

**ZONING ORDINANCE  
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**CHAPTER 1  
GENERAL PROVISIONS**

**SECTION 101  
GENERAL**

**101.1. Title.** This Ordinance shall be known and may be cited as the "Zoning Ordinance" or the "Zoning Code".

**101.2. Purpose.** In interpreting and applying the provisions of this Ordinance, said provisions shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare of the community for the orderly development of the community in accordance with the goals and objectives as identified in the Community Comprehensive Plan. Among other purposes, such provisions are intended to provide for adequate light, air, and conveniences of access, to secure safety from fire and other dangers, and to avoid undue concentration of population by regulating and limiting the height and bulk of buildings, wherever erected, limiting and determining the size of yards, courts and other open spaces, regulating the density of population, and regulating and restricting the location of uses, trades, industries and buildings in relation to traffic and parking needs. Where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger yards, courts, or other open spaces than are imposed or required by such existing provisions of law or Ordinance or by such rules, regulations, or permits or by such easements, covenants or agreements, the provisions of this Ordinance shall control.

**101.3. Scope.** Except as hereinafter provided, no building, structure, or premises or part thereof shall be used, altered, constructed, or reconstructed except in conformity with the provisions of this Ordinance which apply to the district in which it is located. However, any lawful non-conforming use existing at the time of passage of this Ordinance may be continued in accordance with the provisions of this Ordinance.

**101.4. Cross References, as amended.**

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

**101.5. Interpretation; Conflict of Laws.** This Zoning Code is the minimum requirement for promoting the public health, safety and general welfare. If it imposes more restrictions than State law or other City Ordinances, the provisions of this Zoning Code shall govern. If the State Housing Law (MCL 124.401 et seq; MSA 5.2771, et seq) or the Airport Zoning Act (MCL 259.431, et seq; MSA 5.3475) or other statutes or Ordinances have stricter regulations, the provisions of the statute or other Ordinance shall govern. Section titles or headings and any entire Section entitled "Purpose" shall be interpretive aids only and shall not be construed to impose any substantive or procedural requirement. Nothing in this Ordinance shall be interpreted as authorization for or approval of the continuance of the

use of a structure or premises in violation of zoning provisions in effect at the time of the effective date of this Ordinance or any amendments thereto.

**101.6. Essential Services.** Essential services shall be permitted as authorized and regulated by law and other Ordinances, it being the intention hereof to exempt such essential services from the application of this Ordinance.

## **SECTION 102 PLANNING COMMISSION/ZONING COMMISSION**

**102.1. General.** This section addresses the duties and responsibilities of a Planning Commission, hereafter referred to as "the commission" and other officials and agencies, with respect to the administration of this code.

**102.2. Establishment; Zoning Commission.** The Planning Commission shall have all powers granted by law to be the Zoning Commission of the municipality.

**102.3. Comprehensive Plan.** It shall be the duty of the commission, after holding public hearings, to create and recommend to the City Council a Comprehensive Plan for the physical development of the jurisdiction, which shall be permitted to include areas outside its boundaries that bear consideration to the planning of the jurisdiction. The commission shall be permitted also to recommend amendments to the Comprehensive Plan regarding the administration or maintenance of the Zoning Ordinance. The Comprehensive Plan shall include at least the following elements: A. Official maps, B. Growth and land use, C. Commercial/industrial use, D. Transportation and utilities, E. Community facilities, F. Housing, G. Environmental, H. Geologic/natural hazards, and I. Recreational uses

**102.4. Zoning Code.** It shall be the duty of the Planning Commission to develop and recommend to the City Council a Zoning Code, in accordance with the guidelines of the Comprehensive Plan, establishing zones within the jurisdiction. Such a code shall be made in regards to the character of each district and the most appropriate use of land within the jurisdiction. The Planning Commission shall make periodic reports and recommendations to the City Council.

**102.5. Special Land Use Permit.** It shall be the duty of the commission to review all special land use permit applications. The application shall be accompanied by maps, drawings or other documentation in support of the request. The granting of a special land use permit shall not exempt the applicant from compliance with other relevant provisions of related ordinances.

**102.6. Appeals and Hearings.** Any person withstanding aggrieved by any decision of the commission shall have a right to make an appeal to the Zoning Board of Appeals as provided by this code or State law. Such appeals shall be based on the record.

## **SECTION 103 CHANGES AND AMENDMENTS**

**103.1. General.** This section addresses the procedure for changing and amending the Zoning Ordinance.

**103.2. Procedure.** The Council may, from time to time, on its motion or on petition, amend, supplement, or change the district boundaries or regulations herein established in the manner prescribed by Act No. 207 of the Public Acts of Michigan for 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended. Whenever the owners of fifty percent (50%) or more of the frontage in any district or part thereof shall present to the Council a petition in writing, duly signed, and which shall have been acknowledged by each of said petitioners substantially in accordance with the provisions for the acknowledgment of deeds, requesting an amendment, supplement, change, or repeal of the provisions prescribed for such district or part thereof, it shall be the duty of the Council to vote upon said petition within ninety (90) days after the filing of the same by the petitioners with the Council. If any area is hereafter transferred to another district by a change in district boundaries by an amendment as above provided, the provisions of this Ordinance, relating to building or uses of buildings or premises existing at the time of passage of this Ordinance shall apply to buildings or uses of buildings or premises existing at the time of passage of such amendment in such transferred area.

**103.3. Public Hearing.** A hearing before the Planning Commission shall be conducted on all proposed amendments, supplements, changes, or repeals of the provisions of this Code before referring the matter to the City Council for action. The procedure for the Planning Commission public hearing shall be as follows:

**103.3.1. Newspaper Notice.** At least fifteen (15) days notice of the public hearing shall be given in an official newspaper of general circulation in the City.

**1.0.0. Public Notice.** At least fifteen (15) days notice of the time and place of the public hearing shall be mailed to each public entity, public utility company and to each railroad company owning or operating any public utility or railroad within the districts affected that registers its name and mailing address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

**2.0.0. Notice Applicability.** For properties which are proposed for rezoning, notice of the proposed rezoning and hearing shall be given at least fifteen (15) days before the hearing to:

- A. The owners of the property in question;
- B. All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question; and
- C. At least one (1) occupant of each dwelling unit or spatial area owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units or distinct spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. Where the names of the occupant is not known, the term "occupant" may be used in making notification.

**103.4. Notice.** The notice shall contain the following:

- A. A description of the proposed zoning;
- B. A description of the subject property;
- C. The time and location of the public hearing; and
- D. When and where written comments will be received.

**103.5. Protest.** If a protest of the proposed amendment is presented to the City Council at or before final action on the amendment and it is properly signed by the owners of at least twenty percent (20%) of the area of land included in the proposed change, excluding publicly owned land, or by the owners of at least twenty percent (20%) of the area of and included within an area extending out at least one hundred (100) feet from any point on the boundary of land included in the proposed change, excluding publicly owned land, then such amendment shall be passed only upon four (4) affirmative votes of the City Council.

**103.6. Publication.** Following the adoption of a Zoning Ordinance or amendment by the City Council, a notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The notice shall include the following information:

**103.6.1. New Adopted Ordinance.** In the case of a newly adopted Zoning Ordinance, the following statement: "A Zoning Ordinance regulating the development and use of land has been adopted by the City Council of the City of Escanaba."

**103.6.2. Zoning Ordinance Amendment.** In the case of an amendment to an existing Ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment;

**103.6.3. Effective Date.** The effective date of the Ordinance;

**103.6.4. Purchase/Inspection of Ordinance.** The place and time where a copy of the Ordinance may be purchased or inspected.

## **SECTION 104 REVIEW OF ZONING CODE**

**104.1. General.** The Planning Commission shall routinely review the requirements of this Ordinance every five (5) years to ensure it is current and accurate.

## **SECTION 105 APPLICATION OF CODE; COMPLIANCE REQUIRED**

**1.0. General.** The provisions of this code shall apply to the following standards except as otherwise allowed by this Code:

- A. No building or structure shall be built, rebuilt, converted, enlarged, moved, or structurally altered, and no building or land shall be used, except for a use allowed in that district.
- B. No building or structure shall be built, rebuilt, converted, enlarged, or structurally altered except in conformity with the height, setback, bulk and other dimensional limits for that district.
- C. No land shall be cleared, no building or structure shall be built or rebuilt, converted, enlarged or structurally altered, and no parking area built or enlarged except after applying for and receiving a land use permit.
- D. No building shall be built or increased in area except in conformity with the off-street parking and loading regulations of the district in which such building is located unless it receives a special land use permit or planned unit development permit or parking waiver that changes these regulations.

- E. The minimum setbacks, parking spaces and other open spaces, including lot area per dwelling, required by this Zoning Code for any building hereafter built or structurally altered, shall not be encroached upon or considered as parking, setback, open space or lot area requirement for any other building, nor shall any lot area be reduced beyond the district requirements of this Zoning Code.
- F. No setback or lot shall be reduced in dimensions or area below the minimum requirements set forth herein except as a result of governmental action. Lots created after the effective date of this Zoning Code shall meet at least the minimum requirements of this Code.
- G. No lot, once established or improved with a building or structure, shall be divided unless each lot resulting from the division conforms with all of the requirements of this Code.

## **SECTION 106 REPEAL OF PRIOR ORDINANCE**

**106.1. General.** The Zoning Ordinance adopted by the City of Escanaba, known as Ordinance No. 974, and all amendments thereto are hereby repealed. The repeal of the above Ordinance and its amendments does not affect or impair any act done, offense committed or writ occurring, occurred, or acquired, or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.

## **SECTION 107 VESTED RIGHT**

**107.1. General.** Nothing in this Ordinance should 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 therein, 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.

## **SECTION 108 SEVERABILITY**

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

## **SECTION 109 CONSTRUCTION OF LANGUAGE**

**109.1. General.** The following rules of construction apply to the text of this Ordinance:

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.

- E. A "building" or "structure": includes any part thereof.
- F. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- G. The word "person" includes an individual, a corporation, a partnership, and incorporated association, or any other entity.
- H. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either ...or", the conjunction shall be interpreted as follows:

"And" indicates that all the connected items, conditions, provisions, or events shall apply.

"Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

- 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.
- 4. Terms not herein defined shall have the meaning customarily assigned to them.

## SECTION 110 DEFINITIONS - GENERAL REQUIREMENTS

**110.1. Scope.** Unless otherwise expressly stated, the following words and terms shall, for the purposes of this Code, have the meanings shown in this section.

**110.2. Interchangeability.** Words stated in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

**110.3. Terms defined in other codes.** Where terms are not defined in this code and are defined in the Michigan Building Code or the Michigan Rehabilitation Code for Existing Buildings, such terms shall have the meanings ascribed to them as in those codes.

**110.4. Terms not defined.** Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

## SECTION 111 GENERAL DEFINITIONS

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

***Accessory building*** is a subordinate building or structure on the same lot with a main building, or a portion of the main building, occupied or devoted exclusively to an accessory use, such as a storage building. When an accessory building is attached to a main building in a substantial manner by a wall or roof, such as a storage building, such accessory building shall be considered part of the main building.

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

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

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

**Alley** means a way which functions primarily as a service corridor no less than fifteen (15) feet in width and provides access to properties abutting thereon. "Alley" does not mean "street".

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

**Assembly Group** means the use of a building or structure, or portion thereof, for the gathering together of persons for purposes such as civic, social, or recreation functions.

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

**Bed and breakfast uses.** A bed and breakfast operation is a use which is subordinate to the dwelling unit and the use in which transient guests are provided sleeping rooms and a breakfast only, in return for payment.

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

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

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

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

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

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

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

**Building front** is the front of the building that the facade most nearly parallel to and nearest to the front lot line.

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

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

**Campers/van.** See "trailer".

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

**City Plan** means the official statement of policy by the Planning Commission pursuant to 1931 PA 285 (MCLA 125.31 et seq; MSA 5.2991 et seq), as amended, for a desirable physical pattern for future community development.

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

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

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

**Code Official** means the head of the City Community Preservation or the designee of that person.

**Communication tower** means a radio, telephone or television relay structure of a monopole or skeleton framework, attached directly to the ground or to another structure, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals. Communication tower does not include an air traffic control tower or a satellite dish one (1) square meter or less in a Residential District or two (2) square meters or less in a Non-Residential District.

**Community building.** A building or group of buildings for a community's educational and recreational activities.

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

**Country club.** See "golf course".

**Court.** A court is an open unoccupied space, other than a yard, and bounded on at least two (2) sides by a building. A court not extending to the street or front yard or rear yard is an outer court.

**Critical root zone** means a circular area surrounding a tree, the radius of which is measured outward from the trunk of a tree one (1) foot for each one (1) inch of diameter at breast height. The critical root zone shall also extend to a depth of four (4) feet below the natural surface ground level.

**Cul-de-sac** shall mean a minor street with only one (1) outlet and culminated by a turnaround.

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

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

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

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

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

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

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

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

**Dwelling** means any building or portion thereof which is designed for or used exclusively for residential purposes and containing one (1) or more dwelling units. In cases of mixed occupancy where a building is occupied by two (2) or more principal uses, one (1) of which is that of a dwelling, the part so occupied shall be deemed a dwelling for the purpose of this Ordinance, and shall comply with the provisions thereof relative to dwellings.

**Dwelling, multiple family.** "Multiple family dwelling" means a building or portion thereof containing three (3) or more dwelling units and designated for or occupies as the home of three (3) or more families living independently of each other.

**Dwelling, single-family.** "Single-family dwelling" means a detached building containing one (1) dwelling unit and designed for or occupied by only one (1) family.

**Dwelling, two-family.** "Two-family dwelling" means a building designed for or occupied exclusively by two (2) families living independently of each other.

**Dwelling unit** means one (1) or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one (1) family for living, cooking and sleeping purposes. The existence of a food preparation area within a room or rooms shall be evidence of the existence of a dwelling unit.

**Easement** shall mean a grant by the property owner of the use for a specific purpose of a strip of land by the general public, a corporation, or a certain person.

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

**Essential services** means the installation, construction, alteration or maintenance by public utilities or governmental agencies of underground, surface or overhead communication, telephone, electrical, gas, steam, fuel, or water distribution systems, collections, supply or disposal systems, streets, alleys, sidewalks, or trails, including pavement, traffic control devices, signs, poles, wires, mains, drains, sewers, pipes, conduits, cables, padmount transformers, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith which are necessary for the furnishing of adequate service by such utilities or government agency for the public health, safety, convenience or welfare and including buildings or structures eight hundred (800) cubic feet or less which are enclosures or shelters for service equipment.

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

**Fall-out shelter.** A fall-out shelter is a structure of specific design for protection from radioactive fall-out.

**Family** means one (1) or more persons occupying a dwelling unit and living as a single housekeeping unit, whether or not related to each other by birth or marriage, as distinguished from persons occupying a boarding house, lodging house or hotel.

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

**Flood plain, 100 year.** A 100 year flood plain” means the lowland areas of adjoining inland and coastal waters which are identified on Floodway Maps produced by FEMA (Federal Emergency Management Agency) and which are estimated to have a one percent (1%) chance of flooding in a given year.

**Floor area.** See "Gross Floor Area".

**Front lot line.** In the case of a lot abutting upon only one (1) street, the front lot line is the line separating such lot from such street. In the case of a lot abutting on two (2) or more streets, one (1) lot line shall be elected to be the front lot line for the purposes of this Ordinance, provided, it shall be so designated on the building plans filed for approval with the Code Official.

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

**Garage, private.** A building or a portion of a building not more than 1,000 square feet in area, in which only private or pleasure-type motor vehicles used by the tenants of the building or buildings on the premises are stored or kept. When a private garage is attached to a main building in a substantial manner by a wall or roof, shall be considered part of the main building.

**Garage, community.** A community garage is a space or structure, or series of structures, for the storage of motor vehicles, having no public shop or service in connection therewith, and separated into compartments or sections with separate vehicular entrances, for the use of two (2) or more owners or occupants of property in the vicinity.

**Garage, public use.** A public use garage is a space or structure, other than a private or a community garage, for the storage, care, repair, refinishing, or servicing of motor vehicles, except that a structure or a room used solely for the display and sale of such vehicles, in which they are not operated under their own power, and in connection with which there is no storage, care, repair, refinishing or servicing of vehicles other than those displayed for sale, shall not be considered a garage for the purpose of this Ordinance.

**Gasoline service station.** A gasoline service station shall mean that portion of a property and all facilities essential thereto, where inflammable liquids, used as motor fuels, are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles. Greasing and oil changes, tire repairs, washing and servicing cars and trucks, and the sale of tires, batteries and other accessories are considered to be accepted functions of a gasoline service station.

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

**Grade** means:

*For buildings having walls adjoining one (1) street only:* the elevation of the public sidewalk, top of curb, or centerline of the street right-of-way, whichever is closest to the building, where a building wall adjoins a street.

*For buildings having walls adjoining more than one (1) street:* the average elevation of the sidewalks, curbs or centerlines of streets, whichever is closest to the building walls adjoining the streets.

*For buildings having no wall adjoining the street:* the average of the lowest and highest ground surface elevations in an area within six (6) feet of the foundation line of a building or structure.

Any building or structure wall within thirty-five (35) feet of a public or private street shall be considered as adjoining the street.

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

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

**Gross floor area (GFA)** means the sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet.

**Height of building** means the vertical distance from the grade to the highest point on a mansard, quonset, flat roof or to the median height between the eaves and the ridge for gable, hip and gambrel roofs.

**Home.** Home shall mean an abode for convalescents; for religious orders or groups; for nurses, for students and other related purposes.

**Home occupation.** Home occupation means a use conducted entirely within an enclosed building, employing only the inhabitants thereof, which is clearly incidental and secondary to residential occupancy and does not change the character thereof. Specifically excluded is the storage and display of merchandise not produced by such home, occupation, and any activity involving any building alterations, window display, construction features, equipment, machinery or outdoor storage, any of which is visible from off the lot on which it is located. Such use shall not become noxious or endanger public health, sanitation or general welfare.

**Hotel** means a building in which lodging or boarding are provided and offered to the public for compensation and in which ingress to and egress from all rooms is made through an inside lobby or office normally supervised at all hours. As such, it is open to the public as distinguished from a boarding house, lodging house or apartment.

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

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

**Interior side lot line.** An interior side lot line is a side line separating a lot from another lot or lots.

**Kennel** means any lot or premises used for the sale, boarding, or breeding of dogs and cats or the keeping of four (4) or more dogs and cats over the age of six (6) months.

**Land clearing** means:

The clearing over eight thousand (8,000) square feet of vegetation from any site, or  
The removal of more than two hundred (200) trees more than six (6) inches in diameter at breast height within fifty (50) feet of a public or private street or river.

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

**Landing area** means a landing pad, area, strip, deck or building roof used to launch or

receive aircraft, including, but not limited to, power-driven winged or delta-winged aircraft, gliders, balloons and helicopters.

**Landscaping** means the finishing and adjournment of unpaved yard areas using the combination of planted trees, vines, ground cover, flowers or turf. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art work, screens, walls, fences, and benches.

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

**Lot** means a parcel of land occupied or intended for occupancy by a use permitted in this Zoning Code, including one (1) principal building together with accessory buildings, open spaces and parking areas required by this Zoning Code, and having its principal frontage upon a street or upon an officially approved private street. The word "lot" includes the words "plot", "tract" or "parcel".

**Lot, interior.** An interior lot is a lot other than a corner lot.

**Lot, irregular.** An irregularly shaped lot means a lot which provides a minimum of thirty (30) feet of street frontage, provides a minimum width of sixty (60) feet at the proposed building line and complies with all other yard, area, height, and similar requirements for the Zoning District in which it is located.

**Lot, corner** means a lot which has at least two (2) contiguous sides abutting on and at the intersection of two (2) or more streets.

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

**Lot, through** means an interior lot having frontage on two (2) more or less parallel streets.

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

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

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

**Mechanical amusement arcade** means any place, premises, room or establishment in which a substantial and significant portion of the business is devoted to the operation of mechanical amusement devices, or in which more than five (5) mechanical amusement devices are located and available for operation. For purposes of this Zoning Code, a mechanical amusement arcade shall not include the following:

Mechanical/electronic amusement devices located in bars, taverns and cocktail

lounges which are properly licensed by the State when the devices are located so as to be an integral part of the licensed operation and are available only to tavern patrons; and  
Mechanical amusement devices located in motels or hotels when the devices are generally available only to registered guests.

**Mechanical amusement device** means any machine which, upon the insertion of a coin, slug, token, plate or disk, or upon payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, including, but not limited to, games registering a score; electronic video games; mechanical and/or electronic devices, such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables and billiard tables; and all game operations or transactions similar thereto, whether operated by hand, electric power or a combination thereof. "Mechanical amusement device" shall not include:

- A. A juke box or other similar device which plays only music for money;
- B. A full-size bowling lane or alley;
- C. A movie theater seating more than ten (10) persons; and
- D. A vending machine dispensing food, drink, tobacco, toys or written material, which material can be utilized away from the premises where the machine is located and does not require further participation by the person inserting the item or paying the price at the location of the machine. A mechanical amusement device located on property used solely for a residential purpose or a private club, which device is not available for use by the general public, shall be exempt from this definition.

**Micro brewery** means a facility as defined as such by the State of Michigan.

**Motel** means a building or group of buildings having units containing sleeping accommodations which are available for temporary occupancy primarily by automobile travelers and usually providing separate entrances for the units.

**Non-conforming structure, permitted.** A permitted non-conforming structure is a structure lawfully existing at the time of adoption of this Ordinance, or any amendments thereto, which does not conform to the regulations of the district in which it is located, and for which a certificate of occupancy has been issued and is in force.

**Non-conforming use, permitted.** A permitted non-conforming use is a use which lawfully occupies a structure or land at the time of adoption of this ordinance, or any amendments thereto, which does not conform with the regulations of the district in which it is located, and for which a certificate of occupancy has been issued and is in force.

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

**Off-street parking.** The following definitions shall apply to vehicle parking in all areas except parking in garages and parking along streets and alleys.

- A. **Business parking area.** A parking area owned and operated by a business or professional establishment (such as a doctor's or lawyer's office) and used as a convenience in connection therewith.
- B. **Commercial parking area.** A parking area owned and operated by a private

- individual or concern for the purpose of charging a fee for parking privileges.
- C. **Public and quasi-public parking areas.** A parking area owned and operated by a governmental unit, educational institution, church, charitable institution, or other comparable public or quasi-public unit, association, corporation, or institution.

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

**Ordinary high water mark** means the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctively from the upland.

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

**Parcel.** See "Lot".

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

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

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

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

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

**Parking structure** means a building or structure consisting of more than one (1) level and used to store motor vehicles.

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

**Pedestrian scale** means design and construction considerations based upon the scale of

a human being which imbue occupants and users of the built environment with a sense of comfort and security.

**Pedestrian travel way** shall mean a paved walk for pedestrians at the side of a street such as the sidewalk.

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

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

**Plat** means a map of a subdivision of land recorded with the Register of Deeds pursuant to State statute.

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

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

**R-District** means a residence district, namely in Residence "A", "B", "C", and "C-2" District.

**Radius.** A measurement consisting of a straight line, without regard to intervening structures or objects, from the nearest property line of the lot or lots to the nearest existing property line of the nearest existing lot or lots.

**Rear lot line.** The rear lot line is that boundary which is opposite and most distant from 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, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

**Recreational facilities** means a public or private non-profit facility for athletic activities such as ice arenas, stadiums, indoor sports arenas, community recreation centers, fitness centers, indoor and outdoor swimming pools.

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

**Residential care and treatment facility** means a facility providing:

- A. Services, programs and temporary shelter for residents who are undergoing alcohol or substance abuse rehabilitation;
- B. Temporary emergency shelter and services for battered individuals and their children in a residence structure; and
- C. Housing and personal services such as nursing, recreation, housekeeping

and food preparation in a residential structure for persons who are not otherwise able to provide those services themselves and are dependent upon others for doing so.

But not including an adult or juvenile correction institution or transitional housing.

**Restaurant, family** means an establishment where food and drink are prepared and served to seated customers. Customer turnover rates are typically less than one (1) hour. Generally, these establishments serve breakfast, lunch, and dinner and sometimes are open twenty-four (24) hours a day. It may include cafeteria-style facilities.

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

**Restaurant, fine** means an establishment where food and drink are prepared and served. Customer turnover rates are typically one (1) hour or longer. Such establishments serve dinner but generally do not serve breakfast and may or may not serve lunch or brunch.

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

**Roadway** shall mean that portion of the street available for vehicular traffic, and where curbs are laid, the portion from back-to-back of curbs.

**Rooming house** means a residential building where rooms or suites of rooms are rented where the renters use common facilities, such as hallways and bathrooms. A rooming house shall not include hotels, motels, apartment houses, two (2) and multi-family dwellings or fraternity and sorority houses.

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

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

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

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

**Setback, front.** "Front setback" means the minimum required distance, extending the full lot width, between the principal building and the front lot line.

**Setback, rear.** "Rear setback" means the minimum required distance, extending the full

lot width, between the principal and accessory buildings and the lot line opposite the front line.

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

**Shopping center** means those structures which will have five or more separate occupancies and are in excess of fifteen thousand (15,000) square feet of gross floor area.

**Side lot line.** A side lot is any lot boundary line not a front lot line or a rear lot line.

**Sidewalk** means a paved walk for pedestrians at the side of a street.

**Site diagram** means a drawing, drawn to scale, showing the location of buildings and structures on a lot, as well as driveways, curb cuts, alleys, streets, easements and utilities.

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

**Special care facilities.** A special care facility shall include any dwelling unit intended to be occupied (partially or entirely) for purposes of providing residential care for persons physically or mentally handicapped, mentally ill, drug or alcohol addicts, and including any dwelling units used for similar occupants that are state licensed or state supported, but not including penal or correctional institutions, nor shall the conditions apply to any family-related persons living within a single family unit.

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

**Story.** A story is that portion of a building between one (1) floor level and the floor level next above it, or between the uppermost floor and the roof. Any story lying more than fifty percent (50%) by volume below the highest level of the adjoining ground, and any mezzanine, balcony or similar story having a floor area of less than fifty percent of the floor area of the story immediately above it, (or where there is no story above, less than fifty percent of the floor area of the story immediately below it) shall not be counted as a story in measuring the height of buildings under this Ordinance.

**Story, half.** A half-story is an uppermost story lying under a sloping roof, the usable floor area of which does not exceed seventy-five percent (75%) of the floor area of the story immediately below it, and not used or designed, arranged or intended to be used, in whole or in part, as an independent housekeeping unit or dwelling.

**Street** shall mean all property dedicated or intended for public or private use, for access to abutting lands or subject to public easements, therefore, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, land, place, circle, or however otherwise designated. Street does not mean alley. See also "Street, private".

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

access to properties.

**Street, major (principal/arterial).** "Major street" means a street designed to carry high traffic volumes through the community and is designated as a major street in the Major Street Plan for the City. The right-of-way width for major streets shall conform to the Major Street Plan of the Comprehensive Plan and to all subsequent amendments or additions thereto.

**Street, minor.** "Minor street" means a street not designated as a major street in the Major Street Plan for the City. The minimum right-of-way for minor streets shall be sixty (60) feet, or as designed on a precise plat.

**Street, urban collector.** "Urban Collector" means a street designated as a major street in the Major Street Plan for the City. The minimum right-of-way for urban collector streets shall be eighty (80) feet, or as designated on a precise plat.

**Street lot line.** A "Street lot line" is a lot line separating a lot from a street.

**Street, private.** "Private street" means an interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to private buildings or land uses, to parking and service areas, and which is not maintained by the public.

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

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

**Subdivide or Subdivision** means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representative, successors or assigns for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of land less than forty (40) acres or the equivalent, and that is not exempted from the platting requirements of the State of Michigan Land Division Act 591, PA of 1996, Act 87, and PA of 1997, as amended. Subdivide or subdivision does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State of Michigan Land Division Act or the requirements of an applicable Escanaba Land Division Ordinance.

**Subdivider** shall mean any person dividing or proposing to divide land so as to constitute a subdivision and includes any agent of the subdivider.

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

**Transitional housing** means a facility which is operated by a government or a nonprofit

agency providing interim sleeping and bath accommodations; interim eating and cooking facilities; and professional services to assist individuals or families in locating permanent housing.

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

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

**Tourist home** means a single-family dwelling owned and occupied by a person renting out not more than three (3) rooms for compensation to persons who do not stay for more than seven (7) consecutive days.

**Townhouse** means a multiple dwelling in which each dwelling unit share a common wall with at least one (1) other dwelling unit and in which each dwelling unit has living space on the ground floor and has a separate ground-floor entrance.

**Usable floor area** means the area used for or intended to be used for the sale of merchandise or services, or 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 sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

**Wall** shall mean a barrier made of masonry, wood, metal, or natural hedging forming a long rampart.

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

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

**Yard, rear** means all land extending across the width of the property and lying between the principal building and the rear lot line.

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

**Zoning Code** means Ordinance #1028, as amended, of the Code of Ordinances of the City of Escanaba and includes the text of this Zoning Code as well as all maps, tables, graphics, schedules as included or attached as enacted or subsequently amended.

## SECTION 112

## **USES NOT MENTIONED**

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

### **SECTION 113 TEMPORARY BUILDINGS**

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

### **SECTION 114 RECREATIONAL VEHICLES AND TRAILERS**

**114.1. General.** Recreational vehicles and trailers shall not be used for general living purposes in any district other than in a licensed campground and/or trailer park.

### **SECTION 115 TENTS OR PORTABLE BUILDINGS**

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

**CHAPTER 2  
ADMINISTRATION, ENFORCEMENT AND PENALTY**

**SECTION 201  
GENERAL**

**201.1. Purpose.** The purpose of this Ordinance is to safeguard the health, property and public welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land in land uses within the City of Escanaba.

**201.2. Scope.** The provisions of this Ordinance shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located primarily in a public way, public utility towers and poles, and public utilities unless specifically mentioned in this code. Where, in any specific case, different sections of this Ordinance specify different requirements, the more restrictive shall govern. Where there is conflict between a general requirement and a specific requirement, the specific requirement shall be applicable in fulfilling these purposes, this Ordinance is intended to benefit the public as a whole and not any specific person or class of persons. Although, through the implementation, administration and enforcement of this Ordinance, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. If any portion of this Ordinance is held invalid for any reason, the remaining herein shall not be affected.

**201.3. Liability.** The Code Official, or designee, charged with the enforcement of this Ordinance, acting in good faith and without malice in the discharge of the duties described in this Ordinance, shall not be personally liable for any damage that may accrue to persons or property as a result of an act or by the reason of an act or omission in the discharge of such duties. A suit brought against the Code Official or employee because such act or omission performed by the Code Official or employee in the enforcement of any provision of such Ordinances or other pertinent laws or ordinances implemented through the enforcement of this Ordinance or enforced by the enforcement agency shall be defended by the City until final termination of such proceedings, and any judgement resulting therefrom shall be assumed by the City. This Ordinance shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the City of Escanaba be held as assuming any such liability by reason of the reviews or permits issued under this Ordinance.

**201.4. Cooperation of Other Officials and Officers.** The Code Official shall be authorized to request, and shall receive so far as is required in the discharge of the duties described in this Ordinance, the assistance and cooperation of other officials of the City.

**201.5. Cross References, as amended.**

- A. City zoning ordinances; public hearing, notice; report of Planning Commission; amendment; vote required - MCLA 125.584
- B. Board of Zoning Appeals - MCLA 125.585; Zoning Code Chapter 301
- C. Conflicting laws; governing law - MCLA 125.586
- D. Violations; nuisance per se; abatement - MCLA 125.587
- E. Appeals - Zoning Code Section 303

F. Variances - Zoning Code Section 305

**SECTION 202  
EXISTING BUILDINGS AND USES**

**202.1. General.** Lawfully established buildings and uses in existence at the time of the adoption of this Ordinance shall be permitted to have their existing use or occupancy continued, provided such use is not dangerous to life.

**202.2. Additions, alterations or repairs.** Additions, alterations or repairs shall be permitted to be made to any building or use without requiring the existing building or use to comply with the requirements of this code, provided the addition, alteration or repair conforms to that required for a new building or use.

**202.3. Maintenance.** All buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or designated agent shall be responsible for the maintenance of buildings and parcels of land. To determine compliance with this section, the Code Official shall be permitted to cause any structure or use to be inspected.

**202.4. Transported and temporary buildings, structures and uses.** Buildings or structures moved or transported into or within the City shall comply with the provisions of this Ordinance for new buildings and structures. Temporary buildings, structures and uses such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public shall be permitted to be erected, provided a special approval is received from the Code Official for a limited period of time. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

**202.5. Illegal uses.** Non-conforming uses of buildings or land established without a required building permit or land use permit, or those non-conforming uses which cannot be proven conclusively as existing prior to the effective date of this Ordinance upon which the non-conformity is based, are declared illegal uses and shall be discontinued.

