator of such building shall register such use with the city on a form that is available from the city clerk. If the owner or operator of such structure fails to provide such registration within 120 days of the effective date of the ordinance from which this section derived, occupancy of such structure shall be limited in accordance with the definition of family. (Ord. No. 99-114, ' 401(A), 5-12-1999)

**Sec. 98-273. Principal uses permitted subject to special conditions.**

In R-1 districts, the following uses shall be permitted, subject to the conditions imposed for each use and subject further to the review and approval of the city planning commission:

- (1) Churches, universities, colleges and other facilities normally incidental thereto, except commercial schools, provided the site shall be so located as to have at least one property line abutting a major street or state or federal highway as designated on the Act 51 road map.
- (2) Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of the building within the district to serve the immediate vicinity.
- (3) Private noncommercial recreational areas, institutional or community recreation center, nonprofit swimming pool club, all subject to a public hearing and the following conditions:
  - a. The proposed site for uses permitted in this article which would serve areas beyond the immediate neighborhood shall have primary access from a major street or a state or federal highway as designated on the Act 51 road map.
  - b. Front, side and rear yards required for the district shall be landscaped. There shall be no parking or structures permitted in these yards except walls or fences used to obscure the use from abutting residential districts.
- (4) Golf courses, (except miniature golf) which may or may not be operated for profit, provided all principal or accessory buildings, except minor rain shelters, shall be at least 200 feet from any property line abutting residentially zoned lands.
- (5) Private outdoor swimming pools shall be permitted as an accessory use within the rear yard only, provided they meet the following:
  - a. There shall be a distance of not less than four feet between the outside pool wall and any building located on the same lot, 35 feet from any front lot line and ten feet from any property line.
  - b. All swimming pools shall be enclosed by a fence not less than five feet in height. The gate shall be of a self-closing and -latching type, with the latch on the inside of the gate to protect children. Gates shall be capable of being securely locked.  
(Ord. No. 68, ' 402, 2-26-1986)

Secs. 98-274--98-305. Reserved.

**ARTICLE VI. R-2 TWO-FAMILY RESIDENTIAL DISTRICT**

**Sec. 98-306. Intent.**

The R-2 two-family districts are intended to provide lower density rental housing (and ownership) than the multiple-family districts, but higher density than in a single-family area. Two-family districts also recognize the need to allow limited conversions of older one-family homes (perhaps larger units) to extend the economic life of these structures, provided the premises are capable of supporting a higher density use. (Ord. No. 68, ' 500, 2-26-1986)

**Sec. 98-307. Principal uses permitted.**

In R-2 districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses:

- (1) All uses permitted and as regulated in one-family residential districts.
- (2) Two-family dwellings. (Ord. No. 68, 501, 2-26-1986)

Secs. 98-308--98-340. Reserved.

**ARTICLE VII. R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

**Sec. 98-341. Intent.**

The R-3 multiple-family residential districts are designed to provide sites for multiple-family and apartment dwellings, and related uses, which will generally function as a zone of transition between the nonresidential districts and lower density one-family districts. (Ord. No. 68, 600, 2-26-1986)

**Sec. 98-342. Principal uses permitted.**

In R-3 districts, no building or land shall be used and no building shall be erected except for one or more of the following:

- (1) All uses permitted and as regulated in the R-1 and R-2 residential districts.
- (2) Multiple-family dwellings, including housing for the elderly.
- (3) Nursery schools and child care centers, with a dormitory adjunct. (Ord. No. 68, 601, 2-26-1986)

**Sec. 98-343. Required conditions.**

In the case of multiple-dwelling developments involving more than one structure, all site plans shall be submitted to the planning commission for its review and recommendation prior to issuance of a building permit. (Ord. No. 68, 602, 2-26-1986)

**Sec. 98-344. Principal uses permitted subject to special conditions.**

In the R-3 districts, the following uses shall be permitted, subject to the conditions imposed for each use and subject further to the review and approval of the planning commission:

- (1) Housing for the elderly when the net density (excluding streets) does not exceed 50 dwelling units per acre and when the development qualified as elderly housing under Public Act No. 346 of 1966 (MCL 125.1401 et seq., MSA 16.114(1) et seq.) as nonprofit housing for the elderly. The development may include central dining rooms, lounges, recreation rooms and/or workshops.
- (2) General hospitals, with no maximum height restrictions, when the following conditions are met:

- a. All such hospitals shall be developed only on sites consisting of at least two acres in area.
  - b. All access to the site shall be from a major street or state or federal highway as indicated on the Act 51 road plan.
- (3) Convalescent homes and orphanages when there shall be provided on the site not less than 1,000 square feet of open space for each bed in the home. The 1,000 square feet of land area shall provide for landscaping off-street parking, drives, loading space, and accessory uses, but shall not include the area covered by main or accessory buildings.
- (4) a. Group quarters, including apartments, roominghouses, fraternities, sororities, etc.; provided, that every room occupied for sleeping purposes shall contain at least 80 square feet of floor space, 70 square feet for the first occupant and an additional 30 square feet for each additional occupant.
- A. Every site used for group housing shall contain at least 5,000 square feet of area, plus 400 square feet of site for each roomer in addition to the first family.
- (5) The following uses, provided the use has direct access to a major thoroughfare as designated on the city's Act 51 road plan:
- a. Motels and motor inns with a minimum lot width of 150 feet.
  - b. Medical clinics, professional offices of artists, accountants, lawyers, architects, engineers, photographers, dentists, physicians and similar occupations, except veterinarian clinics or animal hospitals.
  - c. Lodge halls and fraternal assembly buildings on lots which contain at least 100 feet of width.
  - d. Mortuaries and funeral homes when the minimum lot width is 100 feet.
- (6) Off-street parking lot construction on a lot which is not contiguous to the property for which the parking lot is used must meet the following standards:
- (A) There must be a 10 foot landscaped setback exclusive of access driveways on the front, back and side yards. Setbacks must be landscaped and have a tree every 20 linear feet. Parking lot surfaces must be in accordance with Section 14-148(8) as follows:
- (i) Concrete with a minimum thickness of 4 (four) inches; or
  - (ii) Bituminous paving with a minimum thickness of 2 (two) inches over 4 (four) inches of gravel, or
  - (ii) Brick pavers manufactured for use as a driving course.

Any use established under this subsection shall preserve and respect existing site amenities to the fullest; and any site work in the required front yards that will disturb grass lawns, scenic views, tree stands and/or shrubbery shall be subject to review by the board of appeals for approval or disapproval. (Ord. No. 68, ' 603, 2-26-1986)

Secs. 98-345--98-375. Reserved.

#### **ARTICLE VIII. B-1 LOCAL BUSINESS DISTRICT\***

\*Cross reference(s)--Businesses, ch. 18.