**SECTION 203  
POWERS AND DUTIES OF THE CODE OFFICIAL**

**General.** This section establishes the duty and responsibilities for the Code Official or other officials and agencies, with respect to the administration of this Ordinance. The Code Official and/or designee shall be referred to hereafter as "the Code Official".

**Administration.** In addition to any authority granted to the staff of the City of Escanaba by other laws and Ordinances, the Code Official and the employees under his or her control shall have the following powers and duties to be carried out with the regulations which include, but are not limited to, the following:

- A. To serve as staff to the City Manager with regard to their functions under these regulations, and to inform such bodies of all facts and information at their disposal with respect to applications for amendments to the text of these regulations, and amendments to the Zoning Maps, the preparation, adoption, and updating of land use plans, or any other matters brought before them.

- B. To maintain the text of these regulations and the Zoning Maps.  
To maintain development review files and other public records related to the administration and enforcement of these regulations.  
To review applications for land use permits.  
To recommend and comment on proposed amendments to these regulations and to the Zoning Maps.  
To establish such rules of procedure as are necessary and proper for the administration of their responsibilities under these regulations.

**203.2. Deputies.** The City Manager may appoint such number of technical officers or other employees as shall be authorized from time to time.

**203.3. Review and Approvals.** The Code Official shall be authorized to undertake reviews, make recommendations and grant approvals as set forth in this Ordinance.

**203.4. Comprehensive Plan.** The Code Official shall assist the Planning Commission in the development and implementation of the Comprehensive Plan.

## **SECTION 204 ADMINISTRATIVE REVIEWS AND PERMITS**

**204.1. Review of Land Use Permits.** All applications for land use permits and amendments thereto shall be submitted to the Code Official for review and approved prior to permit issuance. Each application shall include a site plan and/or site sketch and all data necessary to show that the requirements of this Ordinance are met.

**204.2. Permit Required.** A land use permit (zoning approval) is required before a building or structure is built, rebuilt, converted, enlarged, demolished or structurally altered and before land clearing (as defined in this Code). A land use permit is also required before a parking area is constructed, reconstructed or enlarged. It shall be unlawful to use or to permit the use of any building or premises or part thereof hereafter created, erected, or altered, or to change or enlarge the use of any building or premises or part thereof until a properly endorsed land use permit is issued by the Code Official.

**204.3. Building Permit.** In all cases where a building permit is required (new construction, structural alteration or change of use), application for a land use permit shall be made coincident with the application for such building permit, and in all other cases shall be made not less than ten days prior to the time when a new or enlarged use of a building or premises or part thereof is intended to begin. Such application shall be accompanied by a plat in duplicate, drawn to scale, showing the exact dimensions of the premises to which the certificate is to apply, the lines of all lots or parcels under separate ownership contained therein, the width and alignment of all abutting streets, alleys, easements of access and public open spaces, the size, position and height of all buildings erected or to be erected or altered thereon and such other information as may be deemed necessary for the proper enforcement of this ordinance. Accessory buildings, when erected at the same time as the principal building on a lot and shown on the application therefore, shall not require a separate land use permit. A record of all such applications shall be kept on file by the Code Official.

**204.4. Application Forms.** The Code Official shall have application forms for a land use permit available at the office of the Code Official .

**204.5. Site Plans.** All land use permit applications shall be accompanied by an accurate site plan and/or site sketch plan or diagram complying with the requirements of Chapter 18 Site Plan and Sketch Plan Standards.

**204.6. Survey.** When requested by the Code Official, all dimensions shown on the site plan relating to the locations and size of the lot shall be based on an actual survey and the lot shall be staked out on the ground before construction is started.

**204.7. Records.** The original copy of such applications and site plans shall be kept by the Code Official and a copy shall be kept at the site at all times during construction.

**204.8. Fees.** Land use permit application fees shall be established by resolution of the City Council. A special fee may be required for any project which may, in the opinion of the Code Official or Planning Commission, create an identifiable and potentially negative impact on public infrastructure or services or upon adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made. The Code Official may require and hold such fee in escrow to be used when the professional services must be paid.

**204.9. Time Limitation.** Whenever the buildings, premises, and uses thereof as set forth on the application are in conformity with the provisions of this ordinance, it shall be the duty of the Code Official to issue, within ten days after the receipt of such application, a land use permit, and when such permit is refused, to state such refusal in writing with cause, and no building permit shall be issued prior to the issuance of such permit.

**204.10. Expiration of Permit.** Unless the land use permit states differently, a permit expires after twelve (12) months from the date of granting such permit if the activity is not at least seventy-five percent (75%) completed, and after twenty-four (24) months if not one hundred percent (100%) completed. Completion percentages shall be determined in the sole discretion of the Code Official, subject to appeal to the Zoning Board Appeals.

**204.11. Land.** Land use permits for the use of vacant land or for a change in the character of the use of land shall be applied for before such land is occupied or used.

**204.12. Statement of Record.** A land use permit shall state that the building or the proposed use of the building or land complies with this Zoning Code. A record of all certificates shall be kept on file.

**204.13. Revocation.** The Code Official may revoke any land use permit for failure to comply with any provisions of this Code, the application or permit or for a material error, false statement or misrepresentation made in the application. The owner or owner's agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and new use of the site shall cease, other than for the purpose of correcting the violation. The Code Official may suspend any land use permit if there are reasonable grounds for revocation and may issue a stop work order or halt all construction activities and land use pending a decision on revoking the permit.

**SECTION 205**  
**SPECIAL LAND USE PERMIT APPROVAL**

**205.1. General.** A hearing before the Planning Commission shall be conducted on all Special Land Use Permit requests. The procedure for the Planning Commission public hearing shall be as follows:

**205.2. Initiating Request.** Requests for special land use permits shall be filed with the Code Official. A request must be submitted at least twenty-one (21) business days before the Commission meeting at which it will be considered. A request for special land use permit may be submitted by a property owner, lessee or agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

**205.3. Filing Fees.** The filing fees for a special land use permit shall be established by resolution of the City Council.

**205.4. Notices.** Notice of a request for a special land use permit will be given pursuant to State statute. The Planning Commission shall fix a reasonable time for the hearing of the request and give notice of such request to the persons to whom real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment role. If a tenant's name is not known, the term "Occupant" may be used. Upon the hearing, the party may appear in person, by agent, or by attorney. All notices shall be mailed or delivered at least ten (10) days prior to the meeting of the Commission and shall include a description of the proposed land use, a description of the subject property, the time and location of the public hearing, and when and where written comments will be received.

**205.5. Protest.** If a protest of the proposed special land use permit is presented to the Planning Commission at or before the public hearing date on the request and it is properly signed by the owners of at least twenty percent (20%) of the noticed area of land included in the request, excluding publicly owned land, or by owners of at least twenty percent (20%) of the area of and included within an area extending out at least one hundred (100) feet from any point on the boundary of land included in the request, excluding publicly owned land, then such request for special land use permit approval shall be passed only upon an affirmative vote of three-fourths of the members of the Planning Commission.

**SECTION 206**  
**NON-CONFORMING USES**

**206.1. General Classifications.** There should be the following classifications of non-conforming uses:

**206.1.1. CLASS 1:** Those where the use of the building or land does not conform to the zoning district use regulations;

**206.1.2. CLASS 2:** Those where the use of the building or land does not comply with the zoning use regulations, but such use does meet the dimensional or parking regulations of this code. Where the only reason for a non-conforming use being Class

2 is non-compliance with current off-street parking regulations, the provisions of this zoning code regarding off-street parking and powers of the Zoning Board of Appeals shall take precedence over this section to the extent they are inconsistent; and

**206.1.3. CLASS 3:** Those where the use of the building or land is a use as of right or legal non-conforming use, but is later allowed only by special land use permit in the zone in which located.

## **SECTION 207 GENERAL REGULATIONS**

**207.1. Non-Conforming Uses.** The lawful use of land or structure exactly as the land or structure existed at the time of the enactment of the ordinance affecting that land or structure, may be continued, except as otherwise provided in this ordinance, although that use or structure does not conform with that ordinance.

**207.2. Continuance of Non-conforming Use or Structure.** The lawful use of any land or structure, exactly such as existed at the time of enactment of this Ordinance may be continued even though such use or structure does not conform to the provisions of this ordinance, provided, that a Certificate of Occupancy for Non-Conforming Zoning Use is issued for such use on an annual basis. Application for a Certificate of Occupancy for Non-Conforming Zoning Use shall be in writing on standard forms furnished by the City. Certificates of Occupancy for Non-Conforming Zoning Use and structures shall be in force not more than one year and may be renewed each year at the time of expiration. It is the duty of the property owner to arrange for the issuance of a new Certificate of Occupancy for Non-Conforming Zoning Use prior to the expiration of the previous Certificate of Occupancy for Non-Conforming Zoning Use. In the event a Certificate of Occupancy for Non-Conforming Zoning Use is not renewed by the owner, the non-conforming use authorization will be terminated. In the event that a user or structure becomes non-conforming by reason of subsequent amendments to this ordinance, such non-conformity may be continued upon procurement of a Certificate of Occupancy as prescribed above. Structures or uses which are non-conforming by reason of yards, height, area, or off-street parking provisions only, may be extended, enlarged, altered, remodeled or modernized provided that no additional encroachment of the height and area provisions are occasioned thereby.

**207.3. Change or Extension of Use.** A non-conforming use shall not be changed, unless changed to a conforming use. A non-conforming use if changed to a conforming use may not thereafter be changed back to the original use or to any non-conforming use. For the purpose of this ordinance, a use shall be decreed to be changed if changed from a use listed in one of the numbered sections of Chapters 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 hereof to a use not listed in such paragraphs. A non-conforming use shall not be extended, except as provided in Section 206 and Section 207 of this Ordinance. No building, structure, or premises where a non-conforming use has ceased for more than one year shall again be devoted to a non-conforming use. The existence of the non-conforming nature of the use shall not, in itself, be the sole reason for the refusal of permits and licenses, nor other activities normal to that use.

**207.4. Restoration and Repairs.** Such repairs and maintenance work as are required to keep a non-conforming building or structure in a modern or sound condition may be made, provided, however, that a non-conforming building or structure which is damaged or

partially destroyed by fire, explosion, act of God, or act of a public enemy may be repaired or restored and the occupancy for use of such building or structure or part thereof which existed at the time of such destruction may be continued or resumed, provided that such restoration is started within a period of one year of the time of such damage and diligently prosecuted to completion. This period of time may be extended by the Zoning Board of Appeals (See Section 305.4. Variance Review Criteria) in cases where an undue hardship is incurred. In the event of destruction in excess of eighty percent (80%) of its replacement value, a non-conforming building or structure may be rebuilt for its original use as outlined above, except that existing setback and height requirements for the area must be met.

**207.5. Plans Already Filed.** In any case where plans and specifications for a building or structure have been filed, which would conform with the provisions of this ordinance effective at the date of such filing, but not with the terms of this amendment to this ordinance, and where a building permit for such building or structure has been issued and construction work started within ninety (90) days of the effective date of this amendment to this ordinance, such work may proceed provided it is completed within one year of the date of the building permit.

## **SECTION 208 LOSS OF NON-CONFORMING USE STATUS.**

**208.1. General.** Status as a non-conforming use shall be lost and the non-conforming use shall be deemed a violation of this zoning code if any of the following occurs:

**208.1.1. Increasing the non-conformity period.** Unless otherwise allowed or accept where permitted by the Zoning Board of Appeals, expansion or change of the use or structure in such a way so as to increase the size, degree or intensity of the non-conformity.

**208.1.2. Zoning Violation.** Except for the initial non-conformity, any violation of the zoning code.

**208.1.3. Abandonment of the Use.** Intent to abandon a non-conforming use may be presumed where the uses ceases for more than a year and the owner has not expressed in writing an intent to maintain the use within thirty (30) days after being requested in writing to do so. Failure to renew a Certificate of Non-Conforming Use within one (1) year following expiration date shall cause the loss of right to continue the non-conforming nature of the use.

**208.1.3.A Lost Status.** If non-conforming use status is lost, all future use shall be in conformity with this zoning code and the initial non-conforming use may not be continued or reestablished.

**208.2. Reduction.** If a non-conforming use or structure is reduced or changed in such a way so as to decrease the size, degree, or intensity of the non-conformity, the use or structure may not thereafter be expanded or changed to cause an increase in the non-conformity.

**208.3. Elimination.** In accordance with Act 207 of the Public Acts of 1921 [MCL 125.581 et seq., MSA 5.2931 et seq.], as amended, the City Council may, from time to time, acquire properties on which non-conforming uses or structures are located, by condemnation or

otherwise, and may remove such uses or structures and resell the property for a conforming use or develop it for a public use. The net cost of such acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

**208.4. Relation to Non-Conforming Uses.** It is not necessary for an owner of a legal non-conforming structure or use to obtain a land use permit in order to maintain its legal, non-conforming status. However, no Class I non-conforming use shall be changed or extended until land use permit has been issued by the Code Official. In such cases the permit shall state specifically how the non-conforming use differs from the provisions of this Code.

## **SECTION 209 DISTRICT BOUNDARY CHANGES**

**209.1. General.** The foregoing provisions of this Ordinance shall also apply to buildings, structures, land or uses which hereafter become non-conforming due to any reclassification of districts under this ordinance or any subsequent amendments to this ordinance.

## **SECTION 210 IMPORTANT GUARANTEES**

**210.1. Required.** To ensure compliance with the Zoning Code and any condition imposed thereunder, the City Council, the Planning Commission, the Zoning Board of Appeals, or the Code Official may require that a guarantee covering the estimated cost of improvements associated with a project for which zoning approval is sought be deposited with the City Treasurer to ensure faithful completion of the improvements.

**Definitions.** As used in this Ordinance:

- "Guarantee" or "improvement guarantee" means a cash deposit, certified check, irrevocable bank letter of credit or surety bond in such form as determined by the City Attorney.
- B. "Improvements" means those features and actions associated with a project, that are considered necessary by the body or official granting zoning approval to protect natural resources or the health, safety and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, parking, screening and drainage. "Improvements" does not include the entire project which is the subject of zoning approval.

**210.3. Deposit.** The guarantee shall be deposited at the time of the issuance of the permit authorizing the activity of the project. The City may not require deposit of the guarantee before the date upon which the City is prepared to issue the permit.

**210.4. Rebate.** The Code Official shall establish written procedures under which a cash deposit, in reasonable proportion to the ratio of work completed on the required improvements, is rebated as work progresses. Such procedures shall be on file in the office of the Code Official. The Code Official may amend such procedures, but such amendments shall not affect any guarantee previously deposited with the City, except upon mutual agreement of the Code Official, the person obtaining the permit to which the guarantee applies and the person making the guarantee.

## **SECTION 211 FEES AND DEPOSITS**

**211.1. General.** At the time of a request for any zoning approval, special land use permit, rezoning request, and site plan review an applicant shall pay to the City Treasurer a fee as determined by resolution of the City Council. The fee shall cover the approximate cost of the request to appear before the appropriate board. In addition to any established fees, the applicant shall deposit such sum as is determined necessary by the Code Official to cover any extraordinary costs in processing the application.

## **SECTION 212 VIOLATIONS**

**212.1. Unlawful Acts.** It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or land or cause or permit the same to be done in violation of this Ordinance. When any building or parcel of land regulated by this Ordinance is being used contrary to this Ordinance, the Code Official shall be permitted to order such use discontinued and the structure, parcel of land, or portion thereof, vacated by the notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Code Official after receipt of such notice to make the structure, parcel of land, or portion thereof, comply with the requirements of this Ordinance.

**212.2. Civil Infraction Citation.** A person who violates any provision of the Zoning Code is responsible for a municipal civil infraction subject to payment of a civil fine of not less than fifty dollars (\$50) or more than five hundred dollars (\$500) plus costs and other sanctions for each infraction. Increased civil fines may be imposed for repeated violations by a person of any requirement of this code. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provisions (i) committed by a person within any six month period (unless some other period is specifically provided by this code or any ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense which is a first repeat offense shall be no less than two hundred fifty dollars (\$250), plus costs. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than five hundred dollars (\$500), plus costs. Each day on which any violation of this code continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense. The owner of any building or premises, or part thereof where any conditions in violation of this Ordinance exist or shall be created, and any architect, builder, contractor, agent, corporation or person employed in connection therewith, and who has assisted knowingly in the commission of any such violation shall each be guilty of a separate offense and upon conviction thereof shall be liable to the fines as provided.

## **SECTION 213 DECLARATION OF NUISANCES**

**213.1. General.** Buildings and structures built, altered, razed or converted, or uses carried on, in violation of this Zoning Code, are hereby declared to be a nuisance per se. Any court of competent jurisdiction may order such nuisance abated, and the owner or agent in charge of the building or land may be adjudged guilty of maintaining a nuisance per se. A person may not assert that a use is a non-conforming use or vested right, by way of

defense to any Code enforcement action or otherwise until that person has exhausted all administrative remedies for determination of a non-conforming use.

## **SECTION 214 UNLAWFUL USE NOT AUTHORIZED**

**214.1. General.** Nothing in this ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning provisions in effect at the time of the effective date of this ordinance or any amendments thereto.

## **SECTION 215 VALIDITY**

**215.1. General.** Should any section, clause or provision of this ordinance be declared by a court to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

**215.2. Validity of Licenses, Permits and Approvals.** For the issuance of any license, permit or approval for which the commission or board is responsible, the Code Official shall require that the development or use in question proceed only in accordance with the terms of such license, permit or approval, including any requirements or conditions established as a condition of issuance. Except as specifically provided for in this Ordinance and conditions of approval, the securing of one required review or approval shall not exempt the recipient from the necessity of securing any other required review or approval.

**CHAPTER 3  
BOARD OF ZONING APPEALS**

**SECTION 301  
GENERAL**

**301.1. Purpose.** This section addresses the duties and responsibilities of the Board of Zoning Appeals, hereafter referred to as "the Board" and other officials and agencies, with respect to the administration of this chapter.

**301.2. Cross References, as amended.**

- A. Board of Zoning Appeals - MCL 125.555
- B. Meetings of the Board; freedom of information - MCLA 125.585a
- C. Review by Circuit Courts; appeals to Supreme Court; procedure - MCLA 125.590
- D. Actions for review; proper and necessary parties; notice; failure to appear - MCL 125.591
- E. Authority for nonconforming uses - Zoning Ordinance Section 206 Non-Conforming Uses

**301.3. Establishment of the Board.** The Zoning Board of Appeals is established in accordance with Act 207 of the Public Acts of 1921, as amended (MCL 125.581 et seq; MSA 5.2931, et seq). The Board shall perform its duties and exercise its powers as provided by state law and this Zoning Code such that the intent of this Zoning Code is observed and the health, safety and welfare of the public is secured.

**301.4. Filing for Appeal.** Any person with standing, aggrieved or affected by any decision of the Code Official shall be permitted to appeal to the Zoning Board of Appeals by written request with the Code Official. Upon furnishing the proper information, the Code Official shall transmit to the Zoning Board of Appeals all papers and pertinent data related to the appeal.

**301.5. Time Limit.** An appeal shall only be considered if filed within ten working days after the cause arises or the appeal shall not be considered. If such an appeal is not made, the decision of the Code Official shall be considered final.

**301.6. Stays of Proceedings.** An appeal stays all proceedings from further action unless there is immediate danger to public health and safety.

**SECTION 302  
ZONING BOARD OF APPEALS; COMPOSITION; TERMS OF OFFICE.**

**302.1. Membership.** The Zoning Board of Appeals shall consist of six (6) members appointed by the City Council for terms of three (3) years. Terms shall be overlapping to provide for the appointment of an equal number of members each year.

**302.2. Alternate Members.** The City Council may appoint two (2) alternate members for terms of three (3) years each. An alternate member may be called by the Chairperson of the Board or the Code Official to sit as a regular member of the Board in the absence of a regular member if:

**302.2.1. Attendance.** A regular member is unable to attend a regularly scheduled meeting; or

**302.2.2. Conflict of Interest.** A regular member has abstained from a decision for reason of a conflict of interest.

**302.2.3. Duration.** The alternate member having been appointed shall serve on an appeal until a final decision has been made. Such alternate member shall have the same voting rights as a regular member of the Board. Absence, inability to attend or abstention because of a conflict of interest may be established by communication of a Board member at least twenty-four (24) hours prior to the regularly scheduled Board meeting.

### **SECTION 303 HEARINGS**

**303.1. General.** The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to all persons to whom any real property within three hundred (300) feet of the premises in question is accessed, and to the occupants of single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the latest assessment role, at least five (5) days before the hearing of an appeal. If a tenant's name is not known, the term occupant will be used. Upon the hearing, a party may appear in person or by agent or by attorney. Meetings of the Zoning Board of Appeals shall be held at the call of the Code Official and at such other times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public. The Board shall follow rules of procedure and keep a public record of its proceedings showing the action of the Board and the vote of each member upon each questions considered. The presence of four (4) members shall be necessary to constitute a quorum and a majority vote of the members of the Board shall be necessary to reverse an order, requirement, decision or determination of an administrative official or to decide in favor of the applicant in the case of a variance, exception or interpretation, except that the concurring vote of four (4) of the members shall be necessary to grant a variance from uses of land permitted by this Zoning Code.

### **SECTION 304 RULES OF PROCEDURE**

**304.1. General.** The Zoning Board of Appeals shall follow such procedures as are established by statute, Ordinance and resolution of the Board. These procedures shall include:

**304.1.1. Appeals Generally.** For purposes of these rules of procedure, an appeal shall include applications for appeals, interpretations, variances, exceptions and matters involving nonconforming uses.

**304.1.2. Initiating Appeals.** Appeals shall be filed with the Code Official within ten (10) working days after written notice is given of the action being appealed. An appeal must be submitted at least fifteen (15) business days before the Board meeting at which it will be considered. An appeal may be taken by a person aggrieved, or by the

Code Official. A petition for variance may be initiated only by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or a person having a written contractual interest in the affected property.

**304.1.3. Filing Fees.** The filing fee for appeals shall be established by resolution of the City Council.

**304.1.4. Advertisements.** One (1) advertisement in a local newspaper of general circulation indicating the nature of the appeal and the date of the hearing will be placed between seven (7) and twenty (20) days before the hearing. A minor deviation in the notice published in the newspaper or in the time of appearance of such notice in the newspaper shall not affect the validity of the proceedings of the Board unless there is a clear demonstration of prejudice as a result of such minor deviation.

**304.1.5. Regular Meetings.** The Board shall annually certify their meeting dates and times of each month. If the regular meeting date falls on a holiday, or if the regular meeting date falls on a Tuesday immediately following a Monday holiday, the meeting date shall be moved to the next working day. Meetings shall be held in the City Council Chambers of City Hall, unless otherwise indicated.

**304.1.6. Exceptions to Regular Meeting Dates.** If a quorum of the members is not present or anticipated, then the regular meeting may be canceled and rescheduled to the next regularly scheduled meeting or to the earliest possible date determined by the Chairperson of the Board. If no requests have been received fifteen (15) days before the date of a regularly scheduled meeting, the meeting may be canceled by the Code Official.

**Application Contents.** In addition to all other requirements of statute and Ordinance, applications shall be in a form determined by the Code Official and shall contain such information as the Code Official shall direct. Such applications shall also include the following:

- A. A site plan or site diagram reflecting accurate dimensions of the property, the location of structures on the property and the location of buildings on adjacent properties. If requested by the Board or the Code Official, such drawing shall be a survey performed by a registered land surveyor.
- B. The name, address and telephone number of the applicant and the authorized agents of the applicant.
- C. The application must be signed by the owner or someone acting upon written consent of the owner, which written consent must be submitted with the application.
- D. All previous appeals involving the property noted on the application as to the subject, date and outcome of the appeal.

**304.1.8. Conflict of Interest.** Members shall disqualify themselves from deliberating and voting on any matter in which a member has any personal, professional, or financial interest (direct or indirect). Before deliberating any appeal, the Chairperson shall ask if any member has such a conflict. Any member must clearly state the conflict for the record.

**304.1.9. Representation at Hearing.** The applicant or the applicant's authorized agent must be present at the public hearing to properly answer questions concerning the appeal. If the applicant or agent is not present, the appeal may be deferred until the next meeting or dismissed, at the direction of the Board.

**304.1.10. Reconsideration.** An applicant may re-appeal a decision after twelve (12) months from the decision of the Board. The Board will not reconsider any appeal within twelve (12) months from the date of the decision unless it can be shown by the applicant that there has been substantially changed circumstances affecting the appeal, which circumstances were not known to the Board at the previous hearing. The substantial change in circumstances shall be described, in writing, by the applicant at the time of the application.

**304.1.11. Instructions.** The Code Official shall prepare a written description of the procedures of the Board and instructions to all potential applicants. Such written instruction shall be submitted to the Board for its approval prior to the public distribution.

**304.1.12. Other Rules.** The Board may adopt such other rules to govern its procedure as it deems advisable, provided such rules are not in conflict with statute or Ordinance.

## **SECTION 305 POWERS AND DUTIES OF THE ZONING BOARD OF APPEALS**

**305.1. General.** The Board shall have the power to hear and decide on appeals where it is alleged that there is an error in any order, requirement, decision, determination or interpretation by the Code Official. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of appeal from and shall make an order, requirement, decision, or determination as in the Board's opinion ought to be made in the premises. If there are practical difficulties or unnecessary hardship in carrying out the strict letter of the ordinance, the Zoning Board of Appeals may, in passing on appeals, grant a variance in any of the provisions relating to the construction, or structural changes in, equipment, or alteration of buildings or structures, or the use of land, buildings, or structures, so that the spirit of the ordinance shall be observed, public safety secured, and substantial justice done. The Zoning Board of Appeals shall not have the power to vary a standard for a Planned Unit Development or a Special Land Use Permit.

**305.2. Appeals** The Board shall hear and decide appeals where it is alleged by the applicant that there is an error in any order, requirement, decision or determination made by the Code Official or body charged with the enforcement of this Zoning Code.

**Interpretations.** Upon application by the Code Official or person interested in a specific affected parcel of land, when other administrative appeals have been exhausted, the Board shall have the power to:

- A. Interpret the Zoning Code in such a way as to carry out its intent and purpose;
- B. Determine the precise location of a zoning district and special area boundaries;

- C. Classify a use which is not specifically mentioned, determine the district within which the use is permitted and determine the necessary parking to support the use; and
- D. Determine the off-street parking and loading space requirements of this Zoning Code.

**305.4. Variance Review Criteria.** The Board shall have the power to authorize specific variances or departures from this Zoning Code, if all of the basic conditions are satisfied, and if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Zoning Code. A variance from the dimensional requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is a practical difficulty in carrying out the requirement. A variance from the use requirements of this Zoning Code may only be granted if it is determined that all basic conditions have been satisfied and that there is an unnecessary hardship created by those use restrictions.

**Basic Conditions.** Any variance granted from this Zoning Code shall meet the following basic conditions:

- A. The spirit of the Zoning Code shall be observed, public safety secured and substantial justice done.
- B. There is no substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.
- C. The difficulty or hardship relating to the property is not so general or recurrent in nature that the formulation of a general regulation for such conditions is preferable.
- D. The practical difficulties or unnecessary hardships are unique to the property under consideration and not to the general neighborhood, and shall apply only to property that is under the control of the applicant.
- E. It shall be necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.
- F. There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
- G. The alleged hardship or difficulty is not solely economic, and is based on the reasonable use of a particular parcel of land.
- H. It may be denied where the alleged practical difficulties or unnecessary hardships resulted from an act of the applicant, or a person in privity or concert with the applicant.

**305.6. Practical difficulties and unnecessary hardships.** In order to determine if there are practical difficulties or unnecessary hardships which prevent carrying out the strict letter of this Zoning Code the following shall apply:

**305.6.1. Dimensional Variance.** A practical difficulty shall exist where there are exceptional or extraordinary circumstances or physical conditions, such as narrowness, shallowness, shape or topography of the property involved, that do not generally apply to other property or uses in the same zoning district.

**305.6.2. Use Variance.** The Board shall not grant a variance to allow the establishment of a use in a Zoning District when such use is prohibited by the provisions of this chapter. An unnecessary hardship shall exist where the lot

considered in combination with other land owned by the applicant adjacent thereto has no reasonable value as zoned.

**305.7. Other Powers.** In specific cases, the Zoning Board of Appeals may vary or nullify the regulations herein established, in harmony with the general purpose and intent, as follows:

- A. Permit in any district, such modification of the requirements of these regulations as said Board may deem necessary to secure an appropriate development of a lot where adjacent to such lot on two (2) or more sides there are buildings that do not conform to these regulations.
- B. Extend the period of time during which reconstruction must be started when restoring damage brought about by fire, explosion, act of God, or act of a public enemy as provided in Section 207.4 Restoration and Repairs of this Ordinance.
- C. Where the street layout actually on the ground varies from the street layout shown on the Zoning Map, apply the designations shown on the mapped street in such a way as to carry out the intent and purpose of the Ordinance for the particular area in question.

**305.8. Decisions.** The Board shall not have the authority to alter or change this Ordinance or zoning map to allow a use which would be inconsistent with the requirements of this Ordinance. Provided, however, that in interpreting and applying the provisions of this Ordinance, the requirements shall be deemed to be the spirit and intent of the Ordinance and does not constitute the granting of a special privilege.

## **SECTION 306 TIME LIMITATIONS OF ORDERS**

**306.1. Miscellaneous.** An order of the Zoning Board of Appeals permitting the erection or alteration of a building is valid for no longer than one (1) 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.

**306.2. Uses.** An order of the Board permitting the use of a building or premises is valid for no longer than one (1) year unless such use is established within such period. However, where such permitted use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within such period and if such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

**306.3. Modifications.** Time limits established by this Chapter may be lengthened or shortened by the Board as a condition imposed under the standards for conditions set forth in this Zoning Code.

**306.4. Expiration.** In addition to any expiration provision contained in an order itself, an order of the Zoning Board of Appeals may be declared by the Code Official to be expired where there has been change in a material circumstance or fact upon which the order was issued, such as, but not limited to, destruction of a building or natural feature, vacation of a street or a change in topography.

## **SECTION 307 COURT REVIEW**

**307.1. Circuit Court Review.** A decision of the Zoning Board of Appeals shall be final. However, any party having a substantial interest affected by an order, determination or decision of the Zoning Board of Appeals may appeal to the Circuit Court if such appeal is made to the Court within twenty-eight (28) days after rendering the final decision.

**307.2. Standards for Review.** The Circuit Court shall review the record and decision of the Zoning Board of Appeals to ensure that the decision:

- A. Complies with the constitution and the laws of the State;
- B. Is based upon proper procedure;
- C. Is supported by competent, material, and substantial evidence on the record;  
and
- D. Represents the reasonable exercise of discretion granted to the Zoning Board of Appeals.

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

**CHAPTER 4  
DISTRICTS, BOUNDARIES AND ZONING MAP**

**SECTION 401  
DISTRICT CLASSIFICATIONS**

**401.1. General.** In order to classify, regulate and restrict the locations of use and locations of buildings designated for specific areas; and to regulate and determine the areas of yards, courts and other open spaces within or surrounding such buildings, property is hereby classified into districts as prescribed in this chapter.

**401.2. Cross References, as amended.**

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

**401.3. Districts Established.** For the purpose of this Ordinance, the City of Escanaba is hereby divided into the following districts:

- OS Open Space District
- A Single-Family Dwelling District
- B Two-Family Dwelling District
- C Multiple-Family Dwelling District
- C2 Residential Planned Unit Development District
- D Local Business District
- E Commercial District
- E1 Planned Commercial Development District
- E2 Special Planned District
- F Light Manufacturing District
- F1 Industrial Park District
- G Heavy Manufacturing District

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

**401.5. Amendments.** The Council may from time to time on its motion or on petition, amend, supplement, or change the district boundaries or regulations herein established in the manner prescribed by Act No. 207 of the Public Acts of Michigan for 1921 (MCL 125.581 et seq., MSA 5.2931 et seq.), as amended. Whenever the owners of 50 percent or more of the frontage in any district or part thereof shall present to the Council a petition in writing, duly signed, requesting an amendment, supplement, change, or repeal of the

provisions prescribed for such district or part thereof, it shall be the duty of the Council to vote upon said petition within 90 days after the filing of the same by the petitioners with the Council. If any area is hereafter transferred to another district by a change in district boundaries by an amendment as above provided, the provisions of this ordinance, relating to building or uses of buildings or premises existing at the time of passage of this ordinance shall apply to buildings or uses of buildings or premises existing at the time of passage of such amendment in such transferred area.

**401.6. Interpretation of District Boundaries.** Where uncertainty exists with respect to the boundaries of the various districts, as shown on the Zoning Map, the following rules apply:

- A. If districts are bounded approximately by street, private street or alley lines, the centerline of the street, private street or alley shall be construed to be the boundary of the district.
- B. If the district boundaries are not indicated and if the property is now or later divided into blocks and lots, the district boundaries shall be construed to be the nearest lot lines.
- C. In unsubdivided property, the district boundary lines shall be determined by use of the scale appearing on the Zoning Map.
- D. Where the boundary line of a district divides a lot in a single ownership at the time of the passage of this Ordinance, the Code Official may permit the extension of a use permitted on the less restricted portion of such lot to the entire lot, but not for a distance at any point of more than fifty (50) feet beyond the district boundary line.

## **SECTION 402 CATEGORIES WITHIN ZONING DISTRICTS**

**General.** Any building or structure built, rebuilt, converted, enlarged, moved or structurally altered shall be used only for a use allowed in the district in which the building or structure is located. In order to insure all possible benefits and protection for the zoning districts in this Code, the land uses have been classified into three (3) categories:

- A. *Uses Permitted by Right.* The primary uses and structures specified for which the zoning district has been established.
- B. *Uses Permitted by Special Land Use Permit.* Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district, but could present optional injurious effects upon the primary uses and structures within the zoning district and therefore require special consideration in relation to the welfare of adjacent properties and to the community as a whole.
- C. *Uses Permitted by Planned Unit Development.* Uses and structures, compatible with the primary uses and structures within the zoning district, and which are provided a heightened degree of flexibility in site development standards to encourage mixed uses, open space preservation, preservation of natural resources or energy conservation.

**SECTION 403  
ZONING OF STREETS, ALLEYS AND RAILROAD CORRIDORS**

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

**SECTION 404  
ZONING OF VACATED STREETS**

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

**SECTION 405  
ZONING OF WATER AREAS**

**405.1. General.** All areas in the City which are under water and not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins two (2) or more districts, the boundaries of each district shall be construed to extend to the center of the water area.

**SECTION 406  
ZONING OF ANNEXED LAND**

**General.** All territory which may hereafter be annexed to the City of Escanaba shall be considered to be in the most restrictive Single-Family District for not more than ninety (90) days from the date of annexation, by which time the legislative body shall zone the territory.

**SECTION 407  
INCORPORATING USES ALLOWED**

**407.1. General.** When the regulations of a zoning district incorporate the uses allowed in a different zoning district, only those uses listed in the section entitled "Uses Allowed" are incorporated and not any of those uses allowed by special land use permit or any other special zoning permission.

**CHAPTER 5  
RESIDENCE "A" DISTRICTS**

**SECTION 501  
GENERAL PROVISIONS**

**501.1. Purpose.** The single-family dwelling district is for the purpose of primarily accommodating conventional single-family dwellings.

**501.2. Cross References, as amended.**

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

**SECTION 502  
PRINCIPAL USES PERMITTED BY RIGHT**

**502.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the one- family district:

- A. One-family detached dwellings developed pursuant to the "Subdivision Control Act", Act 288 of the Public Acts of 1967, Act 591 of Public Acts of 1996, and Act 87 of Public Acts of 1997, as amended.
- B. Accessory buildings and uses, including swimming pools, customarily incident to any of the above permitted uses.
- C. Gardens, arboretums, nursery, or greenhouses without sales facilities.
- D. Park, playground, school or college stadium or athletic field, golf course.
- E. Telephone exchange where no public business offices and no repair, storage or garage facilities are maintained.
- F. Special Care Facilities subject to the following conditions:
  - 1. A special use permit must be approved by the Planning Commission.
  - 2. The allowable number of total occupants shall not exceed six (6) within any 1500 foot radius.
  - 3. Required area and lot sizes shall be the same as for other residential occupancy requirements within the zoning district.
  - 4. All applicants for special use permits must demonstrate that there will be adequately trained personnel to staff or manage the type of facility being proposed.
  - 5. In Residence A Districts, not more than six (6) permitted within any 1500 foot radius.
- G. Home Occupations. As used in this chapter, a home occupation is an accessory use of the main dwelling that shall constitute either entirely or partially the livelihood of a

person living in the dwelling, provided it complies with all applicable performance standards set forth in this chapter. Home Occupations subject to the following conditions:

1. A home occupation shall be conducted within the dwelling unit which is the bona fide residence of the principal practitioner of the occupation.
2. All business activity and storage shall take place within the interior of the dwelling unit.
3. No alterations to the exterior of the residential dwelling or yard that alters the residential character of the exterior premises is permissible.
4. The home occupation shall not generate vehicular traffic beyond eight-trip-ends per day.
5. Only off-street parking facilities customary for a residential use and located on the premises may be used.
6. No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
7. Home occupations shall be conducted solely by persons residing at the residence, and not more than two such persons shall be employed in the home occupation.
8. One (1) sign identifying a home occupation may be used provided is wall mounted on the principal residence and is not more than three (3) square feet with no side dimension exceeding thirty-six (36) inches.
9. No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
10. Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.
11. The use shall not generate noise, vibration or odors detectable beyond the property line.

(a) **Permitted Home Occupations.** The following are permitted home occupations provided they do not violate any of the provisions of the "A" District, and that they are consistent with State and local licensing requirements.

- (1) Beauty/barbershop, single chair.
- (2) Bed and breakfast operation.
- (3) Catering, home cooking and preserving.
- (4) Family day care home.
- (5) Computer programming and services.
- (6) Contractor or decorator.
- (7) Direct sale product distribution, e.g. Amway, Avon, Mary-Kay.
- (8) Taxidermy.
- (9) Dressmaking, sewing and tailoring.
- (10) Drafting and graphic services.
- (11) Flower arranging.
- (12) Gardening, landscaping maintenance.

- (13) Home crafts such as model making, rug weaving, lapidary work, jewelry making, woodworking and upholstery.
- (14) Individual musical instrument instruction, provided that no instrument is amplified.
- (15) Interior designers.
- (16) Janitorial and cleaning services.
- (17) Laundry and ironing services.
- (18) Locksmith.
- (19) Mail order catalog services.
- (20) Office of minister, rabbi, or priest.
- (21) Offices such as an accountant, architect, bookkeeper, broker, consultant, counselor, dentist, engineer, investment and financial planner, land surveyor, lawyer, physician, psychologist, psychiatrist and real estate broker.
- (22) Office of a sales representative or manufacturer's representative.
- (23) Painting, sculpturing, photography or writing.
- (24) Repair service for small items.
- (25) Secretarial services.
- (26) Telephone answering or solicitation work.
- (27) Tutoring or educational instruction.
- (28) Similar types of businesses as approved by the Planning Commission.
- (29) The above list is not exclusive.

(b) **Prohibited Home Occupations.** The following are prohibited as home occupations:

- (1) Amusement or dance parlor.
- (2) Funeral home or chapel.
- (3) Health salons, gyms.
- (4) Kennel or other boarding of animals.
- (5) Medical or dental clinic, hospital.
- (6) Motor vehicle repair, parts sales, upholstery.
- (7) Motor vehicle sales.
- (8) Motor vehicle fleet storage.
- (9) Nursing home.
- (10) Private club.
- (11) Repair or testing of internal combustion engines.
- (12) Restaurant.
- (13) Tavern.
- (14) Veterinary clinic or animal hospital.
- (15) Similar types of businesses. The above list is not exclusive.

H. **Bed and Breakfast Establishment.** Bed and Breakfast Establishment subject to the following conditions:

- 1. The minimum size of a one-family residential dwelling for a Bed and Breakfast Establishment is two thousand (2,000) square feet of normal residential space, exclusive of garages and storage sheds.
- 2. All applicants for a bed and Breakfast Establishment license must demonstrate that the proposed establishment will comply with Escanaba's Bed and Breakfast Establishment ordinance.

I. **Adult Foster Care Facilities.** Adult Foster Care (state licensed residential facility as defined by MCLA 125.5836; MSA 5.2933(27)).

**SECTION 503**  
**USES ALLOWED BY SPECIAL LAND USE PERMIT**

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

- A. Clustered single-family dwellings.
- B. Essential service building, publicly owned buildings.
- C. Group day care homes.
- D. Places of worship.
- E. Schools.
- F. Temporary dwelling units.
- G. Churches, public or parochial schools, colleges, publicly owned and operated libraries, museum.
- H. Community building or club, except where the principal activity thereof is a service customarily carried on as a business.
- I. Nursery schools, child care centers, and similar institutions for children of pre-school age.
- J. Fire and Police Stations.
- K. Hospital, clinic, convent, home dormitory, or other buildings of like character, occupied, or to be occupied more or less permanently (but not including penal or correctional institutions).
- L. Convenience Store.
- M. Auxiliary Dwelling Units subject to the following conditions:
  - 1. Auxiliary Dwelling Unit. An auxiliary dwelling is an additional residential unit providing complete, independent living facilities for no more than two people, including provisions for living, sleeping, eating, cooking and sanitation exclusively for occupancy by immediate family members which are directly related to the primary dwelling unit occupants such as parents, grandparents, children or grandchildren or bonafide caregivers to the primary dwelling unit occupants.
  - 2. Special Land Use Permit. A special land use permit is required to establish an Auxiliary Dwelling Unit.
  - 3. Specific Restrictions/Criteria. In order to qualify for a special land use permit, the use must be conducted on owner-occupied property zoned Residential District "A" and is limited to one auxiliary dwelling unit only.
  - 4. Owner-occupied shall mean a property owner who makes his or her legal residence at the subject property, as evidenced by voter registration, vehicle registration, or similar means, and actually resides at the subject property more than six months out of any given year.
  - 5. The use must be contained in a stick-built or prefabricated structure which conforms to the standards of the Michigan Building Code and be attached to the primary dwelling unit on the property. The auxiliary dwelling unit shall not have a separate address or house number.

6. The number of occupants in the auxiliary dwelling unit is limited to two.
7. The auxiliary dwelling unit must be established in such a way as to minimize its visibility from adjacent streets and properties. The dwelling unit shall not be taller than the allowable building height as defined in Section 508 Building Height of the Zoning Ordinance.
8. The gross square footage of the auxiliary dwelling unit, excluding parking space, shall not exceed one-half the gross square footage of the primary dwelling unit or seven hundred square feet, whichever is less.
9. The auxiliary dwelling unit shall comply with all parking requirements for the primary dwelling unit. Any parking provided for the auxiliary dwelling unit shall be served from the same driveway system that serves the primary dwelling unit.
10. The auxiliary dwelling unit must meet the setback requirements of the primary dwelling unit and shall not cause the lot coverage requirement of the zone to be exceeded.
11. Any auxiliary dwelling unit established in a primary structure shall not contain more than one bathroom, one kitchen, one utility room, two bedrooms, and one living or combination living and dining room.
12. The Special Land Use Permit must be recorded with the Delta County Register of Deeds Office prior to issuance of a final land use permit for the auxiliary dwelling unit, to ensure understanding and compliance with this requirement

*Section 503.1 General, Paragraph M, Auxiliary Dwelling Units – as amended by City Council on 04/05/07.*

#### **SECTION 504**

#### **ACCESSORY USES PERMITTED IN A RESIDENCE A DISTRICT - WHEN LOCATED ON THE SAME LOT WITH THE PRINCIPAL USE**

**504.1. Allowed Uses.** Uses customarily incident to any of the permitted uses and located on the same lot therewith, provided all area and yard requirements are met.

#### **SECTION 505 SETBACKS**

**505.1. Front Yard Requirement.** In a Residence A District there shall be a front yard on every lot.

**505.1.1. Front Yard.** Every front yard shall be at least twenty-five (25) feet or thirty-five percent (35%) of the depth of the lot (whichever is least restrictive) as measured at right angles from the front lot line to the nearest part of the principal building located on the lot, provided however, that on lots located on the same side of the street and between the same consecutive intersecting streets as other lots of which at least fifty percent (50%) are occupied by uses wherein the depths of the front yard are other than that required above, the depth of the front yard shall be not less than the average depth of the front yards of such occupied lots. In no case are the provisions of this section to require a front yard depth in excess of 35 percent of the average depth of the lot nor less than 15 feet.

**505.1.2. Front Yard Setback.** The front yard setback shall not be used for off-street parking from April 2 to November 30, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.

**505.2. Side Yard Requirement.** In a Residence A District there shall be on each side of every lot a side yard.

**505.2.1. Minimum Side Yard.** The minimum side yard for residential structures shall be ten percent of the width of the lot with a total of twenty-five percent (25%) of the lot required for both side yards; provided, however, that no side yard shall have a width of less than four feet and this shall be increased by four (4) feet for each story by which a building erected on a lot exceeds 2 stories in height. And provided however that no minimum interior side yard shall be required to exceed fifteen (15) feet nor shall the total side yards be required to exceed forty-five (45) feet.

**505.2.2. Side Yard Width.** The width of a side yard abutting upon a street shall not be less than the minimum front yard depth required on an adjoining interior lot fronting upon such side street but this shall not reduce the buildable width of any lot of record at the time of passage of this ordinance to less than thirty (30) feet at the ground story level; provided, however, that in no case shall the width of said side yard be less than eight (8) feet.

**505.2.3. Other Buildings.** For any building other than a dwelling, in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons, in numbers in excess of fifty (50), or for any telephone exchange, police or fire station, the width of each side yard shall not be less than twelve (12) feet, and in addition thereto the width of each side yard shall be increased four (4) feet for each twenty-five (25) persons or major fraction thereof, in excess of fifty (50), for the accommodation of whom the building is designed, arranged, remodeled, or normally used, except that for portions of such building of fire resistant construction and entirely without movable windows or other openings, an increase of only two (2) feet for each twenty-five (25) persons or major fraction thereof in excess of fifty (50) shall be required.

**505.3. Rear Yard Requirement.** In a Residence A District there shall be a rear yard on every lot.

**505.3.1. Minimum Rear Yard.** The minimum rear yard shall be twenty (20) feet in depth as measured at right angles from the rear lot line to the nearest part of the principle building on each lot upon which a one (1) story principal building is located. On lots occupied by other than one story principal buildings, the minimum depth of the required rear yard shall be increased by four (4) feet for each additional story. The depth of a rear yard abutting upon a street shall be not less than the depth of the front yard required for a building of the same size and kind on an adjoining lot fronting on such rear street.

**505.3.2. Other Buildings.** On a lot occupied by a building other than a dwelling, in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons in numbers in excess of fifty (50), the depth of the rear yard shall be increased by four (4) feet for each twenty-five (25) persons or major fraction thereof, in excess of fifty (50).

**505.4. Through Lots and Corner Lot.** Through lots and corners lots having a frontage on two streets shall provide the required setback on both streets.

**505.5. Other Requirements.**

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

**505.5.2. Lots Along Railroad Right-of-Way or Property.** Any lot created or recorded after October 1, 2003, that is adjacent to or along a railroad right-of-way, shall not be used for any residential purpose unless it has a depth of at least two hundred fifty (250) feet.

## SECTION 506 ENCROACHMENTS INTO SETBACKS

**506.1. Projections into Required Yards.** Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches, boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

**Exceptions:**

- A. Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.
- B. An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding twenty (20) feet.
- C. Unenclosed porches/balconies may not extend more than eight (8) feet into the front yard.
- D. Awnings, arbors and trellises, flagpoles, window air conditioner units and fences.
- E. Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**506.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**506.2.1. Neighbor Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three (3) working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**506.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**506.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance.

## SECTION 507 LOT DENSITY

**507.1. Area.** No newly established lot shall have a depth of less than one hundred (100) feet or a depth in excess of four (4) times its width. The minimum width of lots on which no permanent dwellings have been erected at the time of the passage of this ordinance shall be sixty (60) feet. With Planning Commission approval and in accordance with the subsections 507.2. Planning Commission Approval-Irregular Lot, 507.3. Public Hearing Process-Irregular Lot, 507.3.1. Newspaper Notice, 507.3.2. Public Notice, 507.3.3. Notice Applicability, 507.3.4. Public Hearing-Notice Content, 507.4. Approval Standards-Irregular Lot, 507.5. Protest-Irregular Lot Approval, and 507.6. Appeal-Irregular Lot, an irregular lot with less than 60 feet of street frontage may have a permanent dwelling erected upon same provided the building construction complies with all other yard, height and setback requirements for the district and the essential character of the locality is not altered. In Original Plat Proprietor's Addition Subdivision, Proprietor's First Addition Subdivision, Selden Subdivision, S.H. Selden Addition, Cleary's Subdivision, Ludington Addition, Proprietor's Second Addition, Glazer's

Addition, Cadyland Company Third Addition, Campbell's Second Addition, Campbell's Third Addition, Wells Addition, Brandso's Addition, Moore and Matthews Addition, I. Stephenson Company Plat, I. Stephenson Company First Addition, I. Stephenson Company Second Addition, the minimum width of lots at the time of passage of this Ordinance shall be fifty (50) feet provided all other yard requirements are met.

**507.1.1. Square Footage.** In a Residence A District no building containing a single family dwelling shall be erected or used on any lot less than six thousand (6,000) square feet in area.

**507.1.2. Area Percentage.** No buildings or structures hereafter erected shall occupy more than thirty-five percent (35%) of the area of the lot. The required lot area for a lot of record is to be measured within one hundred forty (140) feet of the front line. The required lot area of an irregular lot is to be measured within one hundred forty (140) feet of the building lot line.

**507.2 Planning Commission Approval-Irregular Lot.** It shall be the duty of the Planning Commission to review all use requests for irregular lots. The application shall be accompanied by maps, drawings or other documentation in support of the request. The granting of an irregular lot use shall not exempt the applicant from having to comply with other relevant provisions of related ordinances.

**507.3. Public Hearing Process - Irregular Lot.** A hearing before the Planning Commission shall be conducted on all proposed irregular lot uses. The procedure for the Planning Commission public hearing shall be as follows:

**507.3.1. Newspaper Notice.** At least fifteen (15) days notice of the public hearing shall be given in an official newspaper of general circulation in the City.

**507.3.2. Public Notice.** At least fifteen (15) days notice of the time and place of the public hearing shall be mailed to each public entity, public utility company and to each railroad company owning or operating any public utility or railroad within the districts affected that registers its name and mailing address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

**Notice Applicability.** For properties which are proposed for irregular lot use, notice of the proposed use and hearing shall be given at least fifteen (15) days before the hearing to:

- A. The owners of the property in question;
- B. All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question; and
- C. At least one (1) occupant of each dwelling unit or spatial area owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units or distinct spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. Where the names of the occupant is not known, the term "occupant" may be used in making notification.

**507.3.4. Public Hearing - Notice Content:** The notice shall contain the following:

- A. A description of the proposed irregular land use;
- B. A description of the subject property;
- C. The time and location of the public hearing; and
- D. Then and where written comments will be received.

**507.4 Approval Standards - Irregular Lot.** An irregular lot use may be granted by the Planning Commission provided the following standards are met:

- A. The essential character of the locality is not altered.
- B. The development of the property will be good for the general welfare of the neighborhood for the orderly development of the land in accordance with the goals and objectives as identified in the Community Comprehensive Plan.
- C. There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.
- D. The alleged difficulty is not solely economic, and is based on the reasonable use of the parcel of land.
- E. The lot will have adequate accessibility, or an area available for public utilities and emergency and other vehicles.

**507.5 Protest - Irregular Lot Approval.** If a protest of a proposed irregular lot approval is presented to the Planning Commission at or before the public hearing date on the request and it is properly signed by the owners of at least twenty percent (20%) of the noticed area of land, included

in the request, excluding publicly owned land then such request for irregular lot use approval shall be passed only by the affirmative vote of three-fourths of the members of the Planning Commission.

**507.6. Appeal-Irregular Lot.** Any person with standing, aggrieved, or affected by the decision of the Planning Commission concerning an irregular lot use approval/disapproval shall be permitted to appeal the decision to the Zoning Board of Appeals as outlined in Chapter 3 Board of Zoning Appeals.

## **SECTION 508 BUILDING HEIGHT**

**508.1. General.** In a Residence A District, no dwelling shall exceed thirty-five (35) feet in height, and no building other than a dwelling shall exceed forty-five (45) feet in height.

### **Exceptions:**

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

Parapet Walls may be used to screen existing equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

## **SECTION 509 ACCESSORY BUILDINGS/PRIVATE GARAGES**

**509.1. Distances.** Accessory buildings other than private garages shall be at least ten (10) feet from any dwelling situated on the same lot and at least six (6) feet from any other building on adjacent lot or accessory building on the same lot.

**509.2. Front Yard Space.** Detached accessory buildings and/or private garages may not occupy front yard space.

**509.3. Side Yard Space.** Accessory buildings and/or private garages and portions thereof may occupy that portion of the side yard which is in excess of the said yard requirements.

**509.4. Rear Yard Area.** Accessory buildings and/or private garages and portions thereof may occupy up to fifty percent (50%) of the required rear yard space except, where a rear yard abuts for its full width upon a street, said buildings and portions thereof shall not occupy any of the required minimum rear yard space. On a corner lot, accessory buildings and/or private garages shall not

occupy any part of that portion of the rear yard lying nearer to the street than the width of the side yard required for the same lot and abutting on such street.

**509.5. Side yard Requirement.** No portion of any accessory building and/or private garage shall approach nearer to a side lot line than three (3) feet except that on adjoining lots one story accessory buildings may be built up to the common lot line for a distance of not to exceed thirty (30) feet, provided, that such buildings on both sides of such common lot line are erected at the same time and are separated by a common or party wall of fire resistant construction. No portion of any private garage shall approach nearer to a rear lot line/alley right-of-way than five (5) feet.

**509.6. Accessory Height.** Accessory buildings other than a private garage shall not exceed twelve (12) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111. General Definitions. The height of a private garage shall not exceed eighteen (18) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111. General Definitions or the height of the principal building, whichever is less.

## **SECTION 510 PARKING**

**510.1. General Space Requirements.** Parking space requirements for single-family dwellings are two (2) for each dwelling unit. All residential parking shall be located on the premises it is intended to serve.

**510.1.1.** Required parking spaces shall be in the dimension of ten (10) by twenty (20), shall be on a hard surface driveway or in a private garage and shall not be located in a required front yard.

**510.2. Elderly Housing Requirements.** Parking space requirements for elderly housing is one for each four (4) units, and one (1) for each employee. Should units revert to general occupancies, then two spaces per unit shall be provided.

**510.3. Bed and Breakfast Establishment Requirements.** Parking space requirements for bed and breakfast establishments are two parking spaces for use of the operator and family of the operator and one parking space per bed and breakfast sleepingroom.

**510.4. Surface of Parking Area.** Parking spaces and driveways shall be provided with a paved surface. The parking/driveway surface must be graded and drained so as to dispose of all surface water accumulation within the area. There must be a concrete curb at least four (4) inches above grade along the side or sides adjacent to the residential area up to a point two (2) feet from the sidewalk. A concrete or other suitable barrier must be placed parallel to the walk to prevent any parked vehicle from approaching closer than two (2) feet to the sidewalk.

## **SECTION 511 REPAIR/STORAGE OF VEHICLES AND MERCHANDISE**

**511.1 General.** The repair of vehicles, and the storage of merchandise, motor vehicles or trucks is prohibited.

## **SECTION 512 CONVEYANCES WHICH CREATE NON-CONFORMING USE**

**512.1. General.** No conveyance of land shall hereafter be made when, as a result of such conveyance, the land or structure of the grantor shall be caused thereby to become a non-conforming use or structure.

**SECTION 513  
LANDSCAPING REQUIREMENTS**

**513.1. General.** Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Section. Said landscaping shall be completed within one year from the date of occupancy of the building.

**513.2. Front Yards.** Front yards required by this Ordinance shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**513.3. Street-Side Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**513.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

**SECTION 514  
FENCES AND WALLS**

**514.1. General.** The following restriction shall apply to all fences and walls located within the zoned district, except for fences and walls surrounding public utility structures or radio, television, or microwave transmission or relay towers:

- A. No person shall construct or cause to have constructed any fence or wall upon any property within the City without first having to obtain a permit.
- B. Permit application shall contain all information required for the determination of whether the erection of such fence or wall will violate any Ordinance of the City.
- C. No fence or wall located in the front yard shall be built to a height greater than four (4) feet above grade and six (6) feet above the grade in the side and rear yard area. On a corner lot fences and walls nearer the street than the established building line shall not exceed four (4) feet in height.
- D. The capital of a fence post or column may extend up to two (2) feet above the maximum fence/wall height limit.
- E. No partition fence or wall shall extend towards the street beyond two (2) feet from the established lot line, nor shall any fence or wall or portion thereof be erected in any area on or parallel to the front lot line except that it shall be located a minimum of two (2) feet behind the inside edge of the established sidewalk line.
- F. No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on to which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public spaces or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.
- G. Any person within the corporate limits of the City erecting or maintaining any fence or hedge shall be fully responsible for the care and maintenance of the fence or hedge and shall assume full responsibility for any damaging arising due to the erection of such fence or hedge.

**SECTION 515**  
**SIGNS**

**515.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

**CHAPTER 6  
RESIDENCE “B” DISTRICTS**

**SECTION 601  
GENERAL**

**601.1. Purpose.** The two-family dwelling district is for the purpose of primarily accommodating conventional two-family dwellings.

**Cross References.**

Zoning and planning in home rules cities - MCLA 117.41

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

Regulation of buildings; authority to zone - MCLA 125.582

Regulation of congested areas - MCLA 125.583

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

**SECTION 602  
PRINCIPAL USES PERMITTED BY RIGHT**

**General.** The following uses of land and buildings, together with accessory uses, are allowed in the one- family district:

Two-family detached dwellings developed pursuant to the “Subdivision Control Act”, Act 288 of the Public Acts of 1967, Act 591 of Public Acts of 1996, and Act 87 of Public Acts of 1997, as amended.

One-family dwellings developed pursuant to the “Subdivision Control Act”, Act 288 of the Public Acts of 1967, Act 591 of Public Acts of 1996, and Act 87 of Public Acts of 1997, as amended.

Accessory buildings and uses, including swimming pools, customarily incident to any of the above permitted uses.

Nursery schools, child care centers, and similar institutions for children of pre-school age.

Gardens, arboretums, nursery, or greenhouses without sales facilities.

Park, playground, school or college stadium or athletic field, golf course.

Telephone exchange where no public business offices and no repair, storage or garage facilities are maintained.

Fire and Police Stations.

In sparsely settled and unplatted areas, a hospital, clinic, convent, home (See Chapter 1, General Provisions, Section 111, General Definitions for "home"), dormitory, or other buildings of like character, occupied, or to be occupied more or less permanently (but not including penal or correctional institutions, or institutions for the care of the feebleminded or insane, or for liquor or drug addicts) only when permitted by the Board of Appeals and subject to at least the minimum requirements for yards and area in a Residence B District and other reasonable limitations and conditions.

Special Care Facilities. Special Care Facilities subject to the following conditions:

1. A special use permit must be approved by the Planning Commission.

The allowable number of total occupants shall not exceed six (6) within any 1500 foot radius.

Required area and lot sizes shall be the same as for other residential occupancy requirements within the zoning district.

All applicants for special use permits must demonstrate that there will be adequately trained personnel to staff or manage the type of facility being proposed.

In Residence B Districts, not more than six (6) permitted within any fifteen hundred (1500) foot radius.

**Home Occupations.** As used in this article, a home occupation is an accessory use of the main dwelling that shall constitute either entirely or partially the livelihood of a person living in the dwelling, provided it complies with all applicable performance standards set forth in this article. Home Occupations subject to the following conditions:

1. A home occupation shall be conducted within the dwelling unit which is the bona fide residence of the principal practitioner of the occupation.
2. All business activity and storage shall take place within the interior of the dwelling unit.
3. No alterations to the exterior of the residential dwelling or yard that alters the residential character of the exterior premises is permissible.
4. The home occupation shall not generate vehicular traffic beyond eight-trip-ends per day.
5. Only off-street parking facilities customary for a residential use and located on the premises may be used.
6. No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.
7. Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.
8. One (1) sign identifying a home occupation may be used provided it is wall mounted on the principal residence and is not more than three (3) square feet with no side dimension exceeding thirty-six (36) inches.
9. No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.
10. Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.

The use shall not generate noise, vibration or odors detectable beyond the property line.

**Permitted Home Occupations.** The following are permitted home occupations provided they do not violate any of the provisions of the "B" District, and that they are consistent with State and local licensing requirements.

Beauty/barbershop, single chair.  
Bed and breakfast operation.  
Catering, home cooking and preserving.  
Family day care home.

Computer programming and services.  
Contractor or decorator.  
Direct sale product distribution, e.g. Amway, Avon, Mary-Kay.  
Taxidermy.  
Dressmaking, sewing and tailoring.  
Drafting and graphic services.  
Flower arranging.  
Gardening, landscaping maintenance.  
Home crafts such as model making, rug weaving, lapidary work,  
jewelry making, woodworking and upholstery.  
Individual musical instrument instruction, provided that no instrument is  
amplified.  
Interior designers.  
Janitorial and cleaning services.  
Laundry and ironing services.  
Locksmith.  
Mail order catalog services.  
Office of minister, rabbi, or priest.  
Offices such as an accountant, architect, bookkeeper, broker,  
consultant, counselor, dentist, engineer, investment and financial  
planner, land surveyor, lawyer, physician, psychologist,  
psychiatrist and real estate broker.  
Office of a sales representative or manufacturer's representative.  
Painting, sculpturing, photography or writing.  
Repair service for small items.  
Secretarial services.  
Telephone answering or solicitation work.  
Tutoring or educational instruction.  
Similar types of businesses as approved by the Planning  
Commission.  
The above list is not exclusive.

**Prohibited Home Occupations.** The following are prohibited as home occupations:

Amusement or dance parlor.  
Funeral home or chapel.  
Health salons, gyms.  
Kennel or other boarding of animals.  
Medical or dental clinic, hospital.  
Motor vehicle repair, parts sales, upholstery.  
Motor vehicle sales.  
Motor vehicle fleet storage.  
Nursing home.  
Private club.  
Repair or testing of internal combustion engines.  
Restaurant.  
Tavern.  
Veterinary clinic or animal hospital.

Similar types of businesses.

The above list is not exclusive.

Bed and Breakfast Establishment. Bed and Breakfast Establishment subject to the following conditions:

Not more than one (1) establishment is permitted within any fifteen hundred (1,500) foot radius of each other.

The minimum size of a one-family residential dwelling for a Bed and Breakfast Establishment is two thousand (2,000) square feet of normal residential space, exclusive of garages and storage sheds.

All applicants for a bed and Breakfast Establishment license must demonstrate that the proposed establishment will comply with Escanaba's Bed and Breakfast Establishment ordinance.

M. Adult Foster Care Facilities. Adult Foster Care (state licensed residential facility as defined by MCLA 125.5836; MSA 5.2933(27)).

### **SECTION 603 USES ALLOWED BY SPECIAL LAND USE PERMIT**

**General.** The following uses of land and buildings, together with accessory uses, are allowed in the Residence B District if a special land use permit is issued according to the standards of this Chapter:

A. Clustered single-family dwellings; B. Essential service buildings; C. Group day care homes; D. Places of worship; E. Schools; F. Churches, public or parochial schools, colleges, publicly owned and operated libraries, museum; and G. Community building or club, except where the principal activity thereof is a service customarily carried on as a business.

### **SECTION 604 ACCESSORY USES PERMITTED IN A RESIDENCE B DISTRICT - WHEN LOCATED ON THE SAME LOT WITH THE PRINCIPAL USE**

#### **Section 604.1. Allowed Uses.**

Living quarters of persons employed on the premises when incorporated in the principal building.

B. The offices of a physician, dentist, architect, lawyer, photographer, insurance agent or public accountant when located within his dwelling, if such dwelling conforms to all its zone district requirements, provided that not more than one person not a resident in said dwelling is employed in such office, and no more than one half of the floor area of one story of the dwelling is devoted to such use, and that no mechanical or electrical equipment which will create a nuisance to the adjacent neighborhood is used.

C. Home occupation as defined in Section 602.1.2.

- D. Uses customarily incident to any of the permitted uses and located on the same lot therewith, including one private garage for each dwelling unit, provided that not more than one commercial vehicle of not more than two ton capacity is housed therein.
- E. Community garages by permission of the Zoning Board of Appeals.