**Sec. 98-376. Intent.**

The B-1 district is intended to meet the demand for local business services and minimum tourist services in areas regarded to have a residential or neighborhood environment. The B-1 district also serves persons who spend most of their day in the university-college community; hence, building architecture, signing techniques and related considerations should reflect compatibility with a residential or campus area. (Ord. No. 68, 700, 2-26-1986)

**Sec. 98-377. Principal uses permitted.**

In the B-1 district, no buildings or land shall be used and no building shall be erected except for one or more of the following:

1. All principal uses, and all uses subject to conditions, as regulated in any Residential District.
2. Banks, credit unions, savings and loan associations, and similar uses; drive-up lanes and window services as an accessory use only.
3. Personal service establishments limited to barbershops, beauty salons, dry cleaning establishments, photo studios and shoe repair.
4. Retail services to meet basic local needs for books, stationery, apparel, notions, prescription drugs, artist and office supplies, gifts, jewelry, sporting goods and musical instruments.
5. Off-street parking lots.
6. Dwellings, roominghouses and apartments, per density standards in R districts.
7. Professional and medical offices, except animal hospitals, kennels or veterinarian services.
8. Retail food stores and restaurants.
9. Motels.
10. Print Shops. (Ord. No. 68, ' 701, 2-26-1986)

**Sec. 98-378. Required conditions.**

- (a) In the B-1 district, the outdoor storage of goods or materials shall be prohibited, and indoor storage shall be limited to that normally incident to the principal uses.
- (b) The front ten feet of the required front yard setback shall be maintained as unobstructed open space, free from parked vehicles, minor structure and advertising signs.
- (c) No sign shall project beyond or overhang the wall, roof or any permanent architectural feature by more than one foot.
- (d) A planted greenbelt (if physically feasible) shall be provided between any B-1 district use which directly abuts any R-1, R-2 or R-3 district boundary. (Ord. No. 68, 702, 2-26-1986)

***B-1 LOCAL BUSINESS DISTRICT WITH CONDITIONS FOR ORDINANCE 2008-196***

**Sec. 98-379. Special Conditions.** *Submitted by property owners Euel and Cynthia Cappo for the following described property:*

*N 2 of Lot 10, Block 49, and S 1 2 feet of Lot 1, Block 49 West Houghton Addition to the City of Houghton.*

1. *When the property at 204 Fourth Street is sold, said property will immediately revert back to R-1 (single-family) zoning*
2. *When the present property owner is not physically able to operate the business at 204 Fourth Street herself, said property immediately reverts back to R-1 (single-family) zoning.*
3. *The business will consist of a one-chair hair salon with the property owner as the sole employer/employee.*
4. *Hours of operation are between 10:00 a.m. and 3:00 p.m. Monday through Friday.*
5. *Customer parking will be in the driveway of the property owner.*
6. *Proposed signage will consist of a portion of a window in the front porch (approximately 20' x 24' in size) and will not be lighted.*

**Secs. 98-380--98-410. Reserved.**

**ARTICLE IX. B-2 COMMUNITY BUSINESS DISTRICT\***

**\*Cross reference(s)--Businesses, ch. 18.**

**Sec. 98-411. Intent.**

The B-2 community business district is designed to meet the general shopping and retail service needs of persons residing in residential areas of the city as well as trade area residents.(Ord. No. 68, 800, 2-26-1986)

**Sec. 98-412. Principal uses permitted.**

No building or land shall be used and no building shall be erected in a B-2 community business zoning district except for one or more of the following:

- (1) Generally recognized retail businesses which supply commodities on the premises, such as but not limited to groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing, notions, hardware, furniture and/or appliances.
- (2) Personal service establishments which perform services on the premises, such as but not limited to repair shops (watches, radio, television, shoes, etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and dry cleaners. Also, taxi stands and bus passenger stations.
- (3) Business establishments which perform services on the premises, such as but not limited to banks, loan companies, insurance offices and real estate offices.
- (4) Professional services, including offices of doctors, dentists, osteopaths, and similar or allied professions.
- (5) Any service establishment of an office, showroom or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer, or an establishment doing radio or home appliance repair, photographic reproductions, and similar service establishments that require a retail adjunct.
- (6) Private clubs, fraternal organizations and lodge halls.
- (7) Restaurants, taverns or other places serving food or beverages, except those having the character of a drive-in.
- (8) Theaters, assembly halls, concert halls or similar places of assembly.
- (9) Business schools and colleges or private schools operated for profit.
- (10) Motels, hotels and motor inns.
- (11) Bus stations, taxi stands and parking lots.
- (12) All principal uses, and all uses subject to conditions, as regulated in a B-1 District or in any Residential District. (Ord. No. 68, ' 801, 2-26-1986)

**ARTICLE IX. B-2 COMMUNITY BUSINESS DISTRICT WITH CONDITIONS FOR ORDINANCE 2005-180**  
*(covering Lots 1 and 2 of Block 10 and Lots 1, 2, 3, 4 and 5 of Block 8, Supervisor=s Plat of East Houghton)*

**Sec. 98-411. Intent.**

*The B-2 community business district is designed to meet the general shopping and retail service needs of persons residing in residential areas of the city as well as trade area residents.*

**Sec. 98-412. Principal uses permitted.**

No building or land shall be used and no building shall be erected in a B-2 community business zoning district except for one or more of the following:

- (1) Generally recognized retail businesses which supply commodities on the premises, such as but not limited to groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing, notions, hardware, furniture and/or appliances, **except adult bookstores.**
- (2) Personal service establishments which perform services on the premises, such as but not limited to repair shops (watches, radio, television, shoes, etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and dry cleaners. Also, taxi stands and bus passenger stations.
- (3) Business establishments which perform services on the premises, such as but not limited to banks, loan companies, insurance offices and real estate offices.
- (4) Professional services, including offices of doctors, dentists, osteopaths, and similar or allied professions.
- (5) Any service establishment of an office, showroom or workshop nature of an electrician, decorator, dressmaker, tailor, baker, painter, upholsterer, or an establishment doing radio or home appliance repair, photographic reproductions, and similar service establishments that require a retail adjunct.
- (6) Restaurants, taverns or other places serving food or beverages, **except those having the character of a drive-in, or that offer entertainment or dancing.**
- (7) Business schools and colleges or private schools operated for profit.
- (8) Bus stations, taxi stands and parking lots.
- (9) All principal uses, and all uses subject to conditions, as regulated in a B-1 District or in any Residential District. (Ord. No. 68, ' 801, 2-26-1986)

### **Sec. 98-413. Principal uses permitted subject to special conditions.**

In the B-2 district, the following uses shall be permitted, subject to the conditions imposed for each use and subject further to review and recommendation of the city planning commission to the council for their approval:

- (1) Open-air business uses when developed in planned relationship with the B-2 district, to include retail sales of plant material and sales of lawn furniture, playground equipment, sporting goods and garden supplies.
- (2) Gasoline service stations along with minor repair work, and limited to activities whose external effects will not adversely extend beyond the property line, provided:
  - a. No vehicles, pumps or appurtenances shall be stored or located nearer than ten feet from the front lot line.
  - b. Nonaccessory vehicles shall not be stored in the open for a period longer than 15 days.
  - c. Ingress-egress points shall be at least 30 feet from the intersection of any two streets.
- (3) Publicly owned buildings, public utility buildings, telephone exchange buildings; electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.
- (4) Bowling alley, billiard hall, indoor archery range, indoor tennis courts, indoor skating rink, or similar forms of indoor commercial recreation when located at least 100 feet from any front, rear or side yard of any residential lot in an adjacent residential district.
- (5) Automobile showrooms and service centers when developed and planned as a part of a larger retail center and designed so as to integrate the automobile service center with adjacent stores so that pedestrian access routes to retail specialty shops and general merchandise stores is not interrupted by the establishment, extension or expansion of automotive service centers. (Ord. No. 68, ' 802, 2-26-1986)

**Secs. 98-414--98-445. Reserved.**

## ARTICLE X. B-3 GENERAL BUSINESS DISTRICTS\*

\*Cross reference(s)--Businesses, ch. 18.

### Sec. 98-446. Intent.

The B-3 district is designed to provide sites for more diversified business types than are found in the B-1 or B-2 districts and are frequently located so as to serve passer-by traffic.(Ord. No. 68, ' 900, 2-26-1986)

### Sec. 98-447. Principal uses permitted.

No building or land shall be used and no building shall be erected except for one or more of the following:

- (1) All principal uses permitted and all uses subject to conditions as regulated in the B-2 district, except as may be modified in this article.
- (2) Establishments renting equipment, tools and household articles.
- (3) Automobile dealer showrooms.
- (4) Automobile car wash.
- (5) Wholesale uses, freezer plants and storage services, when enclosed.
- (6) Bottling works and food packaging.
- (7) Governmental offices or other governmental uses; public utility offices, exchanges, transformer stations, pump stations and service yards, but not including outdoor storage.
- (8) Bowling alleys and/or billiard parlors.
- (9) Enclosed greenhouses, florists and plant materials.
- (10) Medical marihuana dispensaries and medical marihuana nurseries subject to the following conditions and standards:
  - i. No Medical Marihuana Dispensary or Medical Marihuana Nursery shall be located within 1,000 feet of any other Medical Marihuana Dispensary or Medical Marihuana Nursery nor within 1,000 feet of any of the following uses:
    1. Any church, synagogue, mosque or any house of worship
    2. Any school, public or private, having a curriculum including kindergarten or any one or more of the grades one through twelve.
    3. Any nursery school or child care center.
    4. Any public park.
    5. Any public library.
    6. Any residentially zoned district or residential use.
    7. Any community college, university or professional school.
  - ii. All activity related to a Medical Marihuana Dispensary or Medical Marihuana Nursery including but not limited to growing, shall be done indoors in a locked structure.
  - iii. Medical Marihuana Dispensary and Medical Marihuana Nurseries shall be operated in compliance with the provisions of the Michigan Department of Community Health and the Medical Marihuana Act MCL 333.26421 et seq.
  - iv. Smoking, inhalation, or consumption of medical marihuana shall not be allowed on the site of the Medical Marihuana Dispensary or Medical Marihuana Nursery.
  - v. No qualifying patients under the age of 18 (eighteen) shall be permitted in the Medical Marihuana Dispensary or Medical Marihuana Nursery at any time except in the presence of qualifying patient's parent or legal guardian or their primary caregiver.

- vi. No retail sales of drug paraphernalia are permitted at the Medical Marihuana Dispensary or Medical Marihuana Nursery, except to qualifying patients or their primary caregivers.
  - vii. Each Medical Marihuana Dispensary or Medical Marihuana Nursery shall display in a manner legible and visible to its clientele:
    - 1. Notice that qualifying Patients under the age of eighteen (18) are not allowed in the Medical Marihuana Dispensary or Medical Marihuana Nursery except in the presence of his/her parent or legal guardian;
    - 2. No smoking, inhalation or consumption of medical marihuana shall occur within the vicinity of the Medical Marihuana Dispensary or Medical Marihuana Nursery.
  - viii. Only operators and their employees, qualifying patients, parents or guardians of qualifying patients under 18 years of age, and their primary caregiver may be permitted to enter a Medical Marihuana Dispensary or Medical Marihuana Nursery for the purpose of obtaining medical marihuana or other goods or products associated with its use.
  - ix. Medical Marihuana Nurseries can grow a maximum of 72 marihuana plants. (Ord No 2011-228)
- (11) Other uses and similar uses to the uses designated in this section.(Ord. No. 68, 901, 2-26-1986)

**Sec. 98-448. Principal uses permitted subject to special conditions.**

In the B-3 district, the following uses shall be permitted subject to the conditions imposed for each use and subject further to the review and recommendation of the city planning commission to the council for their approval:

- (1) Outdoor sales space for automobiles, house trailers, recreation vehicles or boats subject to the following:
  - a. Ingress and egress to the outdoor sales area shall be at least 30 feet from a street intersection.
  - b. No major repair or major refinishing shall be done except in an enclosed building.
  - c. Dust and surface water runoff shall be controlled.
- (2) Business in the character of a drive-in restaurant or drive-up front store provided:
  - a. A setback of at least 30 feet from the right-of-way line of an existing street is maintained.
  - b. Ingress and egress points shall be located at least 30 feet from a street intersection.
- (3) Gasoline service station and/or major engine and body repair, steam cleaning and undercoating when conducted within a completely enclosed building. The storage of wrecked automobiles on the site shall be obscured from public view, and no vehicle shall be stored in the open for a period exceeding 15 days. Curb cuts shall be as regulated in the B-2 districts.
- (4) Veterinary hospitals or clinics, provided all activities are conducted within a completely enclosed main building and provided further that all buildings are set back at least 200 feet from a residential district boundary.

- (5) Outdoor sales space for plant materials, nurseries, lawn furniture, playground equipment and garden supplies subject to the following conditions:
  - a. Any storage and/or display shall meet all setback requirements for a structure or 20 feet.
  - b. Soil, fertilizer, or other loose or unpackaged materials shall be contained so as to prevent any nuisance effects on adjacent uses.
  