## **SECTION 605 SETBACKS**

**605.1. Front Yard Requirement.** In a Residence B District there shall be a front yard on every lot.

**605.1.1. Front Yard.** Every front yard shall be at least twenty-five (25) feet or thirty-five percent (35%) of the depth of the lot (whichever is least restrictive) as measured at right angles from the front lot line to the nearest part of the principal building located on the lot, provided however, that on lots located on the same side of the street and between the same consecutive intersecting streets as other lots of which at least fifty percent (50%) are occupied by uses wherein the depths of the front yard are other than that required above, the depth of the front yard shall be not less than the average depth of the front yards of such occupied lots. In no case are the provisions of this section to require a front yard depth in excess of thirty-five percent (35%) of the average depth of the lot nor less than fifteen (15) feet.

**605.1.2. Front Yard Setback.** The front yard setback shall not be used for off-street parking from April 2<sup>nd</sup> to November 30<sup>th</sup>, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.

**605.2. Side Yard Requirement.** In a Residence B District there shall be on each side of every lot a side yard.

**605.2.1. Minimum Rear Yard.** The minimum side yard for residential structures shall be ten percent (10%) of the width of the lot with a total of twenty-five percent (25%) of the lot required for both side yards; provided, however, that no side yard shall have a width of less than four feet and this shall be increased by four (4) feet for each story by which a building erected on a lot exceeds two (2) stories in height. And provided however that no minimum interior side yard shall be required to exceed fifteen (15) feet nor shall the total side yards be required to exceed forty-five (45) feet.

**605.2.2. Side Yard Width.** The width of a side yard abutting upon a street shall not be less than the minimum front yard depth required on an adjoining interior lot fronting upon such side street but this shall not reduce the buildable width of any lot of record at the time of passage of this ordinance to less than thirty (30) feet at the ground story level; provided, however, that in no case shall the width of said side yard be less than eight (8) feet.

**605.2.3. Other Buildings.** For any building other than a dwelling, in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons, in numbers in excess of fifty (50), or for any telephone exchange, police or fire station, the width of each side yard shall not be less than twelve (12) feet, and in addition thereto the width of each side yard shall be increased

four (4) feet for each twenty-five (25) persons or major fraction thereof, in excess of fifty (50), for the accommodation of whom the building is designed, arranged, remodeled, or normally used, except that for portions of such building of fire resistant construction and entirely without movable windows or other openings, an increase of only two (2) feet for each twenty-five (25) persons or major fraction thereof in excess of fifty (50) shall be required.

**605.2.4. Distance.** On a lot occupied by a residential building having a greater depth than 30 feet, there shall be provided, contiguous to the side yard or side lot line, an outer court or courts of such width that all portions of the building in excess of thirty (30) feet in depth shall be distant from the side lot line not less than four (4) feet plus one inch for each foot of such depth in excess of thirty (30) feet.

**605.3. Rear Yard Requirement.** In a Residence B District there shall be a rear yard on every lot.

**605.3.1. Minimum Rear Yard.** The minimum rear yard shall be twenty (20) feet in depth as measured at right angles from the rear lot line to the nearest part of the principle building on each lot upon which a one story principal building is located. On lots occupied by other than one story principal buildings, the minimum depth of the required rear yard shall be increased by four (4) feet for each additional story. The depth of a rear yard abutting upon a street shall be not less than the depth of the front yard required for a building of the same size and kind on an adjoining lot fronting on such rear street.

**605.3.2. Other Buildings.** On a lot occupied by a building other than a dwelling, in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons in numbers in excess of fifty (50), the depth of the rear yard shall be increased by four (4) feet for each twenty-five (25) persons or major fraction thereof, in excess of fifty (50).

**605.4. Through Lots and Corner Lot.** Through lots and corners lots having a frontage on two streets shall provide the required setback on both streets.

**605.5. Other Requirements.**

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

**605.5.2. Lots Along Railroad Right-of-Way or Property.** Any lot created or recorded after October 1, 2003, that is adjacent to or along a railroad right-of-way, shall not be used for any residential purpose unless it has a depth of at least two hundred fifty (250) feet.

## **SECTION 606 ENCROACHMENTS INTO SETBACKS**

**606.1. Projection into Required Yards.** Projections into Required Yards. Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches,

boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

**Exceptions:**

Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.

An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding twenty (20) feet.

Unenclosed porches/balconies may not extend more than eight (8) feet into the front yard. Awnings, arbors and trellises, flagpoles, window air conditioner units and fences.

Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**606.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**606.2.1. Neighbor Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**606.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**606.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance.

**SECTION 607  
LOT DENSITY**

**607.1. Area.** No newly established lot shall have a depth of less than one hundred (100) feet or a depth in excess of four (4) times its width. The minimum width of lots on which no permanent dwellings have been erected at the time of the passage of this ordinance shall be sixty (60) feet. With Planning Commission approval and in accordance with the subsections 607.2. Planning Commission Approval-Irregular Lot, 607.3. Public Hearing Process-Irregular Lot, 607.3.1. Newspaper Notice, 607.3.2. Public Notice, 607.3.3. Notice Applicability, 607.3.4. Public Hearing-Notice Content, 607.4. Approval Standards-Irregular Lot, 607.5. Protest-Irregular Lot Approval, and 607.6. Appeal-Irregular Lot, an irregular lot with less than 60 feet of street frontage may have a permanent dwelling erected upon same provided the building construction complies with all other yard, height and setback requirements for the district and the essential character of the locality is not altered. In Original Plat Proprietor's Addition

Subdivision, Proprietor's First Addition Subdivision, Selden Subdivision, S.H. Selden Addition, Cleary's Subdivision, Ludington Addition, Campbell's Second Addition, Proprietor's Second Addition, Glazer's Addition, Cadyland Company Third Addition, Campbell's Second Addition, Campbell's Third Addition, Wells Addition, Brandso's Addition, Moore and Matthews Addition, I. Stephenson Company Plat, I. Stephenson Company First Addition, I. Stephenson Company Second Addition, the minimum width of lots at the time of passage of this Ordinance shall be fifty (50) feet provided all other yard requirements are met.

**607.1.1. Square Footage.** In a Residence B District no building containing a two-family dwelling shall be erected or used on any lot less than seven thousand (7,000) square feet in area. A two-family dwelling on any existing lot of record that is not less than six thousand (6,000) square feet, and not less than fifty (50) feet in width may be used for the construction of a two-family dwelling.

**607.1.2. Area Percentage.** No buildings or structures hereafter erected shall occupy more than thirty-five percent (35%) of the area of the lot. The required lot area for a lot of record is to be measured within one hundred forty (140) feet of the front lot line. The required lot area of an irregular lot is to be measured within one hundred forty (140) feet of the building lot line.

**607.2 Planning Commission Approval-Irregular Lot.** It shall be the duty of the Planning Commission to review all use requests for irregular lots. The application shall be accompanied by maps, drawings or other documentation in support of the request. The granting of an irregular lot use shall not exempt the applicant from having to comply with other relevant provisions of related ordinances.

**607.3. Public Hearing Process - Irregular Lot.** A hearing before the Planning Commission shall be conducted on all proposed irregular lot uses. The procedure for the Planning Commission public hearing shall be as follows:

**607.3.1. Newspaper Notice.** At least fifteen (15) days notice of the public hearing shall be given in an official newspaper of general circulation in the City.

**607.3.2. Public Notice.** At least fifteen (15) days notice of the time and place of the public hearing shall be mailed to each public entity, public utility company and to each railroad company owning or operating any public utility or railroad within the districts affected that registers its name and mailing address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

**Notice Applicability.** For properties which are proposed for irregular lot use, notice of the proposed use and hearing shall be given at least fifteen (15) days before the hearing to:

The owners of the property in question;

All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question; and

At least one (1) occupant of each dwelling unit or spatial area owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units or distinct spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary

entrance to the structure. Where the names of the occupant is not known, the term "Occupant" may be used in making notification.

**607.3.4. Public Hearing - Notice Content:** The notice shall contain the following:

A. A description of the proposed irregular land use; B. A description of the subject property; C. The time and location of the public hearing; and D. When and where written comments will be received.

**607.4 Approval Standards - Irregular Lot.** An irregular lot use may be granted by the Planning Commission provided the following standards are met:

The essential character of the locality is not altered.

The development of the property will be good for the general welfare of the neighborhood for the orderly development of the land in accordance with the goals and objectives as identified in the Community Comprehensive Plan.

There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.

The alleged difficulty is not solely economic, and is based on the reasonable use of the parcel of land.

The lot will have adequate accessibility, or an area available for public utilities and emergency and other vehicles.

**607.5 Protest - Irregular Lot Approval.** If a protest of a proposed irregular lot approval is presented to the Planning Commission at or before the public hearing date on the request and it is properly signed by the owners of at least twenty percent (20%) of the noticed area of land, included in the request, excluding publicly owned land then such request for irregular lot use approval shall be passed only by the affirmative vote of three-fourths of the members of the Planning Commission.

**607.6. Appeal-Irregular Lot.** Any person with standing, aggrieved, or affected by the decision of the Planning Commission concerning an irregular lot use approval/disapproval shall be permitted to appeal the decision to the Zoning Board of Appeals as outlined in Chapter 3 Board of Zoning Appeals.

## **SECTION 608 BUILDING HEIGHT**

**608.1. General.** In a Residence B District, no dwelling shall exceed three (3) stories, nor shall exceed thirty-five (35) feet in height, and no building other than a dwelling shall exceed four (4) stories or shall exceed forty-five (45) feet in height.

**Exceptions:**

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

Parapet Walls may be used to screen existing equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

## SECTION 609 ACCESSORY BUILDINGS/PRIVATE GARAGES

**609.1. Distances.** Accessory buildings other than private garages shall be at least ten (10) feet from any dwelling situated on the same lot and at least six (6) feet from any other building on adjacent lot or accessory building on the same lot.

**609.2. Front Yard Space.** Detached accessory buildings and/or private garages may not occupy front yard space.

**609.3. Side Yard Space.** Accessory buildings and/or private garages and portions thereof may occupy that portion of the side yard which is in excess of the said yard requirements.

**609.4. Rear yard Space.** Accessory buildings and/or private garages and portions thereof may occupy up to 50 percent of the required rear yard space except, where a rear yard abuts for its full width upon a street, said buildings and portions thereof shall not occupy any of the required minimum rear yard space. On a corner lot, accessory buildings and/or private garages shall not occupy any part of that portion of the rear yard lying nearer to the street than the width of the side yard required for the same lot and abutting on such street.

**609.5. Side Yard Requirement.** No portion of any accessory building and/or private garage shall approach nearer to a side lot line than three (3) feet except that on adjoining lots one story accessory buildings may be built up to the common lot line for a distance of not to exceed thirty (30) feet, provided, that such buildings on both sides of such common lot line are erected at the same time and are separated by a common or party wall of fire resistant construction. No portion of any private garage shall approach nearer to a rear lot line/alley right-of-way than five (5) feet.

**609.6. Accessory Height.** Accessory buildings other than a private garage shall not exceed twelve (12) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111. General Definitions. The height of a private garage shall not exceed 18 feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111. General Provisions or the height of the principal building, whichever is less.

**609.7. Accessory Buildings.** Accessory buildings and/or private garages that exceed two hundred (200) square feet in gross floor area shall be constructed using materials and features similar to the principal building.

## SECTION 610 PARKING

**610.1. General.** Parking space requirements are two for each dwelling unit.

**610.2. Elderly Housing Requirements.** Parking space requirements for elderly housing is one for each four units, and one for each employee. Should units revert to general occupancies, then two spaces per unit shall be provided.

**610.3. Bed and Breakfast Establishment Requirements.** Parking space requirements for bed and breakfast establishments are two parking spaces for use of the operator and family of the operator and one parking space per bed and breakfast sleepingroom.

**610.4. Surface Parking Area.** The parking surface must be graded and drained so as to dispose of all surface water accumulation within the area. There must be a concrete curb at least four (4) inches above grade along the side or sides adjacent to the residential area up to a point two (2) feet from the sidewalk. A concrete or other suitable barrier must be placed parallel to the walk to prevent any parked vehicle from approaching closer than two (2) feet to the sidewalk.

**SECTION 611  
REPAIR/STORAGE OF VEHICLES AND MERCHANDISE**

**611.1. General.** The repair of vehicles, and the storage of merchandise, motor vehicles or trucks is prohibited.

**SECTION 612  
CONVEYANCES WHICH CREATE NON-CONFORMING USE**

**612.1. General.** No conveyance of land shall hereafter be made when, as a result of such conveyance, the land or structure of the grantor shall be caused thereby to become a non-conforming use or structure.

**SECTION 613  
LANDSCAPING REQUIREMENTS**

**613.1. General.** Landscaping is required for all new buildings and additions over 500 square feet as defined in this Section. Said landscaping shall be completed within one year from the date of occupancy of the building.

**613.2. Front Yards.** Front yards required by this Ordinance shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**613.3. Street-Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**613.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

**SECTION 614  
FENCES AND WALLS**

**General.** The following restriction shall apply to all fences and walls located within the zoned district, except for fences and walls surrounding public utility structures or radio, television, or microwave transmission or relay towers:

No person shall construct or cause to have constructed any fence or wall upon any property within the City without first having to obtain a permit.

Permit application shall contain all information required for the determination of whether the erection of such fence or wall will violate any Ordinance of the City.

No fence or wall located in the front yard shall be built to a height greater than four (4) feet above grade and six (6) feet above grade in the side and rear yard area. On a corner lot fences and walls nearer the street than the established building line shall not exceed four (4) feet in height.

The capital of a fence post or column may extend up to two (2) feet above the maximum fence/wall height limit.

No partition fence or wall shall extend towards the street beyond two (2) feet from the established lot line, nor shall any fence or wall or portion thereof be erected in any area on or parallel to the front lot line except that it shall be located a minimum of two (2) feet behind the inside edge of the established sidewalk line.

No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public space or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.

Any person within the corporate limits of the City erecting or maintaining any fence or hedge shall be fully responsible for the care and maintenance of the fence or wall and shall assume full responsibility for any damaged arising due to the erection of such fence or hedge.

No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on to which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public spaces or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.

## **SECTION 615 SIGNS**

**615.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

**CHAPTER 7  
RESIDENCE “C” DISTRICTS**

**SECTION 701  
GENERAL PROVISIONS**

**701.1. Purpose.** The multiple-family dwelling district is for the purpose of primarily accommodating conventional multiple-family dwellings.

**Cross References, as amended.**

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

**SECTION 702  
PRINCIPAL USES PERMITTED BY RIGHT**

**702.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in a multi-family district:

- Multiple-family dwellings developed pursuant to the “Subdivision Control Act”, Act 288 of the Public Acts of 1967, of Public Acts of 1966, and Act 87 of Public Acts of 1997, as amended.
- Two-family dwellings developed pursuant to the “Subdivision Control Act”, Act 288 of the Public Acts of 1967, Act 591 of Public Acts of 1996, and Act 87 of Public Acts of 1997, as amended.
- One-family detached dwellings developed pursuant to the “Subdivision Control Act”, Act 288 of the Public Acts of 1967, Act 591 of Public Acts of 1996, and Act 87 of Public Acts of 1997, as amended.
- Accessory buildings and uses, including swimming pools, customarily incident to any of the above permitted uses.
- Churches, public or parochial schools, colleges, publicly owned and operated libraries, museum.
- Private educational institutions when operated primarily for the purpose of giving preparatory education similar in character to that provided in the public schools or kindergartens, nursery schools and similar institutions for children of pre-school age.
- Gardens, nursery, or greenhouses without sales facilities.
- Park, playground, school or college stadium or athletic field, golf course.
- Telephone exchange where no public business offices and no repair, storage or garage facilities are maintained.
- Fire and Police Stations.
- Nursery schools, child care centers and similar institutions for children of preschool age.
- In sparsely settled and unplatted areas, a hospital, clinic, convent, home (See Chapter 1, General Provisions, Section 111, General Definitions for "home"), dormitory, or other buildings of like character, occupied, or to be occupied more or less permanently (but not including penal or correctional institutions, or institutions for

the care of the feeble-minded or insane, or for liquor or drug addicts) only when permitted by the Board of Appeals and subject to at least the minimum requirements for yards and area in a Residence C District and other reasonable limitations and conditions.

Community garages, when necessary to provide storage for vehicles of tenants of multi-family dwellings.

Rooming Houses.

Special Care Facilities. Special Care Facilities subject to the following conditions:

A special use permit must be approved by the Planning Commission.

The allowable number of total occupants shall not exceed six (6) within any fifteen hundred (1,500) foot radius.

Required area and lot sizes shall be the same as for other residential occupancy requirements within the zoning district.

All applicants for special use permits must demonstrate that there will be adequately trained personnel to staff or manage the type of facility being proposed.

Home Occupation. As used in this article, a home occupation is an accessory use of the main dwelling that shall constitute either entirely or partially the livelihood of a person living in the dwelling, provided it complies with all applicable performance standards set forth in this article. Home Occupations are subject to the following conditions:

A home occupation shall be conducted within the dwelling unit which is the bona fide residence of the principal practitioner of the occupation.

All business activity and storage shall take place within the interior of the dwelling unit.

No alterations to the exterior of the residential dwelling or yard that alters the residential character of the exterior premises is permissible.

The home occupation shall not generate vehicular traffic beyond eight-trip-ends per day.

Only off-street parking facilities customary for a residential use and located on the premises may be used.

No vehicles used in the conduct of the occupation may be parked, kept or otherwise be present on the premises, other than such as are customarily used for domestic or household purposes.

Home occupations shall be conducted solely by persons residing at the residence, and no more than two such persons shall be employed in the home occupation.

One (1) sign identifying a home occupation may be used provided it is wall mounted on the principal residence and is not more than three (3) square feet with no side dimension exceeding thirty-six (36) inches.

No sale or rental of goods is allowed on the premises, except as secondary and incidental to the furnishing of a service.

Instruction in crafts and fine arts are recognized as allowable home occupations if they meet the above conditions.

The use shall not generate noise, vibration or odors detectable beyond the property line.

**Permitted Home Occupations.** The following are permitted home occupations provided they do not violate any of the provisions of the "C"

District, and that they are consistent with State and local licensing requirements.

Beauty/barbershop, single chair.  
Bed and breakfast operation.  
Catering, home cooking and preserving.  
Family day care home.  
Computer programming and services.  
Contractor or decorator.  
Direct sale product distribution, e.g. Amway, Avon, Mary-Kay.  
Taxidermy.  
Dressmaking, sewing and tailoring.  
Drafting and graphic services.  
Flower arranging.  
Gardening, landscaping maintenance.  
Home crafts such as model making, rug weaving, lapidary work, jewelry making, woodworking and upholstery.  
Individual musical instrument instruction, provided that no instrument is amplified.  
Interior designers.  
Janitorial and cleaning services.  
Laundry and ironing services.  
Locksmith.  
Mail order catalog services.  
Office of minister, rabbi, or priest.  
Offices such as an accountant, architect, bookkeeper, broker, consultant, counselor, dentist, engineer, investment and financial planner, land surveyor, lawyer, physician, psychologist, psychiatrist and real estate broker.  
Office of a sales representative or manufacturer's representative.  
Painting, sculpturing, photography or writing.  
Repair service for small items.  
Secretarial services.  
Telephone answering or solicitation work.  
Tutoring or educational instruction.  
Similar types of businesses as approved by the Planning Commission.

The above list is not exclusive.

**(b) Prohibited Home Occupations.** The following are prohibited as home occupations:

Amusement or dance parlor.  
Funeral home or chapel.  
Health salons, gyms.  
Kennel or other boarding of animals.  
Medical or dental clinic, hospital.  
Motor vehicle repair, parts sales, upholstery.  
Motor vehicle sales.  
Motor vehicle fleet storage.  
Nursing home.

- Private club.
- Repair or testing of internal combustion engines.
- Restaurant.
- Tavern.
- Veterinary clinic or animal hospital.
- Similar types of businesses. The above list is not exclusive.

Bed and Breakfast Establishment. Bed and Breakfast Establishment subject to the following conditions:

Not more than one (1) establishment is permitted within any fifteen hundred (1,500) foot radius of each other.

The minimum size of a one-family residential dwelling for a Bed and Breakfast Establishment is two thousand (2,000) square feet of normal residential space, exclusive of garages and storage sheds.

All applicants for a bed and Breakfast Establishment license must demonstrate that the proposed establishment will comply with Escanaba's Bed and Breakfast Establishment ordinance.

- R. Adult Foster Care Facilities. Adult Foster Care (state licensed residential facility as defined by MCLA 125.5836; MSA 5.2933(27)).

### **SECTION 703 USES ALLOWED BY SPECIAL LAND USE PERMIT**

**703.1. General.** The following uses of land and building, together with accessory uses, are allowed in the Residence "C" District if a special land use permit is issued according to the standards of this Chapter:

- A. Essential service buildings; B. Group daycare homes; C. Temporary of dwelling units; and D. Community building or club, except where the principal activity thereof is a service customarily carried on as a business.

### **SECTION 704 ACCESSORY USES PERMITTED IN A RESIDENCE C DISTRICT - WHEN LOCATED ON THE SAME LOT AS THE PRINCIPAL USE**

**704.1. Allowed Uses.** Uses customarily incident to any of the permitted uses and located on the same lot therewith, provided all area and yard requirements are met.

### **SECTION 705 SETBACKS**

**705.1. Front Yard Requirement.** In a Residence C District there shall be a front yard on every lot.

**705.1.1. Front Yard.** Every front yard shall be at least twenty-five (25) feet or thirty-five percent (35%) of the depth of the lot (whichever is least restrictive) as measured at right angles from the front lot line to the nearest part of the principal building located on the lot, provided, however, that on lots located on the same side of the street and between the same consecutive intersecting streets as other lots of which at least fifty

percent (50%) are occupied by uses wherein the depth of the front yards are other than that required above, the depth of the front yard shall be not less than the average depth of the front yards of such occupied lots. In no case are the provisions of this section to require a front yard depth in excess of thirty-five percent (35%) of the average depth of the lot nor less than fifteen (15) feet.

**705.1.2. Front Yard Requirement.** The front yard setback shall not be used for off-street parking from April 2<sup>nd</sup> to November 30<sup>th</sup>, and shall remain as open space unoccupied and unobstructed from the ground upward except for landscaping, plant materials, or vehicle access drives.

**705.2. Side Yard Requirement.** In a Residence C District there shall be on each side of every lot a side yard.

**705.2.1. Minimum Side Yard.** The minimum side yard for residential structures shall be ten percent (10%) of the width of the lot with a total of twenty-five percent (25%) of the width of the lot required for both side yards; provided, however, that no side yard shall have a width of less than four (4) feet and this shall be increased by four (4) feet for each story by which a building erected on a lot exceeds two (2) stories in height.

**705.2.2. Side Yard Width.** The width of a side yard abutting upon a street shall not be less than the minimum front yard depth required on an adjoining interior lot fronting upon such side street but this shall not reduce the buildable width of any lot of record at the time of the passage of this Ordinance to less than thirty (30) feet at the ground story level; provided however, that in no case shall the width of said side yard be less than eight (8) feet.

**705.2.3. Other Buildings.** For any building other than a dwelling, in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons, in numbers in excess of fifty (50), or for any telephone exchange, police or fire station, the width of each side yard shall be increased by 4 feet for each 25 persons or major fraction thereof, in excess of 50.

**705.2.4. Depth.** On a lot occupied by a residential building having a greater depth than 30 feet, there shall be provided, contiguous to the side yard or side lot line, an outer court or courts of such width that all portions of the building in excess of thirty (30) feet in depth shall be distant from the side lot line not less than four (4) feet plus one inch for each foot of such depth in excess of thirty (30) feet.

**705.3. Rear Yard Requirement.** In a Residence C District there shall be a rear yard on every lot.

**705.3.1. Minimum Rear Yard.** The minimum rear yard shall be twenty (20) feet in depth as measured at right angles from the rear lot line to the nearest part of the principal building on each lot upon which a one story principal building is located. On lots occupied by other than one story principal buildings, the minimum depth of the required rear yard shall be increased by four (4) feet for each additional story. The depth of a rear yard abutting upon a street shall be not less than the depth of the front yard required for a building of the same size and kind of an adjoining lot fronting on such rear street.

**705.3.2. Other Buildings.** On a lot occupied by a building other than a dwelling, in which persons congregate, or which is designed, arranged, remodeled, or normally used for the congregation of persons in numbers in excess of fifty (50), the depth of the rear yard shall be increased in addition to other required increased (increases), herein, four (4) feet for each twenty-five (25) persons or major fraction thereof, in excess of fifty (50), for the accommodation of whom the building is designed, arranged, remodeled, or normally used, except that for portions of such building entirely of fire resistant construction and entirely without movable windows or other openings an increase of only two (2) feet for each twenty-five (25) persons or major fraction thereof in excess of fifty (50) shall be required.

**705.4. Through Lots and Corner Lot.** Through lots and corner lots having a frontage on two streets shall provide the required setback on both streets.

**705.5. Other Requirements.**

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

**705.5.2. Lots Along Railroad Right-of-Way or Property.** Any lot created or recorded after October 1, 2003, that is adjacent to or along a railroad right-of-way, shall not be used for any residential purpose unless it has a depth of at least two hundred fifty (250) feet.

**SECTION 706  
ENCROACHMENTS INTO SETBACKS**

**706.1. Projections Into Required Yards.** Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches, boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

**Exceptions:**

Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.

An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding twenty (20) feet.

Unenclosed porches/balconies may not extend more than eight (8) feet into the front yard.

Awnings, arbors and trellises, flagpoles, window air conditioner units and fences.

Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**706.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**706.2.1. Neighborhood Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**706.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**706.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance.

## **SECTION 707 LOT DENSITY**

**707.1. Area.** No newly established lot shall have a depth of less than one hundred (100) feet or a depth in excess of four (4) times its width. The minimum width of lots on which no permanent dwellings have been erected at the time of the passage of this ordinance shall be sixty (60) feet. With Planning Commission approval and in accordance with the subsections 707.2. Planning Commission Approval-Irregular Lot, 707.3. Public Hearing Process-Irregular Lot, 707.3.1. Newspaper Notice, 707.3.2. Public Notice, 707.3.3. Notice Applicability, 707.3.4. Public Hearing-Notice Content, 707.4. Approval Standards-Irregular Lot, 707.5. Protest-Irregular Lot Approval, and 707.6. Appeal-Irregular Lot, an irregular lot with less than 60 feet of street frontage may have a permanent dwelling erected upon same provided the building construction complies with all other yard, height and setback requirements for the district and the essential character of the locality is not altered. In Original Plat Proprietor's Addition Subdivision, Proprietor's First Addition Subdivision, Selden Subdivision, S.H. Selden Addition, Cleary's Subdivision, Ludington Addition, Campbell's Second Addition, Proprietor's Second Addition, Glazer's Addition, Cadyland Company Third Addition, Campbell's Second Addition, Campbell's Third Addition, Wells Addition, Brandso's Addition, Moore and Matthews Addition, I. Stephenson Company Plat, I. Stephenson Company First Addition, I. Stephenson Company Second Addition, the minimum width of lots at the time of passage of this Ordinance shall be fifty (50) feet provided all other yard requirements are met.

**707.1.1. Square Footage.** In a Residence C District no dwelling shall be erected or used on any lot less than six thousand (6,000) square feet in area.

**707.1.2. Area Percentage.** No building or structures hereafter erected shall occupy more than thirty-five percent (35%) of the area of lot. The required lot area for a lot of record is to be measured within one hundred forty (140) feet of the front lot line. The required lot area of an irregular lot is to be measured within one hundred forty (140) feet of the building lot line.

**707.2 Planning Commission Approval-Irregular Lot.** It shall be the duty of the Planning Commission to review all use requests for irregular lots. The application shall be

accompanied by maps, drawings or other documentation in support of the request. The granting of an irregular lot use shall not exempt the applicant from having to comply with other relevant provisions of related ordinances.

**707.3. Public Hearing Process - Irregular Lot.** A hearing before the Planning Commission shall be conducted on all proposed irregular lot uses. The procedure for the Planning Commission public hearing shall be as follows:

**707.3.1. Newspaper Notice.** At least fifteen (15) days notice of the public hearing shall be given in an official newspaper of general circulation in the City.

**707.3.2. Public Notice.** At least fifteen (15) days notice of the time and place of the public hearing shall be mailed to each public entity, public utility company and to each railroad company owning or operating any public utility or railroad within the districts affected that registers its name and mailing address with the City Clerk for the purpose of receiving the notice. An affidavit of mailing shall be maintained.

**Notice Applicability.** For properties which are proposed for irregular lot use, notice of the proposed use and hearing shall be given at least fifteen (15) days before the hearing to:

- A. The owners of the property in question;
- B. All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question; and
- C. At least one (1) occupant of each dwelling unit or spatial area owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units or distinct spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance to the structure. Where the names of the occupant is not known, the term "Occupant" may be used in making notification.

**707.3.4. Public Hearing - Notice Content.** The notice shall contain the following:

- A. A description of the proposed irregular land use; B. A description of the subject property; C. The time and location of the public hearing; and D. When and where written comments will be received.

**707.4 Approval Standards - Irregular Lot.** An irregular lot use may be granted by the Planning Commission provided the following standards are met:

The essential character of the locality is not altered.

The development of the property will be good for the general welfare of the neighborhood for the orderly development of the land in accordance with the goals and objectives as identified in the Community Comprehensive Plan.

There is a clear showing of an unnecessary hardship in that the property as a whole cannot reasonably be put to a use authorized by this Zoning Code.

The alleged difficulty is not solely economic, and is based on the reasonable use of the parcel of land.

The lot will have adequate accessibility, or an area available for public utilities and

emergency and other vehicles.

**707.5 Protest - Irregular Lot Approval.** If a protest of a proposed irregular lot approval is presented to the Planning Commission at or before the public hearing date on the request and it is properly signed by the owners of at least twenty percent (20%) of the noticed area of land, included in the request, excluding publicly owned land then such request for irregular lot use approval shall be passed only by the affirmative vote of three-fourths of the members of the Planning Commission.

**707.6. Appeal-Irregular Lot.** Any person with standing, aggrieved, or affected by the decision of the Planning Commission concerning an irregular lot use approval/disapproval shall be permitted to appeal the decision to the Zoning Board of Appeals as outlined in Chapter 3 Board of Zoning Appeals.

## **SECTION 708 BUILDING HEIGHT**

**708.1. General.** In a Residence C District, no building shall exceed fifty (50) feet in height.

### **Exceptions:**

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

Parapet walls may be used to screen existing equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

## **SECTION 709 ACCESSORY BUILDINGS/PRIVATE GARAGES**

**709.1. Distances.** Accessory buildings other than private garages shall be at least ten (10) feet from any dwelling situated on the same lot and at least six (6) feet from any other building on adjacent lot or accessory building on the same lot.

**709.2. Front Yard Space.** Accessory buildings and/or private garages may not occupy front yard space.

**709.3. Side Yard Space.** Accessory buildings and/or private garages and portions thereof may occupy that portion of the side yard which is in excess of the said yard requirements.

**709.4. Rear Yard Area.** Accessory buildings and/or private garages and portions thereof may occupy up to fifty percent (50%) of the required rear yard space except, where a rear yard abuts for its full width upon a street, said buildings and portions thereof shall not occupy any of the required minimum rear yard space. On a corner lot, accessory buildings and/or private garages shall not occupy any part of that portion of the rear yard lying nearer to the street than the width of the side yard required for the same lot and abutting on such street.

**709.5. Side Yard Requirement.** No portion of any accessory building and/or private garage shall approach nearer to a side lot line than three (3) feet except that on adjoining lots one story accessory buildings may be built up to the common lot line for a distance of

not to exceed thirty (30) feet, provided, that such buildings on both sides of such common lot line are erected at the same time and are separated by a common or party wall of fire resistant construction. No portion of any private garage shall approach nearer to a rear lot line/alley right-of-way than five (5) feet.

**709.6. Accessory Height.** Accessory buildings other than a private garage shall not exceed twelve (12 ) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111. General Definitions. The height of a private garage shall not exceed eighteen (18) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111. General Definitions or the height of the principal building, whichever is less.

**709.7. Accessory Buildings.** Accessory buildings and/or private garages that exceed two hundred (200) square feet in gross floor area shall be constructed using materials and features similar to the principal building.

## **SECTION 710 PARKING**

**710.1. General Space Requirements.** Parking space requirements for single-family, two-family, and multi-family dwellings are two (2) for each dwelling unit.

**710.2. Elderly Housing Requirements.** Parking space requirements for elderly housing is one for each four units, and one for each employee. Should units revert to general occupancies, then two spaces per unit shall be provided.

**710.3. Bed and Breakfast Establishment Requirements.** Parking space requirements for bed and breakfast establishments are two parking spaces for use of the operator and family of the operator and one parking space per bed and breakfast sleepingroom.

**710.4. Surface Parking Area.** The parking surface must be durable and dust free; it must be graded and drained so as to dispose of all surface water accumulation within the area. There must be a concrete curb at least four (4) inches above grade along the side or sides adjacent to the residential area up to a point two (2) feet from the sidewalk. A concrete or other suitable barrier must be placed parallel to the walk to prevent any parked vehicle from approaching closer than two (2) feet to the sidewalk.

## **SECTION 711 REPAIR/STORAGE OF VEHICLES AND MERCHANDISE**

**711.1. General.** The repair of vehicles, and the storage of merchandise, motor vehicles or trucks is prohibited.

## **SECTION 712 CONVEYANCES WHICH CREATE NON-CONFORMING USE**

**712.1. General.** No conveyance of land shall hereafter be made when, as a result of such conveyance, the land or structure of the grantor shall be caused thereby to become a non-conforming use or structure.

### **SECTION 713 LANDSCAPING REQUIREMENTS**

**713.1. General.** Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Section. Said landscaping shall be completed within one (1) year from the date of occupancy of the building.

**713.2. Front Yards.** Front yards required by this Ordinance shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**713.3. Street-Side Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**713.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

### **SECTION 714 FENCES AND WALLS**

**General.** The following restriction shall apply to all fences and walls located within the zoned district, except for fences and walls surrounding public utility structures or radio, television, or microwave transmission or relay towers:

No person shall construct or cause to have constructed any fence or wall upon any property within the City without first having to obtain a permit.

Permit application shall contain all information required for the determination of whether the erection of such fence or wall will violate any Ordinance of the City.

No fence or wall located in the front yard shall be built to a height greater than four (4) feet above the grade and six (6) feet above the grade in the side and rear yard area. On a corner lot fences and walls nearer the street than the established building line shall not exceed four (4) feet in height.

The capital of a fence post or column may extend up to two (2) feet above the maximum fence/wall height limit.

No partition fence or wall shall extend towards the street beyond two (2) feet from the established lot line, nor shall any fence or wall or portion thereof be erected in any area on or parallel to the front lot line except that it shall be located a minimum of two (2) feet behind the inside edge of the established sidewalk line.

No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public space or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner,

upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.

Any person within the corporate limits of the City erecting or maintaining any fence or hedge shall be fully responsible for the care and maintenance of the fence or wall and shall assume full responsibility for any damaged arising due to the erection of such fence or hedge.

## **SECTION 715 SIGNS**

**715.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

**CHAPTER 8  
RESIDENTIAL PLANNED-UNIT DEVELOPMENT DISTRICT (C-2)**

**SECTION 801  
GENERAL**

**801.1. Purpose.** The purpose of the Planned-Unit Development District is to provide the greater flexibility in development of land; encourage a variety in the development pattern of the community; encourage developers to use a creative approach in land development; conserve natural land features; facilitate a desirable aesthetic and efficient use of open space; create public and private common open spaces and flexibility and variety in the location of improvements on lots with diversity of the use of land.

**801.2. Cross References, as amended.**

Zoning and planning in home rules cities MCLA 117.4I  
Regulation of location of trades, buildings and uses by local authorities MCLA 125.581  
Regulation of buildings; authority to zone MCLA 125.582  
Regulation of congested areas MCLA 125.583  
Uses of land or structures not conforming to ordinances; power of legislative bodies;  
acquisition of property MCLA 125.583a  
Planned-Unit Development MCLA 125.584b  
Discretionary Decisions MCLA 125.584c

**SECTION 802  
ADOPTION OF PLANNED-UNIT DEVELOPMENT ZONES**

**802.1. General.** Any property may be zoned Planned-Unit Development Zone in accordance with the provisions of this Chapter; provided, that the Planning Commission and the Council adopts the final development plan for such property in accordance with this Chapter, and in which case the City Council shall adopt the final development plan as the zoning on the property.

**SECTION 803  
PERMITTED AND CONDITIONAL USES**

**803.1. General.** The following uses are permitted:

Town Houses, Condominiums, and similar.  
Single, double, and multi-family dwelling units.  
Public and private nonprofit parks and playgrounds, community centers and recreation facilities.  
Common public and private open spaces.  
Hiking and riding trails.  
Private noncommercial clubs, such as golf, swimming, tennis and country clubs.  
Accessory structures and uses.  
Garages and storage buildings when part of approved development plans.  
Child care centers/nursery schools.

The Planning Commission may authorize principal and other uses not stated provided

that such uses are consistent with the intent of this chapter and the standards set forth herein.

## **SECTION 804 DEVELOPMENT STANDARDS**

**804.1. General.** To ensure effective development of the City, the following development standards are adopted as part of Planned-Unit Development ordinance in addition to all other development standards provided for in the other City Codes. In cases of conflict between standards set forth in this Chapter and other parts of the City's Code, the standards provided for in such other code sections shall control unless the Planning Commission and Council shall have granted a variance from said standards in the approval of the Final Plan as provided in this Chapter.

## **SECTION 805 MINIMUM DEVELOPMENT DISTRICT SIZE**

**805.1. General.** Planned-Unit Development Districts shall be established only on parcels of land which are suitable for the proposed development and of sufficient size to be planned and developed in the manner consistent with the purpose of this Chapter.

## **SECTION 806 COMPATIBILITY WITH NEIGHBORHOOD**

**806.1. General.** The development plan and program submitted by the developer as provided in this Chapter shall present an organized arrangement of buildings, service facilities, landscaping, and fencing to insure compatibility with the comprehensive plan and character of the neighborhood. Adequate services normally rendered by the City to its citizens must be available to the proposed development at the time of development. The City will require the developer to provide for the cost of all utilities and services normally rendered to properties that are located with [with-in] the development area. These costs may include the extensions of any normal trunkline or area facility planning as may be part of the City's general comprehensive plan for the extension of the utilities and services which are affected by the proposed Planned-Unit Development area to the extent that they are encompassed within, through or abutting the development area district.

## **SECTION 807 DEVELOPMENT DENSITY**

**807.1. Area.** The maximum allowable area to be occupied by structures shall be limited to thirty-five percent (35%).

**807.2. Residential Density.** The number of dwelling units permitted in any planned residential development shall be determined as follows:

**807.2.1. Net Development Area.** Divide the net development area by the minimum lot area per dwelling unit required of five thousand (5,000) square feet of land per dwelling unit. The net development area shall be determined by subtracting the area set aside for churches, schools, and other non-residential uses from the gross development area, including R.O.W. designated for public street purposes. Drives, parking areas, and storage sites for residences within the district shall be considered

part of the net development area.

**807.3. Density Increase and Control.** The Planning Commission may grant additional dwelling units and greater density of location thereof if the Planning Commission, in its sole discretion, deems that the Preliminary Plan and Program is extraordinary in planned land use and design. All development standards of this Code shall control said grant of additional density.

## **SECTION 808 PERIPHERAL YARDS**

**808.1. General.** Along the periphery of any Planned-Unit Development Zone, a yard at least as deep as that required by the front yard regulations of each zone adjoining the periphery shall be provided on the portion of periphery facing each such adjoining zone, unless the Planning Commission determines that equal protection will be accorded properties in varying the yard requirements. Open space may serve as peripheral yards and/or buffer strips to separate one planned residential district from another if the Planning Commission interprets such a dual purpose use of the land to be in compliance with this section.

## **SECTION 809 OPEN SPACE**

**809.1. General.** Open space within a Planned-Unit Development means that land area to be used for scenic, landscaping, or open recreational purposes within the development. Open space shall be adequate for the recreational and leisure needs and use of the occupants and users of the Planned-Unit Development. In order to ensure that open space will be permanent, such instruments and documents guaranteeing the maintenance of open space shall be required by the City of Escanaba, and shall be approved as to form by the City Attorney. Failure to maintain the open space or any other property set forth in the development plan and program shall empower the City to enter the property and bring said property up to the standards set forth in the development plan and program and the City may assess the real property and improvements thereon located within the Planned-Unit Development for the cost of creating and maintaining said open and recreational lands as set forth in the development plan and program at its option.

## **SECTION 810 BUILDING HEIGHT**

**810.1. General.** In a Residence C-2 District, no building shall exceed thirty-five (35) feet in height.

### **Exceptions:**

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

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

## **SECTION 811**

## **PARKING**

**811.1 General.** Requirements for parking, loading, and driveways are contained in Chapter 17, Parking and Circulation Requirements.

### **SECTION 812 PRELIMINARY DEVELOPMENT PLAN AND PROGRAM**

**812.1. General.** Any owner of real property desiring to develop a Planned-Unit Development shall submit a preliminary development plan and program to the Planning Commission of the City of Escanaba as outlined in Chapter 18 Site Plan and Sketch Plan Standards of this Ordinance. The detailed site plan presented for consideration shall contain all information required as found in Chapter 18 Site Plan and Sketch Plan Standards.

### **SECTION 813 REVIEW OF PRELIMINARY DEVELOPMENT PLAN AND PROGRAM**

**813.1. General.** Upon filing of the preliminary development plan and program, the Code Official shall review the preliminary development plan and program and shall prepare for submission to the Planning Commission a report as to the conformance of the plan with respect to the requirements of this district.

### **SECTION 814 PLANNING COMMISSION REVIEW OF PRELIMINARY DEVELOPMENT PLAN AND PROGRAM**

**814.1. General.** Following receipt by the Planning Commission of the Code Official's report upon the preliminary development plan and program, the Planning Commission shall hold a public hearing.

**814.2. Public Hearing.** A Public Hearing shall be held on each Residential Planned Unit Development District request properly filed under this Zoning Code. Notice of the Public Hearing shall be given not less than seven (7) days nor more than twenty (20) days before said Public Hearing on a Residential Planned Unit Development District Application. Notice shall be published in a newspaper of general circulation in the City of Escanaba and notice shall be mailed or personally delivered to:

The owners of the property for which approval is being considered;

All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question; and

At least one (1) occupant of each dwelling unit or area owned or leased by different persons within three hundred (300) feet of the boundary of the property in question.

Where a single structure contains more than four (4) dwelling units, notices may be given to the manager or owner of the structure to post the notice at the primary entrance of the structure. Where the name of the occupant is not known, the term "Occupant" may be used in marking notification.

### **SECTION 815**

## **CONDITIONAL APPROVAL BY PLANNING COMMISSION**

**815.1. General.** Upon review at the public hearing, or any continuance thereof, the Planning Commission may conditionally approve the principle of the preliminary plan and program, require amendment and modification thereto, or reject said Planned-Unit Development.

### **SECTION 816 APPLICATION FOR ZONING CHANGE**

**816.1. General.** Upon acceptance of the Planned-Unit Development in principle by the Planning Commission, or acceptance in principle, with the modifications required by the Planning Commission, the owner-applicant may file an application for the zoning change from the underlying zone to the Planned-Unit Development with the City Council. The request for the zoning change shall be based on the approval of the preliminary plan, and a statement of intent of compliance with all the provisions of this ordinance and the completion and acceptance of the final plan and program. The City Council shall then proceed with consideration of a rezoning change in accordance with the applicable State Laws governing such zoning changes.

### **SECTION 817 CONDITIONS OF ZONING CHANGE**

**817.1. General.** Upon review of the request for the zone change by the Planning Commission and the Council, and acceptance thereof, the provisions of this ordinance shall apply to such extent that no development will occur within the Planned-Unit Development District which has been rezoned until such final development plan and program have been prepared and approved by the Planning Commission and the City Council.

### **SECTION 818 FINAL DEVELOPMENT PLAN AND PROGRAM**

**818.1. General.** The final development plan and program shall contain the following information.

**818.1.1. Land Use.** A land use plan indicating all proposed uses within the Planned-Unit Development.

**818.1.2. Open Space.** Open space that is to be maintained and controlled by the owners of the property and their successors in interest available for the recreational and leisure use of the occupants and uses of the Planned-Unit Development.

**818.1.3. Utilities.** General location and extent of all public or private utilities including easements or rights-of-way needed for service to the development. All utilities shall be installed underground, including electric and telephone services.

**818.1.4. Refuse Collection Facilities.** Location and extent of refuse collection facilities.

**818.1.5. Circulation.** A street system and lot design with appropriate dimensions. A

subdivision plat if the land is to be subdivided shall comply with this requirement.

**818.1.6. Traffic Flow Map.** A traffic-flow map showing circulation patterns within and adjacent to the proposed development. Any special engineering features and traffic regulation devices needed to facilitate or ensure the safety of the circulation pattern shall be shown.

**818.1.7. Location and Dimensions.** Location and dimensions of pedestrian walkways.

**818.1.8. Parking and Loading.** Location, arrangement, number, and dimension of automobile garages, parking spaces and the widths of aisles, bays and angle of parking.

**818.2. Architectural Sketches.** In Planned-Unit Developments containing less than 20 acres, the developer shall submit preliminary architectural sketches depicting the types of buildings and their approximate location on lots. The sketches to also depict the general height, bulk and type of construction and proximity of structures on lots. In Planned-Unit Developments containing more than 20 acres the developer shall submit architectural sketches as required above for each phase of development containing less than twenty (20) acres before the time such phase begins actual construction. For a Planned-Unit Development or phase thereof in excess of twenty (20) acres, the developer shall submit architectural sketches depicting the types of buildings (single family, duplex, multi-family, commercial, etc.) and their prospective locations in the Development showing their general height and bulk in relationship to the other improvements in the Development and upon adjacent land.

**818.3. Landscaping.** In Planned-Unit developments or construction phases therein the developer shall submit a preliminary landscaping plan depicting tree plantings, ground cover, grades, slopes, screen plantings and fences, etc.

**818.3.1. Complete Landscaping.** All landscaping shall be completed within one year from the date of occupancy of the development.

**818.3.2. Live Landscaping.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

**818.4. Signs.** The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application.

**818.5. Fences.** In Planned-United Developments any developer desiring to build or cause to be built a fence or wall upon their property or property owned by the City shall ensure said fence or wall complies with the following standards:

No fence or wall located in the front yard shall be built to a height greater than four feet above the grade and six feet above the grade in side and rear yard areas. On corner developments fences and walls nearer the street than the established building line shall not exceed four feet in height.

The capital of a fence post or column may extend up to two feet above the maximum fence/height limit.

No developer of any Residential Planned-Unit Development in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public space or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.

Any Residential Planned-Unit Development within the corporate limits of the City erecting or maintaining any fence or wall between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be fully responsible for the care and maintenance of the fence or wall and shall assume full responsibility for any damaged arising due to the erection of such fence or wall.

**818.6. Program Elements.** The written program shall contain the following information:

**818.6.1. Required Information.** Table showing the total number of acres and their distribution by use, the percentage designated for each dwelling type and for non-residential uses, including off-street parking, streets, parks, playgrounds, schools, and open spaces as shown in the proposed development plan.

**818.6.2. Density.** Table showing the over-all density of the proposed residential development and showing density by dwelling types.

**818.6.3. Appropriate Restrictive Covenants.** Drafts of appropriate restrictive covenants and all other documents providing for the maintenance of any public open spaces and recreational areas not dedicated to the City including agreements by property owners associations, dedicatory deeds or reservations of public open spaces.

**818.6.4. Time Schedule.** A time schedule showing construction commencement, rate of development, and approximate completion date for each phase of construction and type of structure.

**818.6.5. Stages for Development.** The stages for development of private and public facilities planned.

**818.6.6. Written Consent.** Written consent of all persons owning any interest in the real property within the Planned-Unit Development to the final development plan and program.

**818.6.7. Planning Commission Requirements.** Such other information as the Planning Commission may require.

## SECTION 819

## **PLANNING COMMISSION PUBLIC HEARING ON FINAL DEVELOPMENT PLAN AND PROGRAM**

**819.1. General.** Upon receipt by the Planning Commission of the final development plan and program, the Planning Commission, at a regular public meeting, shall consider the final development plan and program. After the review of the final plan and program, as being in compliance with the requirements and intent of this ordinance, and the preliminary plan the Commission shall recommend the approval to the City Council.

### **SECTION 820 FILING OF APPROVED FINAL PLAN AND PROGRAM**

**820.1. General.** Following approval of the final development plan and program by the City Council, the owner-applicant shall file with the City of Escanaba Clerk and the Code Official of the City of Escanaba a conformed and approved final development plan and program together with all documents approved as to form by the City Attorney relating to dedication, improvements, maintenance agreements, covenants, deed restrictions and bylaws of neighborhood associations, co-ops, and improvements of the district.

### **SECTION 821 DEVELOPMENT IMPROVEMENT PROHIBITED PENDING COMPLIANCE**

**821.1. General.** No excavating, grading, construction, improvement of building or permits therefore shall be authorized or issued within the Planned-Unit Development zone pending compliance with the following:

Full compliance with all provisions of this Chapter including execution and filing of all documents required herein.

Compliance with the subdivision code improvement ordinances, and building code of the City of Escanaba.

Full compliance with the final development plan and program.

### **SECTION 822 CHANGES TO FINAL DEVELOPMENT PLAN AND PROGRAM**

**822.1. General.** The owner-applicant may submit minor changes in the approved final plan and program to the Planning Commission for approval, provided such changes do not alter total density ratio or dwelling unit types, boundaries of the Planned-Unit Development or location or area of public spaces. Changes which alter or change dwelling unit density, ratio of number of different types of dwelling units, boundaries of the planned-unit development or effects location or area of open and recreational spaces shall be made in the form of petition for approval of a new Planned-Unit Development and shall be made in accordance with this Chapter.

### **SECTION 823 EXPIRATION OF PLANNED-UNIT DEVELOPMENT ZONE**

**823.1. General.** If substantial construction or development of the Planned-Unit Development Zone has not occurred in accordance with the approved final development plan and program and schedule for stage completion in substantial compliance with said

final development plan and program, the Planning Commission may initiate a review of the planned use district and zone at a public hearing to determine whether or not its continuation in whole or in part is in the public interest, and if found not to be, shall recommend to the City Council that the Planned-Unit Development District and Zone be removed, and necessary amendments to the zoning code be made in accordance with this code.

**CHAPTER 9  
LOCAL BUSINESS DISTRICT (“D”)**

**SECTION 901  
GENERAL**

**901.1. Purpose.** The Local Business District is for the purpose of accommodating a wide range of retail goods and neighborhood services available to the community. These uses are intended to be developed compactly within a neighborhood and have coordinated access, preferably with limited driveways and shared parking facilities.

**901.2. Cross References, as amended.**

Zoning and planning in home rules cities MCLA 117.41  
Regulation of location of trades, buildings and uses by local authorities MCLA 125.581  
Regulation of buildings; authority to zone MCLA 125.582  
Regulation of congested areas MCLA 125.583  
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property MCLA 125.583a

**SECTION 902  
USES PERMITTED IN A LOCAL BUSINESS DISTRICT**

**902.1. General.** In a Local Business District a building, structure, or premises may be erected or used for one or more of the following specified purposes:

- Professional office, studio, barber shop or beauty shop, provided that no mechanical or electrical equipment is used which will create a nuisance to the adjacent neighborhood.
- Grocery store.
- Bakeries, retail, including manufacturing of goods on premises.
- Barber and beauty shops.
- Clinics, medical, dental and optical.
- Clinics, veterinary.
- Dry cleaning and laundry establishments, up to 4500 square feet on a lot.
- Florists, retail.
- Funeral homes.
- Locksmiths and gunsmiths.
- Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsman, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry.
- L. Real estate office.

**SECTION 903  
USES ALLOWED BY SPECIAL LAND USE PERMIT**

**903.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the Local Business District if a special land use permit is issued according to the standards of this ordinance.

Public garages, repair shops, gasoline service stations, and other motor fueling filling

stations.

The Planning Commission may authorize principle and other uses not stated in the district where the land is located, provided that such uses are consistent with the neighborhood, intent of this Chapter, and the standards set forth herein.

#### **SECTION 904 ACCESSORY USES PERMITTED IN A LOCAL BUSINESS DISTRICT WHEN LOCATED ON THE SAME LOT WITH THE PRINCIPAL USE**

**Accessory Uses.** The following uses are permitted in a Local Business District when located on the same lot with the principal use.

Living quarters of persons employed on the premises, and not rented or otherwise used as a separate dwelling.

Uses customarily incident to any of the permitted uses and located on the same lot therewith.

Private and community garages for the storage of vehicles only.

#### **SECTION 905 SETBACKS**

**905.1. Front Yard Requirement.** This front yard lot shall be at least twenty-five (25) feet or thirty-five percent (35%) of the depth of the lot (whichever is least restrictive) as measured at right angles from the front lot line to the nearest part of the principal building located on the lot, provided, however, that on lots located on the same side of the street and between the same consecutive intersecting streets as other lots of which at least fifty percent (50%) are occupied by uses wherein the depths of the front yard are other than that required above, the depth of the front yard shall not be less than the average depth of the front a yards of such occupied lots. In no case are the provisions of this section to require a front yard depth in excess of thirty-five percent (35%) of the average depth of the lot nor less than fifteen (15) feet.

**905.1.1. Principal Use.** When the non-conforming principal use is of a residential nature the requirements of the nearest Residential District shall apply.

**905.2. Side Yard Requirement.** In a Local Business District there shall be two side yards on each lot. The minimum side yard shall be at least ten percent (10%) of the width of the lot, with a total of twenty-five percent (25%) of the width of the lot required for both side yards, provided, however, that no side yard shall be less than four (4) feet in width and that the minimum width of each side lot shall be increased by four (4) feet for each story by which the building exceeds two (2) stories in height.

**905.2.1. Side Yard Width.** The width of a side yard abutting upon a street shall not be less than the minimum front yard depth required on an adjoining interior lot fronting upon such side street but this shall not reduce the buildable width of any lot of record at the time of the passage of this ordinance to less than thirty (30) feet at the ground story level; provided, however, that in no case shall the width of said side yard be less than eight (8) feet.

**905.3. Rear Yard Requirement.** The minimum rear yard shall be twenty (20) feet in depth

as measured at right angles from the rear lot line to the nearest part of the principal building on each lot upon which a one story principal building is located. On lots occupied by other than one story principal buildings, the minimum depth of the required rear yard shall be increased by four (4) feet for each additional story.

**905.3.1. Depth.** The depth of a rear yard abutting upon a street shall not be less than the depth of the front yard required for a building of the same size and kind on an adjoining lot fronting on such rear street.

**905.4. Through Lots and Corner Lot.** Through lots and corner lots having a frontage on two streets shall provide the required setback on both streets.

## **SECTION 906 ENCROACHMENTS INTO SETBACKS**

**906.1. Projections Into Required Yards** Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches, boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

### **Exceptions:**

Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.

Awnings, arbors and trellises, flagpoles, window air conditioner units and fences. Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**906.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**906.2.1. Neighbor Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**906.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**906.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance

## **SECTION 907 LOT DENSITY**

**907.1. Area.** The minimum width of lots on which no permanent dwellings have been erected at the time of the passage of this ordinance shall be sixty (60) feet. An irregular lot with less than sixty (60) feet of street frontage may not have a permanent dwelling erected upon same. In Original Plat Proprietor's Addition Subdivision, Proprietor's First Addition Subdivision, Selden Subdivision, S.H. Selden Addition, Cleary's Subdivision, Ludington Addition, Campbell's Second Addition, Proprietor's Second Addition, Glazer's Addition, Cadyland Company Third Addition, Campbell's Second Addition, Campbell's Third Addition, Wells Addition, Brandso's Addition, Moore and Matthews Addition, I. Stephenson Company Plat, I. Stephenson Company First Addition, I. Stephenson Company Second Addition, the minimum width of lots at the time of passage of this Ordinance shall be fifty (50) feet provided all other yard requirements are met. No buildings or structures hereafter erected shall occupy more than seventy-five percent (75%) of the area of the lot required lot area for a lot of record is to be measured within one hundred forty (140) feet of the front line

## **SECTION 908 BUILDING HEIGHT**

**908.1. General.** In a Local Business District, no building or structure shall exceed three (3) stories, nor shall exceed thirty-five (35) feet in height.

### **Exceptions:**

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

Parapet Walls may be used to screen existing equipment may be erected if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

## **SECTION 909 ACCESSORY BUILDINGS/PRIVATE GARAGES**

**909.1. General.** The following is a list of Accessory Buildings/Private Garages requirement for a Local Business District:

Accessory buildings other than private garages shall be at least ten (10) feet from any dwelling situated on the same lot and at least six (6) feet from any other building on adjacent lot or accessory building on the same lot.

Accessory buildings and/or private garages may not occupy front yard space.

Accessory buildings and/or private garages and portions thereof may occupy that portion of the side yard which is in excess of the said yard requirements.

Accessory buildings and/or private garages and portions thereof may occupy up to fifty percent (50%) of the required rear yard space except, where a rear yard abuts for its full width upon a street, said buildings and portions thereof shall not occupy any of the required minimum rear yard space. On a corner lot, accessory buildings and/or private garages shall not occupy any part of that portion of the rear yard lying nearer to the street than the width of the side yard required for the same lot and abutting on such street.

No portion of any accessory building and/or private garage shall approach nearer to a side lot line than three (3) feet except that on adjoining lots one story accessory

buildings may be built up to the common lot line for a distance of not to exceed thirty (30) feet, provided, that such buildings on both sides of such common lot line are erected at the same time and are separated by a common or party wall of fire resistant construction. No portion of any private garage shall approach nearer to a rear lot line/alley right-of-way than five (5) feet.

Accessory buildings other than a private garage shall not exceed twelve (12) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111, General Definitions. The height of a private garage shall not exceed 18 feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111, General Definitions or the height of the principal building, whichever is less.

## **SECTION 910 PARKING**

**910.1. General.** Requirements for parking, loading, and driveways are contained in Chapter 17, Parking and Circulation Requirements.

## **SECTION 911 REPAIR/STORAGE OF VEHICLES AND MERCHANDISE**

**911.1. General.** The repair of vehicles, and the storage of merchandise, motor vehicles or trucks is prohibited unless a special land use permit is issued by the Planning Commission.

## **SECTION 912 LANDSCAPING REQUIREMENTS**

**912.1. General.** Landscaping is required for all new buildings and additions over 500 square feet as defined in this Section. Said landscaping shall be completed within one year from the date of occupancy of the building.

**912.2. Front Yards.** Front yards required by this Ordinance shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**912.3. Street-Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**912.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

## **SECTION 913 FENCES AND WALLS**

**General.** The following restriction shall apply to all fences and walls located within the zoned district, except for fences and walls surrounding public utility structures or radio, television, or microwave transmission or relay towers:

No person shall construct or cause to have constructed any fence or wall upon any property within the City without first having to obtain a permit.

Any person desiring to build or to cause to be built a fence or wall upon their property or property owned by the City shall first apply to the City for a permit. Such application shall contain any and all information required for the determination of whether the erection of such fence or wall will violate any Ordinance of the City. No fence or wall located in the yard shall be built to a height greater than four (4) feet above grade in the front yard and six (6) feet in the side and rear yard area. On a corner lot fences and walls nearer the street than the established building line shall not exceed four (4) in height. The capital of a fence post or column may extend up to two (2) feet above the maximum fence/wall height limit. No partition fence or wall shall extend towards the street beyond two (2) feet from the established lot line, nor shall any fence or wall or portion thereof be erected in any area on or parallel to the front lot line except that it shall be located a minimum of two (2) feet behind the inside edge of the established sidewalk line. No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public space or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever. Any person within the corporate limits of the City erecting or maintaining any fence or wall between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be fully responsible for the care and maintenance of the fence or wall and shall assume full responsibility for any damaged arising due to the erection of such fence or wall.

## **SECTION 914 SIGNS**

**914.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

## **SECTION 915 CONVEYANCES WHICH CREATE NON-CONFORMING USE**

**915.1. General.** No conveyance of land shall hereafter be made when, as a result of such conveyance, the land or structure of the grantor shall be caused thereby to become a non-conforming use or structure.

**CHAPTER 10  
COMMERCIAL DISTRICT (“E”)**

**SECTION 1001  
GENERAL PROVISIONS**

**Purpose.** The Commercial District is for the purpose of accommodating offices, retail and related services.

**Cross References, as amended.**

Zoning and planning in home rules cities MCLA 117.41  
Regulation of location of trades, buildings and uses by local authorities MCLA 125.581  
Regulation of buildings; authority to zone MCLA 125.582  
Regulation of congested areas MCLA 125.583  
Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property MCLA 125.583a

**SECTION 1002  
USES PERMITTED IN A COMMERCIAL DISTRICT**

**1002.1. General.** In a Commercial District, a building, structure, or premises, may be erected or used for one or more of the following specified purposes:

Office, studio, barber shop, beauty shop.  
Retail stores and restaurants.  
Wholesale business, storage in bulk of or warehouse for such material as clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, metals, pipe, rubber, shop, supplies, tobacco, wool within an enclosed building.  
Bank, financial institution, credit union, theater, moving picture house, recreation building, assembly hall, mortuary, funeral home.  
Cold storage plant, ice manufactory, creamery, ice cream manufactory, candy manufactory, bottling works, milk bottling or central distributing station, baking plant, dairy.  
Dyeing or dry cleaning plant, laundry.  
Ship passenger terminal, bus terminal, taxi stand.  
Printing plant, newspaper plant.  
Radio and television broadcasting station, telephone exchange, police and fire station.  
Community garage.  
Hotels, boarding houses, club houses with residential facilities, lodging houses, motels, overnight cabins, and other business of a similar nature, in which shelter or lodging is furnished a relatively transient clientele and a charge is made therefor.  
Churches (except on Ludington Street between 2<sup>nd</sup> Street and 22<sup>nd</sup> Street).  
Public or parochial schools, colleges, public library, museum, private educational institutions.  
Hospital, home dormitory.  
Community building, club, or armory.  
Amusement, commercial, outdoor.  
Automobiles, truck and utility trailer rental.  
Automotive sales and repair.

Car washes.  
Boat and ship sales and repair (not exceeding 100 feet in length).  
Cultural facilities.  
Equipment rental and leasing, within an enclosed building.  
Government buildings.  
Laboratories, dental, medical and optical.  
Post Offices.  
Restaurants, taverns.  
Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters,  
wood and leather craftsman, silversmiths, and designers of ornamental and  
precious jewelry.  
Neighborhood food and beverage service.  
Catalog and mail order houses.  
Funeral Home.

### **SECTION 1003 USES ALLOWED BY SPECIAL LAND USE PERMIT**

**1003.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the Commercial District if a special land use permit is issued according to the standards of this chapter:

Churches on Ludington Street between 2<sup>nd</sup> Street and 22<sup>nd</sup> Street.  
Public garages, repair shops, gasoline service stations and other motor fuel filling stations.  
Public garages, business, public or quasi-public, and commercial vehicle parking.  
The Planning Commission may authorize principle and other uses not stated in the district where the land is located, provided that such uses are consistent with the intent of this Chapter and the standards set forth herein.

**1003.2. Sexually Oriented Businesses.** A sexually oriented business may be allowed and shall be known as a regulated use and shall be permitted with the following restrictions:

**1003.2.1. Location.** The use must be located outside a five hundred (500) foot radius of a residential district, a church, school, or daycare center and outside a five hundred (500) foot radius of an officially dedicated park and the regulated use is not located within a fifteen hundred (1500) foot radius of another regulated use. All measurements under this section shall be made in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the regulated use or building containing a regulated use to the nearest property line of the residential district, church, school, daycare center, or park.

**1003.2.2. Minor on Premises.** Persons operating a regulated use shall not permit any person under the age of eighteen to be on the premises of said regulated use either as an employee or as a customer.

**1003.2.3. Hours.** The maximum hours of operation of the regulated use shall be from 8:00 a.m. to 12:00 p.m.

**1003.2.4. Displays.** Sexually oriented products or services or any picture or other representation thereof, shall not be displayed so as to be visible from the street or

neighboring property.

**1003.2.5. Off-Street Parking.** Off-street parking shall be provided the same as other businesses of a similar nature that are not sexually oriented (e.g. movie theaters, retail sales and eating and drinking establishments), except that all parts of the parking area shall be illuminated from dusk until one hour after the business closes.

**1003.2.6. Expansion.** Once established, a regulated use shall not be expanded in any manner without first applying for and receiving a special land use permit amendment from the Planning Commission.

**1003.2.7. Discontinuance.** If a regulated use is discontinued and events cause the areas to not be available for the location of a regulated use, the use may not be reestablished without applying for and receiving an amended special land use permit from the Planning Commission.

#### **SECTION 1004**

#### **ACCESSORY USES PERMITTED IN A COMMERCIAL DISTRICT - WHEN LOCATED ON THE SAME LOT WITH THE PRINCIPAL USE**

**1004.1. Allowed Uses.** Uses customarily incident to any of the permitted uses and located on the same lot therewith, provided all area and yard requirements are met.