- (6) Commercially used outdoor recreational space subject to the following:
  - a. Parking areas shall be provided off the road right-of-way.
  - b. Children's amusement facilities must be fenced on all sides with a minimum five-foot wall or fence.
  - c. All manufacturer's safety specifications are complied with as well as any additional safety measures that may be prescribed as necessary by this Code.
  - d. When discontinued or abandoned, the site shall be left in a reusable condition free from hazards, dangerous excavations and abandoned structures.(Ord. No. 68, ' 902, 2-26-1986)

**Secs. 98-449--98-480. Reserved.**

## **ARTICLE XI. I-1 INDUSTRIAL DISTRICT\***

\*Cross reference(s)--Businesses, ch. 18.

### **Sec. 98-481. Intent.**

The I-1 industrial district is designed to accommodate wholesale activities, warehouses, major repair operations, manufacturing and other industrial operations, subject to certain performance requirements relative to their impact on the community and adjacent nonindustrial districts.(Ord. No. 68, 1000, 2-26-1986)

### **Sec. 98-482. Principal uses permitted.**

In the I-1 district, the following uses are permitted:

- (1) All generally recognized manufacturing, processing, research and experimental laboratories, including sawmills, planing mills and related lumber-forest industries.
- (2) Any storage, wholesale, transportation and/or terminal facilities.
- (3) Contractors' yards, equipment storage, and materials-handling operations.
- (4) Any repair operations and/or maintenance activities for vehicles of any kind, including farm implements, conveyors and other equipment or machinery. Uses related to public buildings and utility services of all kinds (public or private).
- (5) B district uses, provided the site has access features suitable for offering retail services to the public and does not disrupt the continuity of development in any planned industrial park, so called, or the use is accessory to the industrial activity.(Ord. No. 68, 1001, 2-26-1986)

### **Sec. 98-483. Required conditions.**

- (a) Whenever any use permitted in this article faces a residential district by sharing a common fronting street, the industrial use shall provide and maintain a landscaped front yard no less than 40 feet deep and/or buffer greenbelts or buffer fences, as may be required by the board of appeals,

depending on the character of the industrial use and specific site conditions. The required front yard shall not be used for parking.

- (b) Whenever an industrial use permitted in this article requires the use of a storage area or operational activity which is not within the confines of an enclosed building, adequate greenbelts, screening devices, and/or buffer walls may be required by the board of appeals whenever the storage area or operational activity abuts a residential district boundary or a public street.
- (c) The height of industrial structures and uses shall be controlled by the land area. Therefore, the minimum yard setbacks shall be increased by one foot for each foot of building height above 20 feet when adjacent to nonindustrial districts. Any structures proposed to exceed the height limits stated in the schedule of regulations, section 98-586, shall require approval by the board of appeals after a hearing.
- (d) Any industrial activity that produces glare, noise, vibration, smoke, dust, odors and similar or related nuisances shall confine these nuisances to the industrial district and must conform to state and federal environmental regulations.
- (e) Industrial operations involving the manufacture, processing or packaging of materials which are inherently dangerous or hazardous due to flammability, toxicity, radioactivity or explosiveness shall require special approval by the board of appeals after a hearing; and approval shall be contingent upon a showing by the applicant industry that no dangerous, noxious or nuisance conditions will impact any adjacent nonindustrial premises. The recommendations of the health officer and/or public safety officer (fire-police) shall be obtained by the board of appeals prior to allowing uses which have inherently dangerous characteristics.(Ord. No. 68, ' 1002, 2-26-1986)

**Secs. 98-484--98-515. Reserved.**

## **ARTICLE XII. RSV RESERVE DISTRICT**

### **Sec. 98-516. Intent.**

The RSV reserve districts are intended primarily to serve the needs of undeveloped city areas and lands bordering the Portage Waterway. As a reserve district, RSV lands may be rezoned to allow more intensive urban usage as the demand for additional urban land increases.(Ord. No. 68, ' 1100, 2-26-1986)

### **Sec. 98-517. Principal uses permitted.**

In the RSV districts, the following uses are permitted:

- (1) One-family dwellings.
- (2) Seasonal homes and/or vacation cottages.
- (3) Agricultural uses and farms.
- (4) Growing and harvesting of forest products and nursery stock.
- (5) Publicly owned parks, parkways, playgrounds and recreational facilities.
- (6) Golf courses and country clubs.
- (7) Universities, colleges, schools and nurseries, except schools operated for profit.
- (8) Public buildings and uses, including cemeteries.
- (9) Churches and religious uses. (Ord. No. 68, ' 1101, 2-26-1986)

### **Sec. 98-518. Principal uses permitted subject to special conditions.**

In the RSV districts, the following uses shall be permitted, subject to the conditions imposed for each use and subject further to the review and recommendation of the city planning commission and approval of the council:

- (1) Riding academies or stables, provided that all animal housing and pasture areas are at least 200 feet from any residential district boundary or any off-premises residential use.
- (2) Mining and quarrying when adequate measures have been instituted to protect the residential areas of the community from operational hazards, air and stream pollution, and other serious nuisance effects which may detract from the environmental amenities of the city.
- (3) Utility services and facilities necessary to serve the city and immediate environs.
- (4) Railroad uses and switching yards necessary to sustain rail transportation services, but not manufacturing.
- (5) Public or private marine transportation facilities. (Ord. No. 68, ' 1102, 2-26-1986)

**Sec. 98-519. Required conditions.**

- (a) Any permitted uses in the RSV district which border within 1,000 feet of the Portage Waterway shall not be approved until a site plan has been submitted for review and approval by the city planning commission.
- (b) The required site plan shall illustrate the intended uses of the premises, building arrangement, access routes, docking, parking and related features; and further shall indicate methods, devices and manners by which the waterway will be protected from shoreline erosion, siltation, and chemical or biological pollution. To the extent practical or feasible, whenever reasonable options are available, endeavor to:
  - (1) Retain and enhance existing scenic features of the site (vegetation).
  - (2) Provide a minimum setback of 50 feet from the shore or bank, measured from the normal high water line if the shoreline is questionable.
  - (3) Provide for open views of the waterway, and avoid walling off the shoreline with structures over four feet in height. (Ord. No. 68, ' 1103, 2-26-1986)

**Secs. 98-520--98-550. Reserved.**

**ARTICLE XIII. MULTIPLE-USE DISTRICTS**

**Sec. 98-551. Intent.**

The multiple-use district is intended to serve the needs of undeveloped city areas that are or may become suitable for the integration of any combination of uses permitted in articles X through XII of this chapter. (Ord. No. 68, ' 1200, 2-26-1986)

**Sec. 98-552. Principal uses permitted.**

- (a) Subject to the prior review, consent and approval of the city planning commission and the council, any combination of uses permitted in articles V through XIII of this chapter may be permitted in the MU district. All proposed subdivisions within a multiple-use district shall be subject to approval by the council after first having received the review recommendation of the city planning commission. Prior to any review, a subdivision plan shall be submitted by the developer to the city planning commission illustrating the intended use of the premises, building and housing arrangements, access routes, docking, parking and related features; and further shall indicate methods, devices and manners by which any waterway will be protected from shoreline erosion, siltation and chemical and biological pollution and shall indicate such information otherwise required by this chapter. Any other provisions of this chapter notwithstanding, the council may

approve a subdivision plan permitting construction to extend up to one boundary of one or more of the lots in the proposed subdivision.