#### **SECTION 1005 SETBACKS**

##### **1005.1. Front Yard Requirement.**

**1005.1.1. Front Yard.** No front yard is required where the principal use is of a commercial nature, except where the commercial use is on the same side of the street in a block zoned for both commercial and residential uses, in which case the front yard requirement for the residential zone concerned shall govern, provided, however, that relief from this requirement may be obtained in certain cases as prescribed in Chapter 3, Board of Zoning Appeals.

**1005.1.2. Front Yard Requirement.** When the principal non-conforming use is of a residential nature the requirements of the nearest residential district shall apply.

##### **1005.2. Side Yard Requirement.**

**1005.2.1. Commercial Nature.** No side yards are required when the principal use is of a commercial nature.

**1005.2.2. Residential Nature.** When the principal use is of a residential nature the requirements of the nearest residential district shall apply.

**1005.3. Rear Yard Requirement.** In a Commercial District there shall be a rear yard of at least twenty-five (25) feet in depth on every lot as measured at right angles from the rear lot line to the nearest part of the principal building. The minimum dimension of such court shall be ten feet.

**1005.4. Through Lots and Corner Lot.** Through lots and corner lots having a frontage on two streets shall provide the required setback on both streets.

## **SECTION 1006 ENCROACHMENTS INTO SETBACKS**

**1006.1. Projections Into Required Yards.** Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches, boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

### **Exceptions:**

Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.

An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding twenty (20) feet.

Porches/balconies enclosed with screens, storm windows or other materials may not extend more than eight (8) feet into the front yard.

Awnings, arbors and trellises, flagpoles, window air conditioner units and fences.

Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**1006.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**1006.2.1. Neighbor Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**1006.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**1006.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance

## **SECTION 1007 LOT DENSITY**

**1007.1. Area.** When the principal non-conforming use is residential, buildings or structures hereafter erected shall not occupy more than fifty percent (50%) of the area of the lot.

**1007.2. Area Percentage.** When the principal use is commercial, buildings or structures hereafter erected shall not occupy more than eight-five percent (85%) of the area lot.

## **SECTION 1008 BUILDING HEIGHT**

**1008.1. General.** In a Commercial District, no building or structure shall exceed seventy (70) feet in height.

### **Exceptions:**

Steeple, Clock Towers, wireless tower, monuments, chimneys, water tanks, elevator bulk heads, or stage tower may be erected to a height not exceeding twice the height of the attached building.

Parapet Walls may be used to screen existing equipment may be erected if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

The Planning Commission may authorize an increase in height provided the request is consistent with the intent of this Chapter.

## **SECTION 1009 ACCESSORY BUILDINGS/PRIVATE GARAGES**

**1009.1. Distances.** Accessory buildings other than private garages shall be at least ten (10) feet from any dwelling situated on the same lot and at least six (6) feet from any other building on adjacent lot or accessory building on the same lot.

**1009.2. Front Yard Space.** Accessory buildings may not occupy front yard space.

**1009.3. Side Yard Space.** Accessory buildings and portions thereof may occupy that portion of the side yard which is in excess of the side yard requirements.

**1009.4. Rear Yard Space.** Accessory buildings and portions thereof may occupy up to fifty percent (50) of the required rear yard space except where a rear yard abuts for its full width upon a street said buildings and portions thereof shall not occupy any of the required minimum rear yard space. On a corner lot, accessory buildings shall not occupy any part of that portion of the rear yard lying nearer to the street than the width of the side yard required for the same lot and abutting on such street.

**1009.5. Side Yard Requirements.** No portion of an accessory building shall approach nearer to a side yard or rear lot line than three feet except that on adjoining lots one story accessory buildings may be built up to the common lot line for a distance of not to exceed

thirty (30) feet, provided that such buildings on both sides of such common lot line are erected at the same time and are separated by a common or party wall of fire proof

construction.

**1009.6. Accessory Height.** Accessory buildings other than a private garage shall not exceed twelve (12) feet in height from the ground floor to mean height as defined in Chapter 1, General Provisions, Section 111, General Definitions. The height of a private garage shall not exceed 18 feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111, General Definitions or the height of the principal building, whichever is less.

## **SECTION 1010 PARKING**

**1010.1. General.** There shall be provided at the time of the erection of any main building or at the time such buildings are altered, enlarged, converted or increased in capacity minimum off-street parking space with adequate provisions for ingress and egress by vehicles in accordance with the requirements of Chapter 17, Parking and Circulation requirements.

## **SECTION 1011 LANDSCAPING REQUIREMENTS**

**1011.1. General.** Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Section. Said landscaping shall be completed within one year from the date of occupancy of the building.

**1011.2. Front Yards.** Front yards required by this Ordinance shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**1011.3. Street-Side Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**1011.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

**1011.5. Screening.** The Planning Commission at their discretion may require vehicle storage areas be screened from abutting property and from public view from a public street.

## **SECTION 1012 FENCES AND WALLS**

**1012.1. General.** The following restriction shall apply to all fences and walls located within the zoned district, except for fences and walls surrounding public utility structures or radio, television, or microwave transmission or relay towers:

No person shall construct or cause to have constructed any fence or wall upon any property within the City without first having to obtain a permit.

Any person desiring to build or to cause to be built a fence or wall upon their property

- or property owned by the City shall first apply to the City for a permit. Such application shall contain any and all information required for the determination of whether the erection of such fence or wall will violate any Ordinance of the City.
- No fence or wall located in the yard shall be built to a height greater than four (4) feet above grade in the front yard and six (6) feet in the side and rear yard area. On a corner lot fences and walls nearer the street than the established building line shall not exceed four (4) in height.
- The capital of a fence post or column may extend up to two (2) feet above the maximum fence/wall height limit. 4. No partition fence or wall shall extend towards the street beyond two (2) feet from the established lot line, nor shall any fence or wall or portion thereof be erected in any area on or parallel to the front lot line except that it shall be located a minimum of two (2) feet behind the inside edge of the established sidewalk line.
- No fence or wall is allowed to extend toward the street beyond two (2) feet from the established lot line.
- No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public space or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.
- Any person within the corporate limits of the City erecting or maintaining any fence or wall between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be fully responsible for the care and maintenance of the fence or wall and shall assume full responsibility for any damaged arising due to the erection of such fence or wall.
- No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on to which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public spaces or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.
- A special permit granted by the Planning Commission shall be required of those individuals wishing to erect a protective measures fence; such permit shall be granted only after demonstration of the need of such fence. The owner, or agent thereof, of a protective measure fence shall be granted permission to erect necessary and reasonable barriers along the uppermost edge of the protective measures fence that he deems reasonable for the protection of property within the enclosed area.
- Any person within the corporate limits of the City erecting or maintaining any fence or hedge between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be fully responsible for

the care and maintenance of the fence or hedge and shall assume full responsibility for any damaging arising due to the erection of such fence or hedge.

### **SECTION 1013 SIGNS**

**1013.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

### **SECTION 1014 SPECIAL REQUIREMENTS**

**1014.1. Prohibited Residential Dwellings.** Residential dwellings are prohibited from occupying the front fifty percent (50%) ground floor area in any building fronting on Ludington Street between 3<sup>rd</sup> Street and Stephenson Avenue.

**1014.2. Screening.** Dumpsters, solid waste containers, recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste must be enclosed by a privacy fence/wall constructed of wood, vinyl, cement or metal not less than six (6) feet in height. Dumpsters, solid waste containers, recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste handling area must be screened from abutting property and from public view from a public street.

### **SECTION 1015 CONVEYANCE WHICH CREATES NON-CONFORMING USES FORBIDDEN**

**1015.1. General.** No conveyance of land shall hereafter be made when, as a result of such conveyance, the land or structure of the grantor shall be caused thereby to become a non-conforming use or structure.

**CHAPTER 11  
PLANNED COMMERCIAL DEVELOPMENT DISTRICT (E-1)**

**SECTION 1101  
GENERAL**

**1101.1. Purpose.** The Planned Commercial Development District is established primarily for the convenience of persons residing in nearby residential areas, and is limited in its function to accommodate the normal basic day-to-day shopping and related needs of the residents living in adjacent neighborhoods together with uses compatible therewith. Because it may be near single-family residential areas, it is intended that permitted uses should be only those pertinent to its function and which are most reasonably compatible with the character of the surrounding areas, considering its purpose. It is also the purpose of this district to encourage the preservation and/or rehabilitation of architecturally significant buildings and facilities, natural and historic landmark facilities and grounds and provide an opportunity for modern and imaginative architectural design, site arrangement, and city planning.

**1101. 2. Cross References, as amended.**

Zoning and planning in home rule cities - MCLA 117.41

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

Regulation of buildings; authority to zone - MCLA 125.582

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

**SECTION 1102  
USES PERMITTED IN A PLANNED COMMERCIAL  
DEVELOPMENT DISTRICT**

**1102.1. General.** This section establishes the uses permitted in a Planned Commercial Development District.

Art and school supply stores.

Banks, financial institutions and credit unions.

Barber shops.

Beauty shops.

Book and stationery stores.

Branch post office.

Camera and photographic supply stores.

Candy and ice cream stores other than drive-in service establishments.

Drugstores.

Florist shops.

Food stores, including grocery stores, meat markets, bakery outlets and delicatessens.

Gift shops.

Hardware stores.

Hobby shops, for retail sale of items to be assembled or used away from the premises.

Jewelry stores, including watch and clock repair.

Laundry and dry cleaning receiving stations, processing done elsewhere.

Churches, public or parochial schools, colleges, library branch, museums, private education institutions when operated primarily for the purpose of giving preparatory education similar in education, similar in character to that provided in the public schools or kindergartens, nursery schools, and similar institutions for children of pre-age school. Schools for teaching music, dance or other cultural arts.

Liquor stores.

Offices for physicians, dentists, optometrists, lawyers, public accountants, insurance agents, stockbrokers, realtors, and public or quasi-public agencies, and/or general business offices with no drive-through facilities.

Radio, television or electronic sales and repair.

Restaurants other than drive-in service establishments.

elf-service laundry and dry cleaning establishments.

Shoe and hat repair stores.

Wearing apparel shops.

Retail stores.

Multi-family apartments of eight (8) units or more.

Gymnasium.

The Planning Commission may authorize principal and other uses not stated provided that such uses are consistent with the intent of this Chapter and the standards set forth herein.

## **SECTION 1103 STANDARDS FOR APPROVAL**

**1103.1. General.** Approval will not be granted when the Planned Commercial Development District is sought primarily to avoid the imposition of standards and requirements of existing zoning classifications. A Planned Commercial Development District shall be approved if it is shown that the land use and development/redevelopment meet all the following standards.

**1103.1.1. General Requirements.** In a Planned Commercial Development District the following general requirements shall apply to new developments and redevelopments:

**1103.1.1.1. Pedestrian Circulation and Access.** The project emphasizes pedestrian circulation and access. The circulation system is composed of short blocks, sidewalks and alleys, where appropriate and practical. The vehicular and pedestrian circulation shall be well defined and safe.

**1103.1.1.2. Motor Vehicle Storage.** The outside storage of motor vehicles shall either occur off-street or behind or below buildings.

**1103.1.1.3. Landscape Features.** The natural landscape features will be preserved and integrated as an integral part of the overall design. For new development, building placement and design represents thoughtful responses to the specific site features and climate to create interesting and desirable outdoor spaces.

**1103.1.1.4. Public Services and Facilities.** There shall be adequate public services and facilities to serve the development, including utilities, public safety, public works,

recreation, streets, and bike paths.

**1103.1.1.5. Site Plan Standards.** The site plan submitted with the Planned Commercial Development District application satisfies all the standards for granting site plan approval and is done in accordance with Chapter 18 Site Plan and Sketch Plan Standards. 1103.1.2. New Development. The following specific requirements apply to new development.

**1103.1.1.6. Topography.** The Planned Commercial Development District is intended to accommodate developments with mixed uses, having sites with unusual topography or unique settings within the community, or on land which exhibits difficult and costly development challenges.

**1103.1.1.7. Compatibility.** The use is compatible with adjacent land use, the natural environment and the capacities of public services and facilities. The use is consistent with the public health, safety and welfare of City residents.

**1103.1.1.8. Area.** The area of new development is at least five (5) acres in size, but not more than ten (10) acres in size.

**1103.1.1.9. Traditional Forms.** New development shall be based on traditional forms in terms of placement, design and quality of materials, so that they share a common identity and share their common heritage with the City of Escanaba.

#### **1103.1.2. Redevelopment.**

**1103.1.2.1. Area.** District size requirements for the redevelopment of historic buildings, facilities, and grounds or buildings with unique settings within the community shall be determined by the Planning Commission.

**1103.1.2.2. Traditional Forms.** Development shall be based on traditional forms in terms of placement, design and quality of materials, so that they share a common identity and share their common heritage with the City of Escanaba.

**1103.1.2.3. Historic Re-Use.** Historic buildings, facilities, and grounds that physically express the history of Escanaba will be preserved or restored and maintained unless it is shown that the building's condition prohibits preservation, restoration, renovation or reuse. New buildings and additions to existing buildings shall be compatible with historic buildings adjacent to them.

### **SECTION 1104 PROCEDURE FOR APPROVAL**

**1104.1 General.** The provisions of this Chapter is to outline the procedure for approval of a Planned Commercial Development District.

**1104.1.1. Pre-application conference.** Before submitting an application, the applicant shall meet with the City administration to review the proposed project, the Escanaba Code of Ordinances, and the City Plan.

**1104.1.2. Application.** A Planned Commercial Development District application with

detailed site plan/diagram shall be submitted to the Planning Commission for Public Hearing, review and recommendation and then to the City Council for decision.

**Public Hearing.** A Public Hearing shall be held on each Planned Commercial Development District request properly filed under this Zoning Code. Notice of the Public Hearing shall be given not less than seven (7) days nor more than twenty (20) days before said Public Hearing on a planned commercial development district application. Notice shall be published in a newspaper of general circulation in the City of Escanaba and shall be mailed or personally delivered to:

- The owners of the property for which approval is being considered;
- All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question; and
- At least one (1) occupant of each dwelling unit or area owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units, notices may be given to the manager or owner of the structure to post the notice at the primary entrance of the structure. Where the name of the occupant is not known, the term "Occupant" may be used in marking notification.

**1104.1.4. Notice.** The notice of the Public Hearing shall contain:

- A description of the nature of the Planned Commercial Development District request;
- A description of the property which is the subject of the Planned Commercial Development District;
- The time and place of the Public Hearing for consideration of the Planned Commercial Development District request; and
- When and where written comments will be received concerning the request.

**1104.1.5. Decision.** The application for Planned Commercial Development District may be denied, approved or approved with conditions after conducting a Public Hearing with such notification as provided herein. The decision shall be in the form of an order which shall incorporate a statement of conclusions and shall specify the basis for the decision and any conditions imposed. Unless otherwise mutually agreed, an application for a Planned Commercial Development District shall be decided by the City Council within forty-five (45) days of the Public Hearing. The decision of the City Council shall be final.

**1104.1.6. Compliance.** After approval of a Planned Commercial Development District, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the Planned Commercial Development District.

**1104.1.7. Performance Bonds.** A Performance Bond must be filed with the City of Escanaba in a sum at least equal to the estimated costs of all public improvements (streets, including curbing, drives, walks, walls, parking area and structures, installation of utilities, if any) for the proposed district.

**SECTION 1105  
PLANNED COMMERCIAL DEVELOPMENT**

## DISTRICT APPLICATION

**1105.1. General.** This section addresses the application process. Any permit or approval, if issued in conflict with this Chapter, shall be null and void.

**1105.2. Required Information.** A Planned Commercial Development District application shall be submitted to the City administrative office responsible for planning and zoning. An application shall not be deemed accepted by or filed with the City until it is certified as complete by the City administration. The application must be signed by the owner.

**1105.3. Site Plan Content.** A detailed site plan/diagram of each Planned Commercial Development District must be submitted with each application and meet the site plan diagram requirements as found in Chapter 18. Site Plan and Sketch Plan Standards, Section 1802.2. Site Plan Diagram Requirements.

**1105.4. Site Plan Standards for New Developments.** Each site plan shall conform to the standards listed in Chapter 18 Site Plan and Sketch Plan Standards of this Ordinance. The detailed site plan presented for consideration shall contain all information required as found in Chapter 18 Site Plan and Sketch Plan Standards.

**1105.5. Additional Information.** Upon the request of the City administration within thirty-five (35) days of accepting the application, the applicant shall provide such additional information and items pertinent to the development as determined by the City administration.

**1105.6. Failure to Provide in a Timely Manner.** Failure of the applicant to provide such requested information in a timely manner may be grounds for denial of the application.

### SECTION 1106 SPECIAL REQUIREMENTS FOR A NEWLY CONSTRUCTED PLANNED COMMERCIAL DEVELOPMENT DISTRICT

**1106.1. General.** The Planning Commission may establish lot size limits, required facilities, buffers, open space areas, density limits, setback requirements, height requirements, building size limits, off-street parking regulations, landscaping rules, density and intensity limits or such regulations or changes as are consistent with the intent of this Chapter and the standards set forth herein.

**1106.2. Yard Requirements.** The following yard requirements shall apply to newly constructed Planned Commercial Development District:

**1106.2.1. Front Yard.** In this district, a front yard of at least fifty (50) feet in depth as measured at right angles from the lot line to the nearest part of the principal building shall be required and no parking will be permitted in the front yard.

**1106.2.2. Side Yard.** No side yards are required in this district, except that no building or structure shall be erected closer than twenty-five (25) feet from any area zoned other than Planned Commercial Development District.

**1106.2.3. Rear Yard.** The rear yard shall be the same as the side yard.

**1106.3. Parking.** Requirements for parking, loading and driveways are contained in Chapter 17, Parking and Circulation Requirements.

**1106.4. Height.** In this district, no building shall exceed thirty-five (35) feet in height unless otherwise approved by the Planning Commission.

**1106.5. Signs.** In this district, all signs shall be reviewed and approved on a case-by-case basis by the Planning Commission.

**1106.6. Utilities.** All utility installations in this district shall be underground.

**1106.7. District Size.** The following size requirements shall apply to newly constructed Planned Commercial Development Districts:

**1106.7.1. Area.** No newly constructed Planned Commercial Development District shall be less than five (5) acres in size nor more than ten (10) acres.

**1106.7.2. Ownership.** It will be required that the petitioners for the rezoning of any area to Planned Commercial Development District shall be the owner or owners of the entire area.

**1106.7.3. Expansion.** Once a Planned Commercial Development District is established, it may be added to only with the approval of the Planning Commission and City Council.

**1106.8. Landscaping.** Where natural or existing topographic features contribute to the beauty and utility of a development, consideration shall be given to this preservation. Modification to topography features should only occur where it contributes to good appearance.

**1106.8.1. Plant Material.** Plant material shall be selected for interest in its structure, texture, color, and for its ultimate growth. Further, it is recommended that native materials be employed for their ability to tolerate the prevailing adverse conditions.

**1106.8.2. Plant Protection.** In locations where plant materials will be susceptible to damage by pedestrians and/or motor vehicles, appropriate curbs, tree guards, or other protective devices shall be employed.

## **SECTION 1107**

### **SPECIAL REQUIREMENTS FOR A REDEVELOPMENT DISTRICT APPLICATION**

**1107.1. General.** A Planned Commercial Development District for an application to preserve and/or rehabilitate architecturally significant buildings and facilities, natural and historic landmark facilities and grounds shall be submitted to the Planning Commission for review and recommendation and then to the City Council for decision. The Planning Commission shall review all Planned Commercial Development District applications in this classification before any building or structure is built, rebuilt, converted, enlarged, demolished or structurally altered.

**1107.2. Yards.** Shall be reviewed and approved by the Planning Commission.

**1107.3. Parking.** In a reuse application, all parking spaces and maneuvering lanes shall be reviewed and approved on a case-by-case basis by the Planning Commission. In all cases, parking spaces shall be provided for the handicapped in accordance with the provisions of Act 230 of the Public Acts of the State of Michigan 1972, as amended.

**1107.3.1. Surface Cover.** Parking spaces and maneuvering lane required under this Chapter shall be provided with a paved surface. Off-street parking lots shall be drained so as to dispose of all surface water accumulated in the parking areas in such a way to preclude drainage of water onto adjacent property or towards buildings. All parking spaces shall be clearly defined by use of car wheel or bumper stops and/or painted lines.

**1107.4. Height.** In this district, no building shall exceed thirty-five (35) feet in height unless otherwise approved by the Planning Commission.

**1107.5. Signs.** In this district, all signs shall be reviewed and approved on a case-by-case basis by the Planning Commission.

**1107.6. Utilities.** All utility installations in this district shall be underground.

**1107.7. District Size.** The following size requirements shall apply to redeveloped constructed Planned Commercial Development Districts:

**1107.7.1. Area.** District size for redeveloped areas shall be recommended and reviewed by the Planning Commission. Because of unusual physical features of a property or of the neighborhood in which a historically significant and/or historic landmark facility is located, a substantial deviation from the regulations otherwise applicable may be necessary or appropriate in order to conserve a historic landmark, physical or topographical feature of importance to the City.

**1107.7.2. Ownership.** It will be required that the petitioners for the rezoning of any area to Planned Commercial Development District shall be the owner or owners of the entire area.

**1107.7.3. Expansion.** Once a Planned Commercial Development District is established, it may be added to only with the approval of the Planning Commission and City Council.

**1107.8. Landscaping.** Where natural or existing topographic features contribute to the beauty and utility of a development, consideration shall be given to this preservation. Modification to topography features should only occur where it contributes to good appearance.

**1107.8.1. Plant Material.** Plant material shall be selected for interest in its structure, texture, color, and for its ultimate growth. Further, it is recommended that native materials be employed for their ability to tolerate the prevailing adverse conditions.

**1107.8.2. Plant Protection.** In locations where plant materials will be susceptible to damage by pedestrians and/or motor vehicles, appropriate curbs, tree guards, or other

protective devices shall be employed.

### **SECTION 1108 PLANNED COMMERCIAL DEVELOPMENT DISTRICT ORDER**

**1108.1. General.** If it is determined that the application for a new Planned Commercial Development District or an existing structure/facility Planned Commercial Development District is consistent with the intent of this Zoning Code and with the other standards and requirements herein contained and after City Council approval, an order authorizing development and use in accordance with the application and materials submitted shall be issued. The Planned Commercial Development District order may contain lawful conditions or restrictions which the City Council may consider necessary to carry out the purposes of the Zoning Code and to protect the public health, safety and welfare. The Planned Commercial Development District order shall recite the findings of fact and the reasons upon which it is based.

**1108.2. Date.** A Planned Commercial Development District order shall be dated as of the date of approval by the City Council.

**1108.3. Recording.** Planned Commercial Development District orders shall be recorded with the City Clerk.

### **SECTION 1109 PHASED PLANNED COMMERCIAL DEVELOPMENT DISTRICTS**

**1109.1. General.** Each phase of a Planned Commercial Development District shall be planned, developed and approved to exist as an independent Planned Commercial Development District. Each phase of a Planned Commercial Development District shall be applied for and considered as a separate Planned Commercial Development District. An applicant may elect to incorporate an existing Planned Commercial Development District in a proposed phase of that Planned Commercial Development District as a Planned Commercial Development District amendment.

### **SECTION 1110 AMENDMENTS**

**1110.1. General.** A Planned Commercial Development District order may be amended as follows:

**1110.1.1. Minor Amendments.** Minor amendments are those which will have no foreseeable affect beyond the property boundary, such as minor changes in the alignment of utilities and the reconfiguration of parking areas. Minor amendments for good cause may be authorized by the Code Official without notice or hearing, provided no such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the Planned

Commercial Development District, significantly reduce useable open space, significantly reduce or increase parking areas, or significantly encroach on natural

features proposed by the plan to be protected.

**1110.1.2. Major Amendments.** Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the Planning Commission and City Council.

## **SECTION 1111 TERMINATION**

**1111.1. General.** The Planned Commercial Development District order shall automatically expire two (2) years from the date of final approval if the applicant has not commenced substantial construction and is not diligently proceeding to completion. Upon written requests stating the reasons therefore, the Planning Commission may extend an order for one (1) additional year. An order may be cancelled by written agreement executed by the owner of the land to which it pertains and the Code Official at any time when the development and use of the land are in conformity with all provisions of this Zoning Code which would apply if such order had not been issued. The order may be rescinded at any time by the authority granting it for a material misrepresentation in the application, or for a violation of the order by the applicant or his or her successors, agents or assigns after notice to the current owners and occupants of the Planned Commercial Development District area and after a hearing on the violation. Upon termination of an order, the zoning requirements shall revert to the current requirements for the zoning district designated for the property.

## **SECTION 1112 CONVEYANCES WHICH CREATE NON-CONFORMING USES FORBIDDEN**

**1112.1. General.** No conveyance of land shall hereafter be made when, as a result of such conveyance, the land or structure of the grantor shall be caused thereby to become a non-conforming use or structure.

**1112.2. Transfer of Ownership.** It shall be unlawful for any owner who has received a Planned Commercial Development District order to sell, transfer, lease or otherwise dispose of to another without owner first furnishing the grantee, transferee, mortgagee or lessee a true copy of the district order issued by the City of Escanaba and shall furnish to the City of Escanaba a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of the district order and fully accepting the terms of the order without condition.

**CHAPTER 12  
SPECIAL PLANNED DISTRICT (E-2)**

**SECTION 1201  
GENERAL**

**1201.1. Purpose.** The Special Planned District is established to enable development of non-single family residential use pursuant to and contingent upon site plan review and approval by the Planning Commission. The site plan review process shall serve as a means for the City to promote compatibility between varying land uses and minimize potentially adverse effects on both the present and future surrounding uses. Site plan review shall also afford the City and developer the means to work in consultation for the purpose of preventing uses that conflict or excessively contrast with the character of neighboring uses.

**1201.2. Cross References, as amended.**

Zoning and planning in home rule cities - MCLA 117.41

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

Regulation of buildings; authority to zone - MCLA 125.582

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

**SECTION 1202  
BOUNDARIES**

**1202.1. General.** The boundaries are described as follows:

**1202.1.1. Description.** That part of Section 36, T39N, R23W that lies within the City of Escanaba, Delta County, MI., described as follows:

Commencing at the Northeast corner of Section 36, T39N, R23W, S 89 degrees 24' W 50.00 feet to the West right-of-way line of South Lincoln Road and M-35 and the Point of Beginning, thence S 0 degrees 43' 30" W 3, 264.50 feet along said West right-of-way line of South Lincoln Road and M-35 to North right-of-way line of 14<sup>th</sup> Avenue South, thence N 89 degrees 49' 20" W 945.23 feet along the said North right-of-way line of 14<sup>th</sup> Avenue South, thence N 1 degree 22' E 638.26 feet, thence N 0 degrees 45' 41" E 1,349.33 feet to the North right-of-way line of 8<sup>th</sup> Avenue South, thence N 89 degrees 21' 57" E 330.74 feet along said North right-of-way line, thence N 0 degrees 41' 55" W 625.54 feet, thence N 89 degrees 19' 16" E 210 feet, thence North 660.00 feet to the South right-of-way line of 5<sup>th</sup> Avenue South, thence N 89 degrees 24' E 396.00 feet along said South right-of-way line of 5<sup>th</sup> Avenue South to the point of beginning.

**Exception:**

Uses permitted in a Special Planned District without site plan review approval as set forth in Section B1201.1 Purpose are as follows: Single family dwellings.

**SECTION 1203  
USES PERMITTED IN A SPECIAL PLANNED DISTRICT**

- Churches, public or parochial schools, colleges, public library, museums.
- Private educational institutions when operated primarily for the purpose of giving preparatory education similar in education, similar in character to that provided in the public schools or kindergartens, nursery schools, and similar institutions for children of pre-school age.
- Parks, playgrounds, school or college stadiums, or athletic fields, golf courses.
- In sparsely settled and unplatted areas, a hospital, clinic, convent, home (see definition of home in Section I), dormitory or other buildings or like character, occupied or to be occupied more or less permanently (but not including penal or correctional institutions, or institutions for the care of the mentally ill or for the liquor or drug addicts);
- Special care facilities.
- Bed and breakfast uses, subject to compliance with provisions defined in the Bed and Breakfast Ordinance.
- Multiple and two-family dwellings.
- Professional offices for accountants, architects, attorneys, engineers, insurance brokers, real estate brokers, title and abstract firms, and other similar service professions.
- Offices of lending institutions and financial institutions, including banks, credit unions, brokerage firms, savings and loan associations, and mortgage companies.  
Office uses shall not include drive-through service facilities.
- Medical and dental offices, non-emergency primary care facilities, medical diagnosis facilities.
- State and Federal offices.
- Funeral homes.
- Assisted living service care facility.
- The Planning Commission may authorize principal and other uses not stated provided that such uses are consistent with the intent of this Chapter and the standards set forth herein.

**SECTION 1204  
SITE PLAN REVIEW/DIAGRAM**

**1204.1. General.** An application for Site Plan Review shall be submitted to the City of Escanaba in accordance with Chapter 18 Site Plan and Sketch Plan Standards of this ordinance. The detailed site plan presented for consideration shall contain all information required as found in Chapter 18 Site Plan and Sketch Plan Standards.

**1204.2. Parking.** Requirements for parking, loading and driveways are contained in Chapter 17, Parking and Circulation Requirements.

**SECTION 1205  
SITE PLAN REVIEW AND APPROVAL AUTHORIZED**

**1205.1. General.** Pursuant to the site plan and sketch plan standards of Chapter 18, Site Plan and Sketch Plan Standards of this code, review and recommendation of the site plan shall be made by the City Administration and Planning Commission and forwarded to the City Council for final decision.

**SECTION 1206**  
**PROCEDURES FOR SUBMISSION AND REVIEW OF APPLICATION**

**1206.1 General.** The provisions of this Chapter are to outline the procedure for approval of a Special Planned District. The applicant shall complete and submit the required number of copies of an application for site plan approval, site plans, and other information where applicable. The procedure for processing site plans shall include three phases: Conceptual review via a pre-application conference, Preliminary site plan review, and Final site plan review.

**1206.1.1. Application.** A Special Planned District application with detailed site plan/diagram shall be submitted to the Planning Commission for Public Hearing, review and approval.

**1206.1.2. Pre-application conference.** Before submitting an application, the applicant shall meet with the City administration to review the proposed project, the Escanaba Code of Ordinances, and the City Plan. Basic questions of use density, integration with existing development in the area, and impacts on and the availability of public infrastructure will be discussed.

**1206.1.3. Preliminary Site Plan Review.** The second phase is called Preliminary Site Plan Review and Approval. At this step a preliminary site plan meeting the submittal requirements of this Ordinance is reviewed by City staff and forwarded to the Planning Commission for review and preliminary approval. Any changes, if necessary, for recommendation of the final site plan approval are specified to the applicant.

**1206.1.4. Final Site Plan Review.** Final Site Plan approval shall be by the Planning Commission. The Code Official shall indicate in writing that all requirements of the Ordinance including those of other reviewing agencies within the City of Escanaba have been met including any conditions that may be necessary. Where the applicant is dependent upon the granting of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted, if any.

**1206.2. Public Hearing.** A Public Hearing shall be held on each Special Planned District request properly filed under this Zoning Code. Notice of the Public Hearing shall be given not less than five (5) nor more than fifteen (15) days before the date of the Public Hearing. Notice shall be published in a newspaper of general circulation in the City of Escanaba and shall be mailed or personally delivered to:

- A. The owners of the property for which approval is being considered;
- B. All persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question; and
- C. At least one (1) occupant of each dwelling unit or area owned or leased by different persons within three hundred (300) feet of the boundary of the property in question. Where a single structure contains more than four (4) dwelling units or other district owned or leased areas, notices may be given to the manager or owner of the structure to post the notice at the primary entrance of the structure. Where the name of the occupant is not known, the term "Occupant" may be used in marking notification.

**1206.3. Notice.** The notice of the Public Hearing shall contain:

- A description of the nature of the Special Planned District request;
- A description of the property which is the subject of the Special Planned District;
- The time and place of the Public Hearing for consideration of the Special Planned District request; and
- When and where written comments will be received concerning the request.

**1206.4. Decision.** The application for Special Planned District may be denied, approved or approved with conditions after conducting a Public Hearing with such notification as provided herein. The decision shall be in the form of an order which shall incorporate a statement of conclusions and shall specify the basis for the decision and any conditions imposed. Unless otherwise mutually agreed, an application for a Special Planned District shall be decided by the Planning Commission within forty-five (45) days of the Public Hearing on the application. There shall be no appeal of the Planning Commission decision to the Zoning Board of Appeals.

**1206.5. Approval.** The Planning Commission may deny, approve, or disapprove with conditions, requests for a Special Planned District. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision, and any condition imposed.

**1206.6. Compliance.** After approval of a Special Planned District, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the Special Planned District.

## **SECTION 1207 DISTRIBUTION COPIES AND ACTION ALTERNATIVES**

**1207.1. General.** An applicant for Site Plan Approval shall complete and submit the number of copies required below of a Site Plan Review Package and other information where applicable. The following Site Plan Review Packages shall be submitted for review at least thirty (30) days prior to the meeting of the Planning Commission at which it will be reviewed.

- A. The original and twelve (12) copies for the City of Escanaba Planning Commission and City Departments.
- B. The Planning Commission will consider all applications for site plan review submitted to it for approval, revision, or disapproval at a scheduled meeting:

Upon determination of the Planning Commission that a site plan is acceptable, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided by the petitioner, the Planning Commission shall approve, disapprove, or approve with conditions the Final Site Plan Review.

If extensive revisions to the site plan are necessary the site plan shall be disapproved and the applicant requested to prepare an alternate site plan. In this case, "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's resolution.

- C. When a final site plan is reviewed and approved or disapproved by the Planning Commission, three (3) copies of the site plan, including any conditions of approval, will be marked by the designated official of the Planning Commission for the following distribution:

One (1) copy returned, to the applicant signed by the Chairperson of the Planning Commission.

One (1) copy forwarded to the Code Official for filing.

One (1) copy to the City Clerk for filing.

- D. Upon Final Site Plan Approval by the Planning Commission, a land use permit may be issued.
- E. Failure to initiate construction of an approved site plan within three hundred sixty-five (365) days of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked.
- F. Thirty (30) days prior to expiration of an approved site plan, an applicant may make application for a one (1) year extension of the site plan. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. The applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.
- G. Revocation of an approved site plan shall be communicated in writing by certified mail to the applicant. The Building Inspector shall also be notified to withhold any building permit until a new site plan is approved.
- H. Any subsequent submittal shall be processed as a new request, except for minor amendments pursuant to Chapter 1, General Provisions, Section 103, Changes and Amendments.

## **SECTION 1208 STANDARDS FOR GRANTING SITE PLAN APPROVAL**

**1208.1. General.** Each site plan shall conform to the standards listed in Chapter 18 Site Plan and Sketch Plan Standards.

## **SECTION 1209 CONDITIONAL APPROVAL**

**1209.1. General.** The Planning Commission may conditionally approval a site plan on conformance with the standards of another local, county or state agency, such as but not limited to County Drain Commission, County Road Commission, State Highway Commission or Natural Resources Department. They may do so when such conditions:

would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity;

would protect the natural environment and conserve natural resources and energy;  
would insure compatibility with adjacent uses of land; and  
would promote the use of land in a socially and economically desirable manner.

**1209.2. Conditional Approval.** The Planning Commission may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements and may collect a performance guarantee consistent with the requirements of Section 1211 Performance Guarantee Required to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:

That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or similar impact on adjoining parcels; and  
That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands in light of similar benefits enjoyed by other properties in the area.

## **SECTION 1210 CONFORMITY TO APPROVED SITE PLAN REQUIRED**

**1210.1. General.** Following final approval of a site plan by the Planning Commission, the applicant shall construct the site plan in complete conformity with the approved plan. Failure to do so is a violation of this ordinance and subject to withholding of a Certificate of Occupancy.

## **SECTION 1211 PERFORMANCE GUARANTEE REQUIRED**

**1211.1. General.** In the interest of insuring compliance with the Zoning Ordinance provisions, protecting the natural resources and the health, safety and welfare of the residents of the City of Escanaba and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission shall require the applicant to deposit a performance guarantee for site improvements as set forth herein. The purpose of the performance guarantee is to insure completion of improvements connected with the proposed use as required by this Ordinance, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

**1211.2. Performance Guarantee Standard.** Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit or corporate surety bond in the amount of the estimated cost of site improvements to be made as determined by the applicant and verified by the City Administration.

**1211.3. Performance Guarantee Deposit.** Said performance guarantee shall be deposited with the City Treasurer prior to the issuance of a building permit by the Building Inspector for the development and use of the land. Upon the deposit of the performance guarantee, the City of Escanaba shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account for the applicant.

**1211.4. Performance Guarantee Duration.** An approved site plan shall also prescribe the

period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.

**1211.5. Performance Guarantee Rebate.** In the event the performance guarantee deposited is a cash deposit or certified check, the City of Escanaba shall rebate to the applicant fifty (50) percent of the deposited funds plus any interest earned thereon when sixty (60) percent of the required improvements are completed as confirmed by the Building Inspector and the remaining fifty (50) percent of the deposited funds when one hundred (100) percent of the required improvements are completed as confirmed by the Building Inspector.

**1211.6. Default.** In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the City of Escanaba, the City of Escanaba shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the City of Escanaba to complete the improvements for which it was posted, the applicant shall be required to pay the City of Escanaba, the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the City of Escanaba use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the City of Escanaba administrative costs in completing the improvement with any balance remaining being refunded to the applicant.

## **SECTION 1212 AMENDMENTS TO APPROVED SITE PLANS**

**1212.1. General.** A Special Planned District order may be amended as follows:

**Minor Amendments.** Minor amendments are those which will have no foreseeable affect beyond the property boundary, such as minor changes in the alignment of utilities and the reconfiguration of parking areas. Minor amendments for good cause may be authorized by the Code Official without notice or hearing, provided no such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the Special Planned District, significantly reduce useable open space, significantly reduce or increase parking areas, or significantly encroach on natural features proposed by the plan to be protected.

**Major Amendments.** Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the Planning Commission.

## **SECTION 1213**

## WAIVER

**1213.1. General.** Either on request of the applicant or on request of the Planning Commission, site plan review requirements may be waived by the Planning Commission on the grounds that such requirement(s) is inappropriate, irrelevant, or unnecessary in connection with the matter at hand.

**CHAPTER 13  
LIGHT MANUFACTURING DISTRICT (“F”)**

**SECTION 1301  
GENERAL**

**1301.1. Purpose.** The Light Manufacturing District is for the purpose of accommodating light manufacturing, retail, transportation, and similar clean industries.

**1301.2. Cross References, amended.**

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

**SECTION 1302  
PRINCIPAL USES PERMITTED BY RIGHT**

**1302.1. General.** The following uses are permitted by right in a Light Manufacturing District:

- Bank, financial institution, credit union, office, studio, barber shop, beauty shop.
- Retail stores, restaurants, taverns, and shopping centers..
- Wholesale business, storage in bulk or warehouse for such materials as clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, metals, pipe, rubber, shop supplies, tobacco, wool within an enclosed facility..
- Theater, moving picture house, recreation building, assembly hall.
- Mortuary, funeral home.
- Dyeing or dry cleaning plant, laundry.
- Bus terminal, taxi stand, truck terminal, enclosed freight terminal (shipping and trucking), airport, railroad passenger terminal, ship passenger terminal, enclosed railroad freight terminal.
- Printing plant, newspaper plant, radio and television broadcasting station.
- Police and fire station, telephone exchange.
- Community garage.
- Motels, hotels, convention center, and arenas.
- Churches, public or parochial schools, colleges, public library, museum, private educational institutions, community building or club.
- Hospital, home, medical clinic, dormitory, kennel, and veterinary hospital.
- Retail building material sales yard, contractor’s equipment or storage yard, lumber yard.
- Light manufacturing, including airplane repair and manufacture, novelty manufacture, battery charging and repair, soft drink manufacture, clock factory, clothing manufacture, glove factory, tire repair shop and other similar uses, provided, however, that such industry is not obnoxious or offensive by reason of emission of odor, fumes, dust, smoke, waste, noise, or vibration.
- Amusement, commercial, outdoor.
- Armories for meetings and training of military organizations.

Automobiles, truck and utility trailer rental.

Automotive repair garages, including engine overhaul, body and paint shops and similar operations.

Automotive sales and repair, including tractor trucks, but not accompanying trailer units, including trailers, motorcycles, and recreational vehicles.

Boat and ship sales and repair not exceeding 100 feet in length.

Building maintenance services.

Car washes.

Cultural facilities.

Contractor offices and accessory storage, excluding the open storage of construction equipment and vehicles.

Distributive businesses, including warehousing in a single building.

Equipment rental and leasing.

Government buildings.

Indoor recreation facilities.

Research and production facilities.

Laboratories, dental, medical, and optical facilities (manufacture, sales and service).

Locksmiths, gunsmiths, and indoor firing ranges.

Manufacturer or assembly of:

- \* Communications equipment
- \* Component parts of aircraft
- \* Computer and office equipment
- \* Electrical lighting and wiring equipment
- \* Electrical components and accessory
- \* Electronic equipment
- \* Furniture and fixtures
- \* Household audio and visual equipment
- \* Household appliances
- \* Industrial machinery
- \* Measuring and controlling devices
- \* Medical instruments
- \* Musical instruments
- \* Ophthalmic goods
- \* Pens, pencils, office and art supplies
- \* Pharmaceuticals
- \* Pumps
- \* Search and navigational equipment
- \* Toys and sporting goods
- \* Watches, clocks, watch cases and parts
- \* Wire products
- \* Other similar uses

Manufacturer of housing sales and repairs.

Merchandise showrooms, including warehousing in a single building.

Nurseries and green houses, retail and wholesale.

Outdoor seasonal sales.

Post offices.

Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsman, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry.

Wholesale sales with related storage and warehousing entirely within an

enclosed building.  
Vocational schools, within an enclosed building.

### **SECTION 1303 USES ALLOWED BY SPECIAL LAND USE PERMIT**

**1303.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the Light Manufacturing District if a special land use permit is issued according to the standards of this chapter:

Wireless telecommunication facility with Planning Commission approval as outlined in Chapter 2, Administration, Enforcement and Penalty, Section 205, Special Land Use Permit Approval.

Penal or correctional institutions.

Public garages, repair shops, gasoline service stations.

Business, public or quasi-public, or commercial vehicle parking.

Special care facilities subject to the following conditions:

1. A special use permit must be approved by the Planning Commission.
2. The allowable number of total occupants shall not exceed six (6) within any 1500 foot radius.
3. All applicants for special use permits must demonstrate that there will be adequately trained personnel to staff or manage the type of facility being proposed.

F. Sexually Oriented Businesses. A sexually oriented business may be allowed and shall be known as a regulated use and shall only be permitted with the following restrictions:

1. The use must be located outside a five hundred (500) foot radius of a residential district, a church, school, or daycare center and outside a five hundred (500) foot radius of an officially dedicated park and the regulated use is not located within a fifteen hundred (1500) foot radius of another regulated use. All measurements under this section shall be made in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the regulated use or building containing a regulated use to the nearest property line of the residential district, church, school, daycare center, or park.
2. Persons operating a regulated use shall not permit any person under the age of eighteen to be on the premises of said regulated use either as an employee or as a customer.
3. The maximum hours of operation of the regulated use shall be from 8:00 a.m. to 12:00 p.m.
4. Sexually oriented products or services or any picture or other representation thereof, shall not be displayed so as to be visible from the street or neighboring property.

5. Off-street parking shall be provided the same as other businesses of a

similar nature that are not sexually oriented (e.g. movie theaters, retail sales and eating and drinking establishments), except that all parts of the parking area shall be illuminated from dusk until one hour after the business closes.

6. Once established, a regulated use shall not be expanded in any manner without first applying for and receiving a special land use permit amendment from the Planning Commission.
7. If a regulated use is discontinued and events cause the areas to not be available for the location of a regulated use, the use may not be reestablished without applying for and receiving an amended special land use permit from the Planning Commission.
8. The Planning Commission may authorize principle and other uses not stated provided that such uses are consistent with the intent of this Chapter and the standards set forth herein.

#### **SECTION 1304**

### **ACCESSORY USES PERMITTED IN A LIGHT MANUFACTURING DISTRICT - WHEN LOCATED ON THE SAME LOT WITH THE PRINCIPAL USE**

**1304.1. General.** Uses customarily incident to any of the permitted uses and located on the same lot therewith, provided all area and yard requirements are met.

#### **SECTION 1305 SETBACKS**

**1305.1. Front Yard requirement.** In a Light Manufacturing District there shall be a front yard on every lot. This front yard lot shall be at least twenty (20) feet in depth as measured at right angles from the front lot line to the nearest part of the principal building located on the lot.

**1305.2. Side Yard Requirement.** In a Light Manufacturing District there shall be two side yards on each lot. The minimum side yard shall be at least ten percent of the width of the lot, with a total of twenty-five percent (25%) of the width of the lot required for both side yards, provided, however, that no side yard shall be less than four feet in width and that the minimum width of each side lot shall be increased by two feet for each story by which the building exceeds two stories in height, and, provided however, that no minimum side yard shall be required to exceed twenty (20) feet or shall the total side yard be required to exceed fifty (50) feet.

**Rear Yard Requirement.** In a Light Manufacturing District there shall be a rear yard on every lot. The minimum rear yard shall be twenty (20) feet in depth as measured at right angles from the rear lot line to the nearest part of the principal building on each lot upon which a one (1) story principal building is located. On lots occupied by other than one story principal buildings, the minimum depth of the required rear yard shall be increased by four feet for each additional story. The depth of a rear yard abutting upon a street shall not be less than the depth of the front yard required for a building of the same size and kind on an adjoining lot fronting on such rear street.

**1305.4. Through Lots and Corner Lot.** Through lots and corner lots having a frontage on two streets shall provide the required setback on both streets.

#### **SECTION 1306**

## ENCROACHMENTS INTO SETBACKS

**1306.1. Projections Into Required Yards.** Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches, boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

### Exceptions:

Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.

An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding twenty (20) feet.

Porches/balconies enclosed with screens, storm windows or other materials may not extend more than eight (8) feet into the front yard. Awnings, arbors and trellises, flagpoles, window air conditioner units and fences.

Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**1306.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**1306.2.1. Neighborhood Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**1306.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**1306.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance

## SECTION 1307 LOT DENSITY

**1307.1. Area.** The minimum width of lots on which no permanent dwellings have been erected at the time of the passage of this ordinance shall be sixty (60) feet.

**1307.1.1. Area Percentage.** No buildings or structures erected shall occupy more than fifty percent (50%) of the area of the lot.

## SECTION 1308

## BUILDING HEIGHT

**1308.2 General.** In a Light Manufacturing District no building shall exceed fifty (50) feet in height.

### Exceptions:

- A. Steeples, Clock Towers, wireless towers, monuments, chimneys, water tanks, elevator bulk heads, or stage tower may be erected to a height not exceeding twice the height of the attached building.
- B. Parapet Walls may be used to screen existing equipment may be erected if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

## SECTION 1309 ACCESSORY BUILDINGS

**1309.1. Distances.** Accessory buildings other than private garages shall be at least ten feet from any dwelling situated on the same lot and at least six feet from any other building on an adjacent lot or accessory building on the same lot.

**1309.2. Front Yard Space.** Accessory buildings may not occupy front yard space.

**1309.3. Side Yard Space.** Accessory buildings and portions thereof may occupy that portion of the side yard which is in excess of the side yard requirements.

**1309.4. Rear Yard Space.** Accessory buildings and portions thereof may occupy up to fifty percent (50%) of the required rear yard space except where a rear yard abuts for its full width upon a street, said buildings and portions thereof shall not occupy any of the required minimum rear yard space. On a corner lot, accessory buildings shall not occupy any part of that portion of the rear yard lying nearer to the street than the width of the side yard required for the same lot abutting on such street.

**1309.5. Side Yard Requirement.** No portion of an accessory building shall approach nearer to a side rear lot line than three feet except that on adjoining lots one story accessory buildings may be built up to the common lot line for a distance of not to exceed thirty (30) feet, provided that such buildings on both sides of such common lot line are erected at the same time and are separated by a common or party wall of fireproof construction.

**1309.6. Accessory Height.** Accessory buildings shall not exceed thirty (30) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111, General Definitions.

## SECTION 1310 PARKING

**1310.1. General.** Requirements for parking, loading and driveways are contained in Chapter 17, Parking and Circulation Requirements.

## SECTION 1311

## LANDSCAPING REQUIREMENTS

**1311.1. General.** Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Chapter. Said landscaping shall be completed within one year from the date of occupancy of the building.

**1311.2. Front Yards.** Optional front yards shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**1311.3. Street-Side Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**1311.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

## SECTION 1312 SIGNS

**1312.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

## SECTION 1313 SPECIAL REQUIREMENTS

**1313.1. General.** Special requirements for a Light Manufacturing District are as follows:

**1313.1.1. Screening.** Dumpsters, solid waste containers recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste must be enclosed by a privacy fence/wall constructed of wood, vinyl, cement or metal not less than six (6) feet in height. Dumpsters, solid waste containers, recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste handling area must be screened from abutting property and from public view from a public street.

**1313.1.2. Railing Fence, Guard or Other Projections.** No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on to which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public spaces or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.

**1313.1.3. Protective Measures Fence.** A special permit granted by the Planning

Commission shall be required of those individuals wishing to erect a protective measures fence; such permit shall be granted only after demonstration of the need of such fence. The owner, or agent thereof, of a protective measure fence shall be granted permission to erect necessary and reasonable barriers along the uppermost edge of the protective measures fence that he deems reasonable for the protection of property within the enclosed area.

**1313.1.4. Fence/Hedge Maintenance.** Any person within the corporate limits of the City erecting or maintaining any fence or hedge between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be fully responsible for the care and maintenance of the fence or hedge and shall assume full responsibility for any damaging arising due to the erection of such fence or hedge.

**CHAPTER 14  
INDUSTRIAL PARK DISTRICT (F-1)**

**SECTION 1401  
GENERAL**

**1401.1 Purpose.** The Industrial Park District is for the purpose of accommodating manufacturing, research and development plants, warehousing, and similar clean industries.

**1401.2. Cross References, as amended.**

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

**SECTION 1402  
PRINCIPAL USES PERMITTED BY RIGHT**

**1402.1. General.** The following uses are permitted by right in an Industrial Park District.

- A. Wholesale manufacturing operations of any of the kinds listed herein provided that such operations are not obnoxious or offensive by reason of odor, fumes, dust, waste, noise, or vibration.
- B. Garment or clothing manufacturing
- C. Electronic equipment or instruments assembly
- D. Airplane or boat assembly or repair within an enclosed facility
- E. Manufacture or remanufacture of automotive related products
- F. Tire manufacturing or reprocessing
- G. Specialized small products manufacturer
- H. Brick, block, pipe, tile, or stone product manufacturer
- I. Food processing plants
- J. Any general wholesale manufacturing of any kind not listed herein but comparable in character subject to the approval of the Planning Commission.
- K. Wholesale business, storage in bulk or warehouse for such materials as clothing, cotton, wool, drugs, feed, furniture, hardware, metals, paint, pipe, rubber, shop supplies, tobacco, building materials when in an enclosed facility.
- L. Commercial freight terminal.
- M. Cold storage plant, ice manufactory, creamery, ice cream manufactory, candy manufactory, bottling works, milk bottling or central distributing station, baking plant, dairy.
- N. Contractor offices and accessory storage, including the storage of general construction equipment and vehicles when in an enclosed fenced in area.
- O. Cultural facilities.
- P. Distributive businesses, including warehousing in a single building.
- Q. Florists, wholesale.
- R. Government buildings.
- S. Research facilities.

- T. Indoor recreational facilities.
- U. Laboratories within an enclosed building for applied and basic research.
- V. Locksmiths, gunsmiths and indoor ranges.
- W. Manufacturer or assembly of:
  - \* Communications equipment
  - \* Component parts of aircraft
  - \* Computer and office equipment
  - \* Electrical lighting and wiring equipment
  - \* Electrical components and accessory
  - \* Electronic equipment
  - \* Furniture and fixtures
  - \* Household audio and visual equipment
  - \* Household appliances
  - \* Industrial machinery
  - \* Measuring and controlling devices
  - \* Medical instruments
  - \* Musical instruments
  - \* Ophthalmic goods
  - \* Pens, pencils, office and art supplies
  - \* Pharmaceuticals
  - \* Pumps
  - \* Search and navigational equipment
  - \* Toys and Sporting goods
  - \* Watches, clocks, watch cases and parts
  - \* Wire products
  - \* Other similar uses
- X. Merchandise showrooms, including warehousing in a single building.
- Y. Office complex over fifteen thousand (15,000) square feet.
- Z. Printing and publishing facilities.
- AA. Radio and television stations and/or offices.
- BB. Research uses, within an enclosed building.
- CC. Vocational schools, within an enclosed building.
- DD. Warehousing, excluding mini-warehousing.
- EE. Wholesale sales with related storage and warehousing entirely within an enclosed building, excluding truck terminals.

**SECTION 1403  
USES ALLOWED BY SPECIAL LAND USE PERMIT**

**1403.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the Industrial Park District if a special land use permit is issued according to the standards of this Ordinance:

- A. Wireless telecommunication facility; B. Restaurant, hotel; and C. The Planning Commission may authorize principle and other uses not stated provided that such uses are consistent with the intent of this Chapter and the standards set forth herein.

**SECTION 1404**  
**ACCESSORY USES PERMITTED IN AN INDUSTRIAL PARK DISTRICT - WHEN**  
**LOCATED ON THE SAME LOT WITH THE PRINCIPAL USE**

**1404.1. General.** Use customarily incident to any of the permitted uses and located on the same lot therewith.

**SECTION 1405**  
**SETBACKS**

**1405.1. Front Yard Requirement.** In an Industrial Park District there shall be a front yard on every lot. This front yard shall be at least twenty (20) feet in depth as measured at right angles from the front lot line to the nearest part of the principal building located on the lot.

**1405.2. Side Yard Requirement.** In an Industrial Park District there shall be two side yards on each lot. The minimum side yard shall be at least ten percent (10%) of the width of the lot, with a total of twenty-five percent (25%) of the width of the lot required for both side yards, provide, however, that no side yard shall be less than four (4) feet in width and that the minimum width of each side lot shall be increased by two (2) feet for every story by which the building exceeds two stories in height, and, provided however, that no minimum side yard shall be required to exceed twenty (20) feet nor shall the total side yard be required to exceed fifty (50) feet. On corner lots, the side yard adjacent to the street shall have the same setback as the front yard requirements.

**1405.3. Rear Yard Requirement.** In an Industrial Park District there shall be rear yard on every lot. The minimum rear yard shall be twenty (20) feet in depth as measured at right angles from the rear lot line to the nearest part of the principal building on each lot upon which a one (1) story principal building is located. On lots occupied by other than one (1) story principal buildings, the minimum depth of the required rear yard shall be increased by four (4) feet for each additional story.

The depth of a rear yard abutting upon a street shall not be less than the depth of the front yard required for a building of the same size and kind on an adjoining lot fronting on such rear street.

**1405.4. Through Lots and Corner Lot.** Through lots and corner lots having a frontage on two (2) streets shall provide the required setback on both streets.

**SECTION 1406**  
**ENCROACHMENTS INTO SETBACKS**

**1406.1. Projections Into Required Yards.** Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches, boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

**Exceptions:**

Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project

into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.

An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding twenty (20) feet.

Porches/balconies enclosed with screens, storm windows or other materials may not extend more than eight (8) feet into the front yard.

Awnings, arbors and trellises, flagpoles, window air conditioner units and fences.

Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**1406.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**1406.2.1. Neighborhood Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**1406.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**1406.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance.

## **SECTION 1407 LOT DENSITY**

**1407.1. Area.** The minimum width of lots in which no permanent building has been erected at the time of the passage of this Ordinance shall be one hundred thirty (130) feet.

**1407.1.1. Area Percentage.** No buildings or structures hereafter erected shall occupy more than fifty percent (50%) of the area of the lot.

## **SECTION 1408 BUILDING HEIGHT**

**1408.1. General.** In an Industrial Park District, no building shall exceed four stories or shall exceed fifty (50) feet in height.

### **Exceptions:**

- A. Steeples, Clock Towers, wireless towers, monuments, chimneys, water tanks, elevator bulk heads, or stage tower may be erected to a height not exceeding twice the height of the attached building.

- B. Parapet Walls may be used to screen existing equipment may be erected if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

## **SECTION 1409 ACCESSORY BUILDINGS**

**1409.1. Front Yard Space.** Accessory buildings may not occupy front yard space.

**1409.2. Rear Yard Space.** Accessory buildings and portions thereof may occupy up to fifty percent (50%) of the depth of the required rear yard space except where a rear yard abuts for its full width upon a street, said buildings and portions thereof shall not occupy any of the required minimum rear yard space. On a corner lot, accessory buildings shall not occupy any part of that portion of the rear yard lying nearer to the street than the width of the side yard required to the same lot and abutting on such street.

**1409.3. Accessory Height.** Accessory buildings shall not exceed thirty (30) feet in height from ground floor to mean height as defined in Chapter 1, General Provisions, Section 111, General Definitions.

## **SECTION 1410 PARKING**

**1410.1. General.** Requirements for parking, loading and driveways are contained in Chapter 17, Parking and Circulation Requirements.

## **SECTION 1411 LANDSCAPING REQUIREMENTS**

**1411.1. General.** Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Chapter. Said landscaping shall be completed within one year from the date of occupancy of the building.

**1411.2. Front Yards.** Front yards shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**1411.3. Street-Side Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**1411.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

## **SECTION 1412 SIGNS**

**1412.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

**SECTION 1413  
SPECIAL REQUIREMENTS**

**1413.1 General.** Special requirements for an Industrial Park District are as follows:

**1413.1.1. Screening.** Dumpsters, solid waste containers, recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste must be enclosed by a privacy fence/wall constructed of wood, vinyl, cement or metal not less than six (6) feet in height. Dumpsters, solid waste containers, recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste handling area must be screened from abutting property and from public view from a public street.

**1413.1.2. Railing Fence, Guards or Other Projections.** No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on to which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public spaces or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.

**1413.1.3. Protective Measure Fence.** A special permit granted by the Planning Commission shall be required of those individuals wishing to erect a protective measures fence; such permit shall be granted only after demonstration of the need of such fence. The owner, or agent thereof, of a protective measure fence shall be granted permission to erect necessary and reasonable barriers along the uppermost edge of the protective measures fence that he deems reasonable for the protection of property within the enclosed area.

**1413.1.4. Fence/Hedge Maintenance.** Any person within the corporate limits of the City erecting or maintaining any fence or hedge between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be fully responsible for the care and maintenance of the fence or hedge and shall assume full responsibility for any damaging arising due to the erection of such fence or hedge.

**CHAPTER 15  
HEAVY MANUFACTURING DISTRICT (“G”)**

**SECTION 1501  
GENERAL**

**1501.1. Purpose.** The Heavy Manufacturing District is for the purpose of accommodating heavy manufacturing, power plants, mining related operations, and similar industries.

**1501.2. Cross References, as amended.**

- A. Zoning and planning in home rules cities MCLA 117.41
- B. Regulation of location of trades, buildings and uses by local authorities MCLA 125.581
- C. Regulation of buildings; authority to zone MCLA 125.582
- D. Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property MCLA 125.583a

**SECTION 1502  
PRINCIPAL USES PERMITTED BY RIGHT**

**1502.1. General.** In a Heavy Manufacturing District a building, structure, or premises may be erected or used for one or more of the following specified purposes:

- A. Restaurants, taverns.
- B. Wholesale business, storage in bulk or warehouse for such materials as clothing, cotton, drugs, feed, food, furniture, hardware, metals, oil and petroleum, paint, pipe, rubber, shop supplies, tobacco, wool, wood within an enclosed facility.
- C. Cold storage plant, ice manufactory, creamery, ice cream manufactory, candy manufactory, bottling works, milk bottling or central distributing station, baking plant, dairy.
- D. Dyeing or dry cleaning plant, laundry.
- E. Printing plant, newspaper plant, radio and television broadcasting station, telephone exchange.
- F. Community garage.
- G. Manufacturing, including airplane repair and manufacture, novelty manufacture, battery charging and repair, soft drink manufacture, brewery, clock and watch manufacture, glove factory, hat manufacture, garment factory, tire repair shop, stone cutting, cemetery monuments, brick factory, cement block manufacture, cement fabrication, tile manufacture, terra cotta manufacture, furniture factory, mattress factory, insulation factory.
- H. Grain elevator, blacksmith shop, saw mill, foundry, asphalt plant, iron ore loading docks, railroad yards, railroad tie plant, iron ore pile, coal piles, and gravel piles.
- I. Scrap iron or junk storage, coal load and coal or wood yard, scrap paper or rag storage sorting or bailing.
- J. Light or power plant.
- K. Propane gas plant or bottle gas distributing plant.
- L. Sewage disposal or treatment plant.
- M. Fish curing, smoking and packing.

- N. Bus terminal, taxi stand, truck terminal, enclosed freight terminal (shipping and trucking), airport, railroad passenger terminal, ship passenger terminal, enclosed railroad freight terminal.
- O. Kennels, veterinary hospitals, manufacturing or industrial operations of any kind not listed above subject to the approval of the Planning Commission where such uses will not become noxious or offensive or endanger public health, sanitation or general welfare.
- P. Crematory.
- Q. Manufacturer or assembly of:
  - \* Communications equipment
  - \* Component parts of aircraft
  - \* Computer and office equipment
  - \* Electrical lighting and wiring equipment
  - \* Electrical components and accessory
  - \* Electronic equipment
  - \* Furniture and fixtures
  - \* Household audio and visual equipment
  - \* Household appliances
  - \* Industrial machinery
  - \* Measuring and controlling devices
  - \* Medical instruments
  - \* Musical instruments
  - \* Ophthalmic goods
  - \* Pens, pencils, office and art supplies
  - \* Pharmaceuticals
  - \* Pumps
  - \* Search and navigational equipment
  - \* Toys and sporting goods
  - \* Watches, clocks, watch cases and parts
  - \* Wire products
  - \* Other similar uses
- R. Manufactured housing construction and assembly.
- S. Contractor offices and accessory storage, including the storage of general equipment and vehicles in an enclosed fenced-in area.
- T. Warehousing.

**SECTION 1503  
USES ALLOWED BY SPECIAL LAND USE PERMIT**

**1503.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the Heavy Manufacturing District if a special land use permit is issued according to the standards of this chapter:

- A. Wireless telecommunication facility with Planning Commission approval as outlined in Chapter 2, Administration, Enforcement and Penalty, Section 205, Special Land Use Permit Approval.
- B. Public garages, repair shops, gasoline station or other motor fueling stations.
- C. The Planning Commission may authorize principle and other uses not stated provided that such uses are consistent with the intent of this Chapter and the standards set forth herein.

**SECTION 1504  
USES PROHIBITED IN A HEAVY MANUFACTURING DISTRICT**

**1504.1. General.** Schools, hospitals, clinics and other institutions for human care, except where incidental to a permitted principal use.

**SECTION 1505  
SETBACKS**

**1505.1. Front Yard Requirement.** In a Heavy Manufacturing District there shall be a front yard on every lot. This front yard shall be at least twenty (20) feet in depth as measured at right angles from the front lot line to the nearest part of the structures, stockpiles or outdoor equipment and material storage located on the lot.

**1505.2. Side Yard Requirement.** In a Heavy Manufacturing District there shall be two side yards on every lot. The minimum side yard shall be twenty (20) feet as measured from the nearest part of the principal building to the side lot line. Accessory structures or material stockpiles may be located up to ten feet of the side lot line.

**1505.3. Rear Yard Requirement.** In a Heavy Manufacturing District there shall be a rear yard on every lot. The minimum rear yard shall be twenty (20) feet in depth as measured from the rear lot line to the nearest part of the principal building on each lot upon which a one story principal building is located, provided, however, that the owner of a lot in either of these districts may elect to provide for an open court of at least three hundred (300) square feet to be used for loading and unloading purposes. The minimum dimension of such court shall be ten feet.

**1505.4. Through Lots and Corner Lot.** Through lots and corner lots having a frontage on two streets shall provide the required setback on both streets.

**SECTION 1506  
ENCROACHMENTS INTO SETBACKS**

**1506.1. Projections Into Required Yards.** Outside stairways, fire escapes, fire towers, chimneys, platforms, enclosed balconies/porches, boiler/furnace flues, eaves, sills, belt courses, cornices and other projections shall be considered part of the building, subject to the setback requirements of the building.

**Exceptions:**

- A. Terraces, patios, decks, uncovered and unenclosed porches which do not extend more than thirty (30) inches above grade at the nearest side property line may project into a required side setback provided these projections are no closer than two (2) feet from the subject side property line.
- B. An unenclosed balcony, porch or deck may project into a rear setback for a distance not exceeding twenty (20) feet.
- C. Porches/balconies enclosed with screens, storm windows or other materials may not extend more than eight (8) feet into the front yard.
- D. Awnings, arbors and trellises, flagpoles, window air conditioner units and fences.
- E. Bay windows may project into the required side yard, front yard or rear yard not more than eighteen (18) inches.