- (b) The preliminary plat for any multiuse subdivision shall be presented by the developer to the planning commission, which plat shall depict the general intended use and restrictions applicable to the various lots in the subdivision in addition to the information otherwise required in this chapter. Such plats shall be approved or rejected by the council after having received the review recommendation of the city planning commission. The final plat of the subdivision shall, likewise, depict the specific uses permitted and the restrictions applicable with respect to each of the lots contained in the subdivision. (Ord. No. 68, ' 1201, 2-26-1986)

**Secs. 98-553--98-585. Reserved.**

**ARTICLE XIV. HEIGHT, BULK, DENSITY AND AREA REGULATIONS; SCHEDULE OF REGULATIONS**

**Sec. 98-586. Schedule limiting height, bulk, density and area by zoning district.**

Zoning District	Minimum Zoning Lot Size per Dwelling Unit		Maximum Height of Structures		Minimum Yard Setback (per Lot in Feet)			Minimum Floor Area per Unit (Square Feet)	Maximum Percentage of Lot Area Covered (By All Buildings)
	Area in Square Feet	Width in Feet	In Stories	In Feet	Front	Each Side	Rear		
R-1 One-Family Residential	9,000 a.	75 a.	2 1/2	30	25 c.	10 c.	30 b.	See j.	30
R-2 Two-Family Residential	3,750 a., b.	37.5 a., b.	2 1/2	30	20 c.	8 c.	35 e.	--	30
R-3 Multiple-Family Residential	d.	d.	4	40	20 c., f.	8 e.	30	--	See d.
B-1 Local Business	--	--	--	--	20 c., f.	5 h.	20 g.	--	--
B-2 Community Business	--	--	--	--	20 c.	5 h.	20 g.	--	--
B-3 General Business	--	--	--	--	20 c.	5 h.	20 g., h., i.	--	--
I-1 Industrial	--	--	--	--	c.	30 h	g., h., i.	--	--
RSV Reserve	12,000a	100a.	--	--	30c.	10	35	--	30

(See notes following.)

*Notes to Schedule of Regulations:*

- a. See section 98-652 for exceptions related to open space plans, cluster developments, and average lot size. The section 98-190 nonconformities permits one-family dwellings on any legal lot of record even though the lot fails to meet the minimum requirements of this schedule of regulations. Minimum lot size for two-family dwellings in the R-2 district shall be 7,500 square feet with 75 feet of lot width. However, if either public water or a public sewerage system is unavailable or inaccessible to a residential lot, such residential lot shall not have an area of less than 12,000 square feet; and such residential lot shall not be less than 65 feet wide at a distance of 25 feet from its front line. If the lot diminishes in width from front to rear, it shall be no less than 65 feet wide at a distance of 50 feet from its front line.
- b. Every two-family use, new or converted, shall provide unobstructed vehicular access to a public street for the designated parking area of each dwelling unit.
- c.
  - 1. Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not be greater than the minimum depth of any existing front yards.
  - 2. Whenever a rear yard abuts a side yard on the same side of a street in a residential district, the required side yard abutting the street shall not be less than the required front yard of the district in which it is located.
  - 3. All required yards shall be increased by one foot for every additional one foot of structure height above the maximum height stated in this schedule of regulations.
- d. In the R-3 district, multiple dwellings shall be located on a lot having an area of at least 6,000 square feet. The following minimum lot sizes shall be provided for every dwelling unit beyond the first, and in addition to the initial 6,000 square feet:

Bedroom Unit	Minimum Lot Area per Unit(square feet)
Efficiency apartment or one-bedroom unit....	2,500
Each bedroom or den beyond one....	1,200

Subject to a recommendation by the planning commission and after a public hearing, the board of appeals may approve higher density multiple-dwelling developments in the R-3 district, provided the following minimum lot sizes shall be provided for every dwelling unit beyond the first, and in addition to the initial 6,000 square feet:

Bedroom Unit	Minimum Lot Area per Unit (square feet)
Efficiency apartment or one-bedroom unit....	1,500
Each bedroom or den beyond one....	500

- e. There shall be a minimum setback of 30 feet to any exterior property line of developments involving two acres or more. Where more than one multiple building on one site is involved, the minimum spatial requirements shall be as follows:

Building Arrangement	Distance Between Buildings (feet)
Front to front (or back)	70
Back to back (or front)	70
Side to side	20
Side to back or front	40

- Increase by one foot for each one foot of building height above 40 feet.
  - No building shall be less than 20 feet from any other building.
- f. Off-street parking shall be permitted to occupy a portion of the required front yard provided there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line or structure.
- g. Refer to section 98-194 regarding off-street loading and unloading.
- h. No side yards shall be required along interior side lot lines. However, if a side yard is provided, it shall not be less than five feet. Yards which abut a residential district shall be at least 30 feet or equal to the height of the building, whichever is greater.
- i. Off-street parking for visitors, over and above the number of spaces required in section 98-192, may be permitted within the required front yard, subject to the landscaping provisions in note f. of this section.

- j. Minimum square feet for a one-bedroom unit shall be 500 square feet, and each unit shall be increased by 200 square feet for each additional bedroom. (Ord. No. 68, ' 1300, 2-26-1986)

**Secs. 98-587--98-615. Reserved.**

**ARTICLE XV. AVERAGED LOT SIZE**

**Sec. 98-616. Intent.**

- (a) For flexibility in dealing with parcels of irregular shape or parcels which do not divide equally into lots as required in the schedule of regulations, section 98-56, the subdivider or developer may vary his lot sizes and lot widths so as to average the minimum size of lot per unit as required in the schedule of regulations, for R-1 residential districts.
- (b) The subdivision shall not create lots having an area or width greater than ten percent below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots.
- (c) All computations showing lot area and the resultant average shall be indicated on the print of the preliminary plat. (Ord. No. 68, ' 1400, 2-26-1986)

**Secs. 98-617--98-650. Reserved.**

**ARTICLE XVI. PLANNED UNIT DEVELOPMENTS**

**Sec. 98-651. Intent.**

- (a) Planned unit or cluster development under the terms of this chapter may be initiated in terms of land and/or buildings. When land clustering is contemplated, the development shall be in accord with section 98-652.
- (b) All intended open space subdivisions or planned unit developments shall be subject to approval by the council after first having received the review recommendation of the city planning commission. Prior to any review, a detailed site plan of before and after site conditions shall be required; and it shall include topography, vegetation, structures, services, open spaces, access routes, and other items as may apply to the particular site.
- (c) Final approvals granted for any open space or cluster development plan shall be valid for a period of 24 months. Failure to start and proceed with the plan shall void all prior approvals; except that agreed-upon time extensions may be granted upon formal request to the council, and bonds or other guarantees may be required to assure that all development proceeds in strict accordance with the approved site plan. (Ord. No. 68, ' 1500, 2-26-1986)

**Sec. 98-652. Subdivision open space plan.**

Modifications to the residential lot standards required for one-family homes in the schedule of regulations, section 98-586, may be made in accordance with the following conditions:

- (1) Lot area reductions under the open space subdivision plan may be permitted in accordance with the standards of this section, provided that the dwelling unit density shall be no greater than if the land area to be subdivided were developed under the standards outlined in the schedule of regulations.

	Allowable Lot Reductions		
District	Area (percent)	Width (percent)	Gross Density in

			Dwellings per Acre
R-1	15	10	5

Under these provisions, for each square foot of land gained through the reduction of lot sizes below the minimum stated in the schedule of regulations, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision.

- (2) Rear yards may be reduced to 50 feet when such lots border on land dedicated for open space purposes, provided the adjoining dedicated open space land shall not be less than 100 feet across.
- (3) The area to be dedicated on the plat for subdivision open space purposes shall be in a location and shape approved by the planning commission. To the consideration of reasonable use, the dedicated open space shall not include bodies of water, swamps or land with excessive grades. The entire open area may, however, be located in a floodplain. (Ord. No. 68, ' 1501, 2-26-1986) **Cross reference(s)**--Subdivisions and land division, ch. 74.

**Sec. 98-653. Planned unit construction.**

- (a) Planned unit construction in this chapter shall refer to housing construction programs involving the cluster concept, wherein certain side yards may be eliminated for the purpose of consolidating building masses and open space resources in order to achieve the most effective use of lands in the city.
- (b) Planned unit construction is regulated in accordance with the following situations:
  - (1) *Situation 1. Essentially open land.*
    - a. In any R-1, R-2 or R-3 district, interior side yards between any four single-family units may be eliminated for the purpose of clustering, attaching or semiattaching residential units.
    - b. Individual dwellings may be attached with 100 percent wall overlap (e.g. share a common party wall), provided the walls are entirely without openings, and enclose nonliving space, such as garages, utility rooms or similar service areas.
    - c. Party walls which enclose living areas may overlap 50 percent of their surface area if the walls are of soundproof and fireproof construction, and are entirely without openings (doors, windows, etc.).
    - d. In clustering dwelling units, the overall density shall not be more than 15 percent higher than if the entire parcel were developed according to conventional individual lot techniques. Each dwelling shall have a prescribed yard area, and yards on the exterior sides of any cluster of units shall be provided with minimum side yards of 15 feet.
  - (2) *Situation 2. Essentially built-up areas.*
    - a. Cluster housing developments in situation 2 concern community areas which are predominantly developed and may involve dwelling units which are of advanced age, on small or limited lots, are obsolete, and/or are considered blighted. This section encourages the developer to acquire properties and redevelop the site at a higher density to enhance economic feasibility.
    - b. In areas zoned R-1 or R-2 and which encompass a minimum parcel of 20,000 square feet:

1. Each dwelling shall contain not less than two bedrooms.
2. All side yards, except exterior yards, may be eliminated, to allow the construction of townhouses or rowhouses.
3. Density shall not be less than 2,000 square feet of land area per bedroom.
4. The plan for development shall include and dedicate common open space in the ratio of not less than 1,000 square feet per dwelling unit, exclusive of parking areas.

In R-3 general residence areas, one-family homes with common party walls may be approved and developed as provided for in the R-1 and R-2 districts. Multiple-family units may be constructed at the densities provided for in the schedule of regulations, section 98-586. (Ord. No. 68, ' 1502, 2-26-1986)

**Secs. 98-654--98-685. Reserved.**

## **ARTICLE XVII. SIGNS\***

\*State law reference(s)--Highway Advertising Act of 1972, MCL 252.301 et seq., MSA 9.391(101) et seq.

### **Sec. 98-686. General objectives.**

The general objectives of this article are to:

- (1) Regulate and encourage private signs and lights which do not overload the public's capacity to receive information, which do not violate privacy, or which do not increase the probability of accidents by distracting attention or obstructing vision.
- (2) Encourage signing and lighting and other private communications which aid orientation, identify activities, express local history and character, or serve other educational purposes.
- (3) Increase opportunities for presently excluded individuals and groups to express themselves in the public environment.
- (4) Reduce conflict among private signs and lighting and between the private and public environment information systems.
- (5) Increase opportunities for local groups to collectively determine policies for private signing and lighting in their areas.
- (6) Enhance the overall physical appearance of the city.(Ord. No. 75, ' 8.10.1, 1-27-1988)

### **Sec. 98-687. Definitions.**

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

*Abandoned sign* means a sign which was erected on property in conjunction with a particular use which has been discontinued for a period of 60 days or more, or a sign the content of which pertains to a time, event or purpose which no longer applies.

*Accessory sign* means a sign which is incidental to or found in connection with and located on the same lot as the principal sign and use to which it is related. Accessory signs may include wall-mounted, temporary, interior, and address signs, and signs on accessory structures.

*Accessory structure* means a structure which is incidental to and customarily found in connection with the principal structure of a lot or parcel. Accessory structures may include sheds, garages, coolers or gas pumps. Accessory structure shall not include natural features, fences, lamps or lampposts.

*Address sign* means a sign identifying a numerical designation commonly used to indicate the location of a building on a given street.

*Awning* means a permanent covering installed according to the state construction code requirements. When used for signage, area of the signage shall be included in allowable amount. See section 98-688.

*Banner sign* means a temporary sign hung or strung from point to point.

*Billboard sign* means a nonaccessory sign used for outdoor advertising purposes.

*Changeable letter sign* means a sign in which the letters may be manually changed.

*Construction sign* means a temporary freestanding or wall sign erected on a site designated on a building permit issued by the city as the site of construction of a new building or for renovation of an existing building, which advises the public of pertinent facts regarding the construction, management and leasing of the new building.

*Directory sign* means a sign whose content indicates the names and location of at least five businesses, as well as the location of related customer convenience services and facilities.

*Electronic message sign* means an electrical sign utilizing lights going on and off periodically for conveyance of information.

*Flashing signs* means any lighted or electrical sign which emits light in sudden intermittent bursts. On/off time and temperature signs and message signs are considered flashing signs for the purpose of this article.

*Freestanding sign* means a sign supported by permanent uprights or braces in the ground. Both sides of such sign shall be considered when determining the maximum permitted size. Sign shall be located completely on the premises to which its subject matter relates.

*Fuel price sign* means a sign indicating the price per unit of fuel.

*Illuminated sign* means a sign which is directly lighted by an electrical source, internal or external.

*Internal business sign* means a sign within the walls of a building utilizing window and/or door display area for exterior viewing.

*Nonconforming signs* means any sign erected or displayed prior to the effective date of the ordinance from which this chapter derives or subsequent amendments which does not conform with the standards of this article.

*Off-premises sign* means any sign which is located on property and transmits a message pertaining to a product, use, occupancy or function which is not located on the same property as the sign.

*Pedestrian sign* means any sign located flush against the building wall or on doors or windows and intended to convey incidental information to pedestrians.

*Permanent sign* means a sign of a durable material (including paint) applied, anchored or secured to a building, accessory structure or the ground.

*Political sign* means a temporary sign which refers only to a political candidate, political party, or the issues involved in an upcoming political election.

*Portable sign* means a sign not permanently affixed, anchored or secured to the ground or a structure on the lot it occupies, including trailered signs, tripod and sandwich board signs. These signs are not located on the public right-of-way.

*Projecting sign* means a sign indicating the name and/or logo of a business which is mounted perpendicular to the building wall and projecting over the public right-of-way.

*Recommended letter styles* means a group of letter styles recommended by the planning commission for use in the design of signage in the city.

*Roof-mounted sign* means a sign which is located upon or over the roof of a structure, or in the case of a building with a mansard roof, a sign which is above the deck line of the mansard roof.

*Sandwich board sign* means a free standing, two sided, hinged advertising sign.

*Sign* means a graphic device, including its base, foundation or erection supports, upon which is displayed any words, letters, figures, emblems, symbols, designs or trademarks by which any such message or image is afforded public visibility from out-of-doors, on behalf of and for the benefit of any product, place, activity, individual, firm, institution, profession, association, business or organization. A series of painted letters on the exterior surface of a building is also a sign.

*Sign area* means the maximum height multiplied by the maximum width of the sign components, including any frame or other material or color or open spaces forming an integral part of the display or used to differentiate such sign from the background against which it is placed. Both sides of a sign structure may be used for sign purposes, provided the notices have a 180-degree back-to-back relationship. In the case of a broken sign (a sign with open spaces between the letters) the total surface area shall be measured by multiplying the height of the individual letters or combination of letters by the distance between the outer edges of the two furthestmost letters.

*Street frontage* means the length of the property line adjoining a street.

*Wall-mounted sign* means a sign which is attached directly to a building wall and/or marquee, and the sign surface is parallel to the building wall.

*Window area* means the area of a window as measured by the perimeter of the window glass, including glass windows in doors.(Ord. No. 75, ' 8.10.2, 1-27-1988)**Cross reference(s)**--Definitions generally, ' 1-2.

## **Sec. 98-688. Allowed signs.**

Only signs whose subject matter relates exclusively to the premises on which they are located, or to products, accommodations or activities on those premises, shall be allowed as follows:

- (1) Each building may have a sign oriented to each street or to Portage Lake if the building has frontage on the lake.
- (2) The top of pedestrian signs shall be no higher than ten feet above the sidewalk.
- (3) With the exceptions given in this subsection, the total surface area of all signs oriented to any street shall not exceed 15 times the square root of street frontage on that street, and the combined area of all signs shall not exceed 15 times the square root of the combined street frontage:

Street Frontage (feet)	Allowable Area(square feet)
20	67
25	75
30	82
35	89
40	95
50	106
60	116
70	126
80	134
90	143
100	150
125	168
150	185
175	198
200	212

- (4) Sign size exceptions are as follows:
  - a. No sign on a structure shall exceed two square feet in an R-1 zone, and the total area in an R-2 and R-3 area shall not exceed 50 percent of the total allowable area stated in subsection (3) of this section, except political signs authorized by this section.
  - b. The following are allowed in addition to signs as limited by section 98-688:
    - 1. Names of buildings, date of erection, monumental citations, and commemorative tablets up to 32 square feet in area, when made a permanent and integral part of the building.
    - 2. Building directories, up to 20 square feet in area if located outside.
    - 3. Traffic control and guidance signs, in conformance with public traffic sign standards, but located on private property, and orientational signs up to two square feet in area, displayed for purposes of direction or convenience, including signs identifying restrooms, freight entrances and the like.
  - c. Permanent signs on the surface of or inside display windows shall cover no more than ten percent of the display window area.
  - d. Freestanding and changeable letter sign area shall be doubled when determining the total amount of sign allowed.
- (5) Illumination shall be regulated as follows:
  - a. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians or neighboring premises.

- b. Illuminated signs, including neon signs, shall not produce more than one footcandle of illumination four feet from the sign.
  - c. Signs shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m. unless related to an establishment operating during those hours.
  - d. All permanent outdoor lights such as those used for area lighting or building floodlighting shall be steady, stationary, shielded sources directed so as to avoid causing glare for motorists, pedestrians or neighboring premises. The marginal increase in light, as measured at any property line other than a street line, shall not exceed one footcandle.
- (6) Temporary signs are regulated as follows. No permit is required except as provided in subsection (6)e. of this section.
- a. *Construction signs.* One unlighted sign of up to 32 square feet identifying parties involved in construction on the premises where the sign is located; one illuminated sign of up to 40 square feet identifying the owner's name and the activity for which the building is intended and describing the construction process, but not including the advertisement of any product. These signs must be removed within 5 days of the completion of the activity.
  - b. *Real estate signs.* One unlighted sign of up to 16 square feet pertaining to the sale, rental or lease of the premises on which the sign is displayed, to be removed within 5 days after sale, rental or lease.
  - c. *Event signs.* Unlighted signs displayed on private property and limited to one per each premises, announcing a drive or event of a civic, philanthropic, educational or religious organization. Such signs can be no larger than 32 square feet in size if only one side of the sign is used; if both sides are used, such signs shall not be greater than 16 square feet on each side. Event signs can be erected no more than 14 days prior to the beginning of the event and must be removed within 5 days after completion of the event.
1. *Political Signs.* The provisions of this chapter relative to the construction, installation and obtaining of a permit shall not apply to temporary political signs advertising a political candidate, a forthcoming election or urging any vote on any topic; provided, however, that:
- i. Such signs shall not exceed a size of 36 inches by 36 inches and shall be so placed or installed so as not to obstruct the vision or view of any bicyclist or driver of any motor vehicle upon the streets and alleyways of the city.
  - ii. Not more than one such sign shall be installed or placed upon any property advertising a particular candidate or proposition. However, this section shall not be construed as a prohibition against placing two or more signs upon such property when each sign urges a vote for a different candidate or proposition.
  - iii. The owner of the property where such signs have been installed or placed shall cause the signs to be removed within 5 days after the date of the election or vote upon the proposition to which the sign pertained. (Ord. 2009-205)

- d. *Display window signs.* Signs on the surface of or inside display windows, lighted only by building illumination and covering no more than 20 percent of the display window area.
  - e. *Promotional signs or banners.* A sign or banner displayed on the outside of a building to promote a special event or promotion in a B-1, B-2 or B-3 area. This sign may be displayed for up to 30 days by permit only.
- (7) Projecting signs shall not be mounted more than 12 inches from the building wall and shall not be larger than 30 inches by 30 inches. Mounting brackets shall not extend more than six inches beyond the sign and shall be of appropriate size. The bottom of the sign shall be mounted a minimum of 8 feet above the sidewalk. The top of the sign shall not be more than 13 feet above the sidewalk.
- (8) Sandwich Board sign: A two sided, freestanding, unlighted, hinged sign displaying advertizing for a business. Signs must conform to Appendix B and D for size, colors and lettering. Signs can only be used in an area zoned Abusiness@. Placement of the sign must be located within 2 inches of the building on the sidewalk or on the edge of the sidewalk closest to the building. At least six feet of sidewalk width must be maintained and not obstructed by a sign. The sign may only be placed in front of a business when the business is open and between the hours of 7 a.m. and 12 midnight. One sign per business is permitted. One sign located in front of each business is permitted. A City permit is required.
- (9) Height restrictions are as follows:
- a. No freestanding sign shall be more than six feet above grade in residential areas.
  - b. Free standing signs should have a 25 foot maximum height limit.
- (10) Strip Mall Signs (A strip mall is defined as having three or more stores with a common wall between each store and a common, on site, parking lot).
- a. Each store front in a strip mall may have a sign with the allowable square footage to be determined by the length of the store front, using the size formula set forth in 98-688(3) herein. The end stores with one side facing a street and one side facing a parking lot may not exceed the square footage limitations of the sign on the front of the store.
  - b. In addition to the signs for each store, there may be additional signage not exceeding 100 square feet for the name of the mall. This additional signage cannot be free standing. (Ord. 2006-181)

**Sec. 98-689. Required signs.**

- (a) The name and street address of any nonresidential building and the names of all current nonresidential occupants of the building must be identified on or legibly from the exterior of the building.
- (b) Off-street parking facilities for ten or more cars must be identified by a sign displaying the letter "P" in a size between eight and 18 inches high, and a directional arrow indicating ingress. Such a sign may also identify the building (or its principal occupant) to which the parking is accessory in letters not to exceed eight inches in height. (Ord. No. 75, 8.10.4, 1-27-1988)

**Sec. 98-690. Prohibited devices.**

- (a) No sign or light shall move, flash or make noise.
- (b) Colored lights and illuminated signs employing colors in use in traffic signal lights are prohibited within view of any signalized intersection.
- (c) Any imitation of official traffic signs or signals and the use of such words as "stop," "look," "danger," "go slow," "caution," or "warning" are prohibited.
- (d) Fluorescent colors in the yellow to red spectrum are prohibited. (Ord. No. 75, ' 8.10.5, 1-27-1988)

**Sec. 98-691. Exceptional signs.**

In certain areas signs which are larger, brighter, more numerous or located elsewhere than those allowed in section 98-688, or signs whose subject matter does not relate to the premises on which they are located, may be allowed by the council when so located and controlled that they will not constitute a traffic hazard or conflict with other environmental values.(Ord. No. 75, ' 8.10.6, 1-27-1988)

**Sec. 98-692. Nonconforming signs.**

It is the intent of this section to recognize that the eventual elimination, as expeditiously as is reasonable, of existing signs and their supporting structures that are not in conformity with the provisions of this article is as much a subject of health, safety and welfare as is the prohibition of new signs that would violate the provisions of this article. It is also the intent of this section that any elimination of nonconforming signs shall be effected so as to avoid any unreasonable invasion of established private property rights. To expedite this intent, no nonconforming sign shall:

- (1) Be changed to another nonconforming sign.
- (2) Have any changes made in the words or symbols or the message displayed on the sign unless the sign is designed for periodic change of message.
- (3) Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign.
- (4) Have the face or faces changed when such sign is of a type of construction to permit such a complete change of face.
- (5) Be reestablished after the activity, business or usage to which it relates has been discontinued.
- (6) Require other than normal maintenance. (Ord. No. 75, ' 8.10.7, 1-27-1988)

**Sec. 98-693. Prohibited signs.**

The following signs are prohibited:

- (1) Flashing signs and/or lights.
- (2) Roof signs.
- (3) Billboard signs.
- (4) Electronic message signs. (Ord. No. 75, ' 8.10.8, 1-27-1988)

**Sec. 98-694. Administration.**

- (a) No sign, except those specifically exempted by this article, shall be erected without a permit issued by the city manager, application for which shall contain the following:
  - (1) Name, address and telephone number of the applicant.
  - (2) Type of sign or sign structure.

- (3) Sketch showing sign size, height, type of support (if applicable), zone district in which the sign is located, location of the sign on property including front and side yard setback distances, and any other information required in this article.
  - (4) Street address of the property upon which the sign is proposed to be located.
  - (5) The name of the sign contractor who shall erect the sign and/or sign structure.
- (b) Fees for sign permits shall be fixed by the council.
  - (c) A citywide inspection shall be carried out upon enactment of this article and every two years thereafter by the city building inspector to determine compliance with this article and the structural provisions of the building code.
  - (d) Nonconforming signs shall be removed by their owner within ten days of the period set forth in section 98-692, or else the building inspector shall cause their removal at the expense of the owner.
  - (e) When any sign or advertising device is found by the building inspector to be in such condition as to make it immediately dangerous, he is authorized and empowered to abate such nuisance by taking action as in his judgment shall be necessary to protect the public and property, including the authority to take down and remove such signs without notice to the owner.(Ord. No. 75, ' 8.10.10, 1-27-1988) **Cross reference(s)**--Administration, ch. 2.

**Sec. 98-695. Abandoned Signs.**

All Abandoned Signs must be removed within 30 days after meeting the Abandoned Sign definition as stated in 98-687. If the owner of the Abandoned Sign does not remove it after the time stated above, the City shall remove the Abandoned Sign and bill the owner for removal. (Ordinance No 2006-194)