**1506.2. Handicap Ramp Procedure/Other Encroachments.** The Code Official shall have the authority to approve a handicapped ramp or other encroachment into a yard, if the encroachment is required by law and there is no other reasonable location.

**1506.2.1. Neighborhood Notification.** Before granting any administrative approval, the Code Official shall take reasonable steps to inform the owners of the property abutting on that side of the location of the requested approval or on all sides, if all sides would be affected. The Code Official shall inform the relevant abutting owner(s) that the owner is entitled to object. The abutting owner shall have three working days to make comments to the Code Official. The Code Official shall take into consideration any comments received.

**1506.2.2. Variance.** If the Code Official determines that there is not a basis for administrative approval, then the applicant must seek a variance.

**1506.2.3. Administrative Denial.** If any person who is deemed to have the status of an aggrieved person objects to the administrative approval with a stated reason before the Code Official's written decision, then the Code Official shall deny the request for an administrative approval and the applicant must file for a variance.

## **SECTION 1507 LOT DENSITY**

**1507.1. Lot Density.** The minimum width of lots on which no permanent building has been erected at the time of the passage of this Ordinance shall be sixty (60) feet.

**1507.1.1. Area Percentage.** No buildings or structures hereafter constructed shall occupy more than eighty-five percent (85%) of the lot.

## **SECTION 1508 BUILDING HEIGHT**

**1508.1. General.** In a Heavy Manufacturing District no building shall exceed seventy (70) feet in height.

### **Exceptions:**

- A. Steeples, Clock Towers, wireless towers, monuments, chimneys, water tanks, elevator bulk heads, or stage tower may be erected to a height not exceeding twice the height of the attached building.
- B. Parapet Walls may be used to screen existing equipment may be erected if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

## **SECTION 1509 PARKING**

**1509.1. General.** Requirements for parking, loading and driveways are contained in Chapter 17, Parking and Circulation Requirements.

## **SECTION 1510 LANDSCAPING REQUIREMENTS**

**1510.1. General.** Landscaping is required for all new buildings and additions over five hundred (500) square feet as defined in this Chapter. Said landscaping shall be completed within one year from the date of occupancy of the building.

**1510.2. Front Yards.** Optional front yards shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

**1510.3. Street-Side Side Yards.** All flanking street-side side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

**1510.4. Maintenance.** All live landscaping required by this Ordinance shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded areas mowed, fertilized, and irrigated on a regular basis.

## **SECTION 1511 SIGNS**

**1511.1. General.** All signs must be designed, installed, and maintained in accordance with the provisions of Chapter 3 Advertising Regulations; Signs., as amended, of the Code of Ordinances.

## **SECTION 1512 SPECIAL REQUIREMENTS**

**1512.1. General.** Special requirements for a Heavy Manufacturing District are as follows:

**1512.1.1. Screening.** **1014.2. Screening.** Dumpsters, solid waste containers, recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste must be enclosed by a privacy fence/wall constructed of wood, vinyl, cement or metal not less than six (6) feet in height. Dumpsters, solid waste containers, recycling containers (except for recycling containers located at Recycling Collection Centers), or solid waste handling area must be screened from abutting property and from public view from a public street.

**1512.1.2. Railing Fence, Guards or Other Projections.** No person being the owner, lessee, occupant or agent for the same, of any building in the City shall erect, cause to be erected, or maintain on or about the walk or stairway to the entrance to such building, any railing, fence, guard or other projection on to which there shall be affixed or placed, or in any manner attached, any barbed wire construction, nor shall there be maintained, either partially or wholly, around any area adjacent to any street, alley, lane or public way, or in or along any street or sidewalk in front or adjacent to any public spaces or place, or nail or cause the same to be nailed or fastened, in any form, shape or manner, upon any partition form, any such barbed wire construction, nor shall any electrical current be charged through any fence whatsoever.

**1512.1.3. Protective Measure Fence.** A special permit granted by the Planning Commission shall be required of those individuals wishing to erect a protective

measures fence; such permit shall be granted only after demonstration of the need of such fence. The owner, or agent thereof, of a protective measure fence shall be granted permission to erect necessary and reasonable barriers along the uppermost edge of the protective measures fence that he deems reasonable for the protection of property within the enclosed area.

**1512.1.4. Fence/Hedge Maintenance.** Any person within the corporate limits of the City erecting or maintaining any fence or hedge between the edge of the established lot line and the inside edge of the sidewalk or where any sidewalk would normally be, shall be fully responsible for the care and maintenance of the fence or hedge and shall assume full responsibility for any damaging arising due to the erection of such fence or hedge.

**CHAPTER 16  
OPEN SPACE DISTRICT**

**SECTION 1601  
GENERAL**

**1601.1. Purpose.** The Open Space District is for the purpose of accommodating natural or park like settings including parks, playgrounds, athletic fields, wetlands, flood plains, natural areas and cultural buildings, often linked with pedestrian and bicycle paths.

**1601.2. Cross References, as amended.**

Zoning and planning in home rules cities - MCLA 117.4I

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

Regulation of buildings; authority to zone - MCLA 125.582

Regulation of congested areas - MCLA 125.583

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

**SECTION 1602  
PRINCIPAL USES PERMITTED BY RIGHT**

**1602.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the Open Space District, with buildings less than three thousand (3,000) square feet in gross floor area:

A. Airport clear zones; B. Golf courses; C. Athletic fields; D. Marinas; E. Boat houses; F. Outdoor public swimming pools; G. Boat liveries; H. Parks; I. Cultural facilities; J. Playgrounds; K. Essential service without buildings; and L. Recreational facilities.

**SECTION 1603  
USES ALLOWED BY SPECIAL LAND USE PERMIT**

**1603.1. General.** The following uses of land and buildings, together with accessory uses, are allowed in the Open Space District if a special land use permit is issued according to the standards of this Code:

Buildings three thousand (3,000) square feet or larger in gross floor area for allowed uses;

Essential service buildings; and

Government owned buildings and facilities.

**SECTION 1604  
LOT, DENSITY AND IMPERVIOUS SURFACE PROVISIONS**

**Lot Width.** The minimum width of lots in an Open Space District shall be twenty (20) feet.

**1604.2. Lot Area.** There is no minimum lot area in an Open Space District.

**1604.3. Impervious Surface.** The maximum impervious surface of area in an Open Space District cannot exceed twenty (20) percent of the total lot area.

## **SECTION 1605 SETBACKS**

**1605.1. Front Yard Requirement.** In an Open Space District there shall be a front yard on every parcel.

**1605.1.1. Building.** No new building or building addition shall be erected closer to the street than average setback of the buildings within 200 feet on either side. Where there are no buildings, the minimum setback is thirty (30) feet.

**1605.1.2. Parking area.** Behind or to the side of the principal building and setback a distance equal to the setback of the principal building or twenty-five (25) feet, whichever is greater. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic, but in no case closer than twenty-five (25) feet from the front property line.

**1605.2. Side Yard Requirement.** In an Open Space District there shall be on each side of every parcel a side yard.

**1605.2.1. Minimum Side Yard.** The minimum side yard in an Open Space District shall be ten (10) feet. The total side yard for an Open Space District shall not be less than twenty (20) feet.

**1605.2.2. Parking Area.** If contiguous to a Residential District, a minimum of ten (10) feet. Otherwise, five (5) feet. If shared parking is developed, these setbacks would affect only the perimeter of the combined parcels.

**1605.3. Rear Yard Requirement.** In an Open Space District there shall be a rear yard on every parcel.

**1605.3.1. Building.** No new building or building addition shall be erected without having a thirty (30) foot rear yard.

**1605.4. Through Lots and Corner Lot.** Through lots and corner lots having a frontage on two (2) streets shall provide the required setback on both streets.

## **SECTION 1606 ENCROACHMENT INTO THE SETBACKS**

**1606.1. General.** No encroachment into the required setback is allowed.

## **SECTION 1607 BUILDING HEIGHT**

**1607.1. General.** In an Open Space District, no building shall exceed thirty-five (35) feet in height.

**Exceptions:**

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

Parapet walls may be used to screen existing equipment if the wall extends around the perimeter of the building and incorporates exterior building materials similar to those of the main building.

**SECTION 1608  
ACCESSORY BUILDINGS**

**1608.1. General.** Accessory buildings shall be located no closer than five (5) feet from any side or rear property line. A boathouse up to two hundred fifty (250) feet in gross floor area may be built to the water's edge. Accessory buildings may not occupy front yard space.

**SECTION 1609  
PARKING, LOADING AND DRIVEWAYS**

**1609.1. General.** Requirements for parking, loading and driveways are contained in Chapter 17, Parking and Circulation Requirements. In addition, athletic fields may provide up to fifty percent (50%) of the required number of organized parking on an area developed in turf grasses. Grassed parking areas shall be considered as providing one parking space for every three hundred fifty (350) square feet of continuous turf-covered area. All grassed parking areas shall be maintained in a healthy, vigorous growing condition. When use requires more frequent parking, an impervious surface or approved previous hard surface parking area shall be developed.

**CHAPTER 17**  
**PARKING AND CIRCULATION REQUIREMENTS**

**SECTION 1701**  
**OFF-STREET PARKING**

**1701.1. General.** There shall be provided at the time of erection of any main building or at the time such buildings are altered, enlarged, converted or increased in capacity minimum off-street parking space with adequate provisions for ingress and egress by standard-sized vehicles in accordance with the requirements of this Chapter.

**1701.2. Purpose.** It is hereby determined that the provision for off-street parking spaces is necessary to reduce traffic hazards and the congestion of streets. It is also determined that regulation of location, design, maintenance and other features of off-street parking lots is in the interest of public safety and welfare.

**1701.3. Compliance.**

**1701.3.1. Required Parking.** There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number and paving of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a permanent certificate of occupancy.

**1701.3.2. Remodeling/Rebuilding.** For those buildings existing within all districts excepting districts "A," "B," and "C", no additional parking space need be provided when remodeling or rebuilding of structures, provided the usable floor area of existing structures on such site is not increased in the remodeling or rebuilding. Where floor area is increased, parking space shall be provided for such increased floor area in accordance with the provisions of this ordinance.

**1701.3.3. Change of Use.** Whenever the use of an existing building is changed to a category or classification which requires more parking than the former established use, the additional demand for parking spaces created by the use change shall be provided for. Also whenever a business use is changed to a residential use, the minimum on-site parking requirements shall be provided.

**1701.4. Handicapped Parking Facilities.** Off-street parking facilities shall provide spaces for the handicap in accordance with the provisions of Act 230 of the Public Acts of the State of Michigan 1972, as amended.

**1.0.0. Required Minimum Number of Accessible Spaces.** If parking spaces are provided for self parking by employees or visitors, or both, then handicapped accessible spaces complying with Table 1701.4 Required Spaces shall be provided in each such parking area.

**TABLE 1701.4.  
REQUIRED SPACES**

<b>Total Parking</b>	<b>Required Accessible Spaces</b>
<b>1 to 25</b>	<b>1</b>
<b>26 to 50</b>	<b>2</b>
<b>51 to 75</b>	<b>3</b>
<b>76 to 100</b>	<b>4</b>
<b>101 to 150</b>	<b>5</b>
<b>151 to 200</b>	<b>6</b>
<b>201 to 300</b>	<b>7</b>
<b>301 to 400</b>	<b>8</b>
<b>401 to 500</b>	<b>9</b>
<b>501 to 1000</b>	<b>2 percent of total</b>
<b>1001 and over</b>	<b>20 plus for 1 each 100 over 1000</b>

**1701.5. Limitations on Parking Lot Use.** The following limitations apply to all parking lots:

**1701.5.1. Private Passenger Vehicle.** The off-street parking lot shall be used solely for parking of private passenger vehicles for periods of less than one day.

**1701.5.2. Vehicle Repairs.** The repair of vehicles, and the storage of merchandise, motor vehicles or trucks is prohibited.

**1701.5.3. Signs.** No signs of any kind other than signs designating entrances, exits, and conditions of use shall be erected within the parking lot.

**1701.6. Non-Specified Uses.** For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Code Official considers similar in type.

**SECTION 1702  
PARKING SPACE REQUIREMENTS**

**1702.1. Required Number.** The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 1702 Off-Street Parking Schedule, provided that any fractional parking space be computed as a whole space. Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of the building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

**1702.2. Combination of Uses.** Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.

**TABLE 1702  
OFF-STREET PARKING SCHEDULE**

<b>Use</b>	<b>Number of Parking Spaces Required</b>
Dwelling units	2/dwelling unit
Bed and Breakfast	2/operated use and 1/bed and breakfast sleepingroom
Library, Museum, Post Office	1/150 s.f. of usable floor area
Bowling alley	5/for each one bowling lane
Adult foster care home	1/3 residents
Child care center	1/10 children
Residential care and treatment facilities	1/3 beds
Independent living	1/unit
High school	8/each classroom - 1/each employee
Colleges	7/10 students (maximum of 22 spaces for each classroom, whichever is more restrictive) - 1/each employee
All other schools	1.5/classroom
Places of worship	1/3 seats in main area of worship
Hospitals	1/bed plus 1/employee on a major shift
Grocery and all other uses	1/300 s.f. of usable floor area
Office	1/300 s.f. of usable floor area
Retail	1/200 s.f. of usable floor area
Marinas	1/boat slip
Restaurant	1/100 s.f. of usable floor area
Health club	1/100 s.f. of usable floor area
Warehouse	1/1500 gross s.f.
Assembly	1/300 s.f. of usable floor area
Medical Office	1/300 s.f. of usable floor area (maximum 1/150 s.f.)
Theaters/Auditoriums	1/3 seats
Hotels/Motels	1/guest room plus 1/500 s.f. of common area
Industrial	1/500 s.f. of usable floor area

**1702.3. Location of Lot.** The parking spaces required by this code shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than three hundred (300) feet radially from the subject lot within the same or less-restrictive zoning district. All residential parking shall be located on the premises it is intended to serve.

**SECTION 1703  
PARKING STALL DIMENSION**

**1703.1. Width.** A minimum width of nine (9) feet shall be provided for each parking stall.

**Exceptions:**

Compact parking stalls shall be permitted to be eight (8) feet wide.

The width of a parking stall shall be increased twelve (12) inches for obstructions located on either side of the stall within fourteen (14) feet of the access aisle.

**1703.2. Length.** A minimum length of twenty (20) feet shall be provided for each parking stall.

**Exceptions:** Compact parking stalls shall be permitted to be eighteen (18) feet in length.

**1703.3. Maneuvering/Aisle Widths.** Plans for the layout of the parking lot shall describe the dimensions of the total lot, and shall describe the location and dimensions of all parking spaces, maneuvering lanes, entrances, exits and setbacks. One (1) of the following various patterns shall be used:

<i>Parking Angle</i>	<i>Stall Width</i>	<i>Maneuvering Lanes</i>	<i>Parking Stall Length</i>
<i>0° to 15°</i>	<i>10 ft.</i>	<i>12 ft.</i>	<i>23 ft</i>
<i>16° to 37°</i>	<i>10 ft.</i>	<i>12 ft.</i>	<i>20 ft.</i>
<i>38° to 57°</i>	<i>10 ft.</i>	<i>15 ft.</i>	<i>20 ft.</i>
<i>58° to 74°</i>	<i>10 ft.</i>	<i>18 ft.</i>	<i>20 ft.</i>
<i>75° to 90°</i>	<i>10 ft.</i>	<i>24 ft</i>	<i>20 ft.</i>

**1703.4. Maneuvering Lane Access.** All spaces shall be provided adequate access by means of a maneuvering lane.

**1703.5. Maneuvering Lane Widths.** All maneuvering lane widths with the exception of the seventy-five to ninety-degree pattern shall be for one-way traffic movement. These widths shall be increased to a minimum twenty-four (24) feet to permit two-way movement of traffic.

**1703.6. Compact-to-standard stall ratio.** The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed one (1) to two ( 2).

**SECTION 1704  
DRIVEWAYS, STREET AND ACCESS MANAGEMENT**

**1704.1. Driveway, Street and Access Management.** Adequate ingress and egress to the parking lot and/or property by means of clearly limited and defined drives shall be provided for all vehicles. The number of commercial driveways serving a property shall be the minimum number necessary to provide reasonable access and access for emergency vehicles, while preserving traffic operations and safety along the public roadway. Access may be via an individual access point or shared access along a service drive.

**1704.1.1. Special Access Points - Lincoln Road, Ludington Street, and North 30<sup>th</sup> Street.** One access point along the corridor of Lincoln Road, Ludington Street, and North 30<sup>th</sup> Street or along connecting streets which intersect Lincoln Road, Ludington Street and North 30<sup>th</sup> Street shall be permitted for each site plan or subdivision. The

Planning Commission may require shared access or access via a service drive as deemed necessary.

**1704.1.2. Additional Access Points.** Additional access points may be permitted if one or more of the following applies:

- A. One additional access point along Lincoln Road, Ludington Street, and North 30<sup>th</sup> Street may be allowed for land with a continuous frontage of over five hundred (500) feet, if the Planning Commission determines there are no other reasonable access opportunities, or
- B. One additional access point may be allowed along streets which intersect Lincoln Road, Ludington Street, and North 30<sup>th</sup> Street for land with at least four hundred (400) feet of frontage along the street, if the Planning Commission determines there are no other reasonable access opportunities, or
- C. One additional access point may be allowed if the land is a corner parcel with at least three hundred (300) feet of frontage along both public streets, if the Planning Commission determines there are no other reasonable access opportunities, or
- D. One way access points are discouraged due to their conflict with the City of Escanaba goal to reduce the number of driveways/access points on Lincoln Road, Ludington Street and North 30<sup>th</sup> Street, if the Planning Commission determines there are no other reasonable access opportunities.

**1704.1.3. Traffic Impact Study.** The Planning Commission may determine an additional access is justified based upon a traffic impact study submitted by the applicant. The traffic impact study must be reviewed and accepted by the Michigan Department of Transportation and/or Delta County Road Commission before submittal to the Escanaba Planning Commission.

**1704.1.4. Minimum Distance - All Other Areas.** In all other areas of Escanaba there shall be a minimum of twenty-five (25) feet between curb cuts and intersections.

## **SECTION 1705 LOT ACCESS**

**1705.1. Lot Access.** Every lot must abut a street. No building, structure or use of land for any purpose may be placed on a lot which does not abut a street.

### **Exceptions:**

- A. A single-family detached dwelling may be constructed on a lot that does not abut a street, provided that lot is at least two (2) acres in size, is provided with access to a public street by an easement (other than an alley) of at least fifteen (15) feet in width for the exclusive use of the detached dwelling, and the easement is maintained in a condition passable for emergency and service vehicles. All lots

must be created and developed pursuant to the "Subdivision Control Act", Act 288 of the Public Acts of 1967, Act 591 of Public Acts of 1996, and Act 87 of Public Acts of 1997, as amended.

- B. Attached and multi-family dwellings need not abut a street, provided that all portions of every dwelling unit are within four hundred (400) feet of a public or private street that furnishes direct access to the property and that access to each dwelling unit will be made available via either a public right-of-way or private street or vehicular or pedestrian way (other than an alley) owned by the individual unit owner in fee or in common ownership.
- C. Driveways in a Light Manufacturing District and Heavy Manufacturing District may be used to provide access to uses in any of these districts which are located on lots which do not abut a street. Any such lot, which existed prior to 1997 may be used as if it abutted a street, provided that it is served with a driveway built to appropriate standards located on a permanent, recorded easement.
- D. Nothing in this section exempts any property from the provisions of the Subdivision Ordinance and/or the Subdivision Control Act. In any case, when there appears to be contradicting or overlapping standards or requirements, the more restrictive standard or requirement will control.
- E. Lots or building sites which are part of a large nonresidential development, such as a shopping center, need not abut a street so long as the overall site abuts a street and is designed in such a manner and way that access is furnished to all interior lots or building sites.

## **SECTION 1706 DESIGN OF PARKING FACILITIES**

**1706.1. Driveway width.** Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:

**1706.1.1.** Private driveways at least 9 feet.

**1706.1.2.** Commercial driveways:

**1706.1.2.1.** Twelve feet for one-way enter/exit.

**1706.1.2.2.** Twenty-four feet for two-way enter/exit.

**1706.2. Driveway and ramp slopes.** The maximum slope of any drive or ramp shall not exceed twenty percent (20%). Transition slopes in driveways and ramps shall be provided in accordance with the standards set by the City Engineer.

**1706.3. Stall accessibility.** Each required parking stall shall be individually and easily accessible. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.

**1706.4. Screening.** A four (4) foot high screen at the public way shall be provided for all parking areas of five (5) or more parking spaces. An off-street parking lot abutting a residential district shall be provided with a four-foot continuous screen. The screen shall be provided on all sides where the abutting zoning district is designed as a residential district.

**1706.5. Paving.** In a Residential Planned Unit Development District, Local Business District, Commercial District, Planned Commercial Development District, Special Planned District, Light Manufacturing District, Industrial Park District, Heavy Manufacturing District, and Open Space District the entire parking lot, including parking spaces and maneuvering lanes required under this Chapter, shall be provided with a paved surface. For Bed and Breakfast Establishments and Rooming Houses the parking area shall be surfaced before the permit/license is issued. Off-street parking lots shall be drained so as to dispose of all surface water accumulated in the parking areas in such a way as to preclude drainage of water onto adjacent property or toward buildings.

**1706.6. Bumper Stops and Paint Striping.** All parking spaces shall be clearly defined by use of carwheel or bumper stops and/or painted striped lines.

**Exception:** A private garage or parking area for the exclusive use of a single-family dwelling.

**1706.7. Lighting.** All lights illuminating a parking area shall be designed and located so as to reflect down and away from any public right-of-way and adjacent property. In no case may the source of light exceed thirty (30) feet in overall height above ground level.

**1706.8. Separation.** The parking area must be separated from the contiguous residential area by a fence or hedge. A fence shall have a minimum height of four (4) feet and be constructed of boards, pickets, stone or other suitable material equivalent thereto, with a maximum open area of fifty percent (50%). A hedge shall not be less than four (4) feet in height and be composed of at least one hedge row of hardy shrubs or two rows of evergreens.

## **SECTION 1707 OFF-STREET LOADING ZONES**

**1707.1. General.** On the same site with every building or structure in all districts, excepting districts "A," "B," and "C," there shall be provided and maintained a minimum of one space for standing, loading and unloading of delivery vehicles in order to prevent interference with public use of a dedicated right-of-way.

**1707.1.1. Shared Facilities.** Two or more adjacent buildings or structures may jointly share off-street loading facilities, provided that adequate access to the individual uses is provided.

**1707.1.2. Loading Dock Surface.** Loading dock approaches shall be provided with a pavement having an asphaltic or cement binder so as to provide a permanent, durable and dust-free surface.

**1707.1.3. Dimensions.** All spaces shall be laid out in the dimensions of at least ten feet by eighty feet (10' x 80').

**1707.1.4. Off-Street Parking Spaces.** Off-street parking spaces must be provided for all commercial vehicles owned by or customarily used by the business or industry. The Code Official may authorize that the off-street loading area be used for this purpose, provided that the parking of commercial vehicles does not interfere with the loading activities.

**1707.1.5. Off-Street Loading Zone Signs.** Off-street loading zones shall be designated with appropriate signs and pavement markings which prohibit parking of noncommercial vehicles.

**SECTION 1708  
PARKING LOT/LOADING DOCK MAINTENANCE**

**1708.1. Parking Maintenance.** The off-street parking lot, required borders and landscaped areas shall be maintained in a litter free condition. All plantings shall be in a healthy growing condition, neat and orderly in appearance. Snow shall be removed as necessary to permit use of all required parking spaces.

**SECTION 1709  
BICYCLE PARKING**

**1709.1. General.** Whenever full off-street parking compliance is required, bicycle racks or lockers must be installed and located within fifty (50) feet of the main entrance of a building or inside a building in a location that is easily accessible by bicyclists according to the table below. All requirements are minimums unless otherwise noted. No bicycle parking is required for uses not listed.

**TABLE 1709  
BICYCLE PARKING SCHEDULE**

Use	Number of Spaces Required
Hospitals	2 per 15,000 s.f. of usable floor area
Dormitories	1 per 8 residents
Churches	2 per 15,000 s.f. of usable floor area
Public libraries	1 per 25 motor vehicles spaces
Museums	2 per 15,000 s.f. of usable floor area
High school	2 per classroom
College	5 per classroom
Other schools	10 per classroom
Community buildings	1 per 25 motor vehicle spaces
Clubs	1 per 25 vehicles spaces
Commercial and Office Use	2 per 15,000 s.f. of usable floor area
Commercial outdoor recreation	1 per 20 motor vehicle spaces
Parking area 21 spaces or larger	1 per 25 motor vehicle spaces
Larger manufacturing	2 per 20,000 s.f. of usable floor area
Restaurants	2 per 16 fixed seats

**1709.2. Fractional Space Determination.** When units of measurement determining the number of parking spaces results in a fractional space, any fraction up to and including one-half (2) shall be disregarded and fractions over one-half (2) shall require one parking space.

## **SECTION 1710 BICYCLE PARKING STANDARDS**

**1710.1. Bicycle Lockers.** Where bicycle parking is required, all bicycle lockers and bicycle racks must be securely anchored.

**1710.2. Bicycle Racks.** Required bicycle parking racks must meet the following standards:

**1710.2.1. Security.** The bicycle frame and one wheel can be locked to the rack with a high security, U-Shape shackle lock if both wheels are left on the bicycle.

**1710.2.2. Damage Control.** A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components.

**1710.2.3. Anchoring.** The rack must be securely anchored.

**1710.3. Maneuvering Areas.** The following maneuvering areas must be provided:

**1710.3.1. Accessibility.** Each required bicycle parking space must be accessible without moving another bicycle; and

**1710.3.2. Aisle Maneuvering.** There must be an aisle at least five feet wide behind all required bicycle parking to allow room for bicycle maneuvering.

## **SECTION 1711 PEDESTRIAN TRAVELWAYS (SIDEWALKS)**

**1711.1. Public Sidewalks.** Six feet wide public sidewalks shall be installed along streets adjacent to property on which a building is erected or moved.

**1711.2. Private Sidewalks.** A sidewalk a minimum of three feet wide free from obstructions shall be constructed from the public walk to main entries of buildings. On lots where there are multiple principal buildings or entries, sidewalks meeting the requirements above shall be provided.

**Exception:** One and two-family dwellings.

**1711.3. Sidewalk Separation.** Sidewalks shall be physically separate from the parking area except where they cross a vehicle maneuvering lane, in which case the travelway shall be defined with a separate and contrasting material such as the use of textured concrete or brick paver.

**SECTION 1712**  
**MODIFICATIONS TO PARKING REQUIREMENTS**

**1712.1. General.** Modification requests to parking requirements shall be referred to the Planning Commission for review, with a recommendation to modify the requirements as set forth in this Chapter where unusual difficulties or unnecessary hardships would result. However, no modification shall be given to avoid the purpose of the Chapter to provide a minimum of off-street parking spaces.

**CHAPTER 18**  
**SITE PLAN AND SKETCH PLAN STANDARDS**

**SECTION 1801**  
**GENERAL**

**1801.1. Purpose.** A plan that outlines the use and development of any tract of land on certain properties must be submitted to the City of Escanaba for site plan review. Site plan review is designed to provide for the future growth and development of those multi-family residences, business and industries that seek an aesthetically attractive working environment. Site Plan review is intended to ensure developments are designed to integrate well with adjacent developments, minimize nuisance impacts on adjoining parcels, insure safe and functional traffic access and parking and minimize impacts on sensitive environmental resources.

**1801.2. Cross References, as amended.**

- A. Zoning and planning in home rule cities - MCLA 117.4I
- B. Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581.
- C. Regulation of buildings; authority to zone - MCLA 125.582.
- D. Regulation of congested area - MCLA 125.582.
- E. Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a.
- F. Duties of Code Official; Chapter 200.Administration, Enforcement and Penalty, Paragraph 212.1

**1801.3. Site Plan Required.** All applications for land use permits and amendments thereto shall be submitted to the Code Official for review and approval prior to the use permit issuance. The Code Official shall receive all applications for site plan review and review for completeness and prepare submittals for review by the appropriate body. A site plan is required as follows:

**1801.3.1. Land Use Permit, Land Clearing, Special Land Use, or Building Permit.**

Any request for a land use permit, land clearing (see definition), a special land use permit or building permit (other than for single, two-family, three family or four ) shall be accompanied by a site plan complying with the requirements of this chapter.

**1801.3.2. Land Uses, Buildings, and Structures Requiring a Site Plan.** Any request for the following land uses, buildings and structures:

- A. All multi-family buildings containing five (5) or more dwelling units.
- B. Building conversions from a commercial use to any other use on Ludington Street between Lincoln Road and 2<sup>nd</sup> Street.
- C. All principal nonresidential buildings or structures permitted in any residential district.
- D. Communication towers.
- E. All commercial buildings 5,000 square feet or more.
- F. All industrial buildings and uses.
- G. All Special Land Use requests.
- H. All Residential Planned-Unit Developments.

- I. All Planned Commercial Developments.
- J. All Special Planned District Developments.

**1801.4. Prohibitions Prior to Site Plan Approval.** The following practices are prohibited for any development for which site plan approval is required until a site plan is approved and is in effect. Any violation of this prohibition shall be subject to the legal and administrative procedures and penalties cited in Chapter 2, Administration, Enforcement and Penalty, Section 212, Violations.

Grading activities which; changes the elevation of the site, alter the drainage patterns of the site, increase storm water runoff, cause or are likely to cause soil erosion.

Removal of vegetation which form a visual or sound buffer.

Start of any construction activities which are part of a new development for which a site plan is required. Such activities include but are not limited to; building of access roads or driveways, demolition of existing structures, excavation for foundations, placement of pavement, pouring of concrete, construction of curb cuts, placement of exterior signage, extension or upgrade of sewer or water lines, placement of sidewalks, and building additions.

Exceptions may be granted by the Code Official or referred to the Planning Commission to allow access for surveying, soil testing equipment, removal or cleanup of areas of the sites, removal of dead or diseased vegetation or removal of blighted conditions.

## **SECTION 1802 SITE PLAN DIAGRAMS/REQUIREMENTS**

**1802.1. General.** Any request for a land use permit or zoning clearance as required by Section 1801.3. Site Plan Required shall be accompanied by fifteen (15) copies of a diagram drawn to scale. The Code Official shall circulate site diagrams to the relevant officials for comment as to conformance of State and federal laws and the City of Escanaba Code.

**1802.2. Site Plan Diagram Requirements.** A land use permit application shall be accompanied by a filing fee established by resolution of the City Council. Site plans shall be sealed by a registered architect or engineer, except site plans to be referred to the Planning Commission for approval may defer this requirement until receiving Planning Commission approval. Site plans shall be drawn to scale, rendered on a minimum sheet size of 24 inches by 36 inches and shall include the following:

- A. The site plan must consist of an accurate, reproducible drawing at a scale of one (1) inch equals twenty (20) feet or less, showing the site, its zoning classification, location, type and size of structures and/or land on adjacent properties within two hundred (200) feet of the property.
- B. A boundary survey of the property prepared by a registered surveyor showing the location of proposed and/or existing property lines, dimensions, legal descriptions, setback lines and monument locations.
- C. Location and type of significant existing vegetation as determined by a qualified, city approved authority.
- D. Location and elevations of existing water courses and water bodies, including county drains and manmade surface drainage ways.
- E. Location of existing and/or proposed buildings and intended uses thereof, as well

- as the length, width, and height of each building.
- F. Proposed location of accessory structures, buildings and uses, including but not limited to, all flagpoles, light poles, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable and the location of snow storage areas.
  - G. Location of existing public roads, rights-of-way, and private easements of record and abutting streets. Dedication of any right-of-way for widening, extension, or connection of major streets as shown on the official Master Street Plan, and granting of easement(s) for public utilities where required.
  - H. Location of and dimensions of proposed streets, drives, curb cuts, and access easements, as well as acceleration, deceleration and passing lanes (if any) serving the development.
  - I. Location, design, and dimensions of existing and/or proposed curbing, barrier free access, carports, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
  - J. Location, size, and characteristics of all loading and unloading areas.
  - K. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
  - L. Location of water supply lines and/or wells, including fire hydrants and shut-off valves, and the location and design of storm sewers, retention or detention ponds, waste water lines, clean-out locations, connection points and treatment systems, including septic systems, if applicable.
  - M. Location of all other utilities on the site, including but not limited to natural gas, electric, cable TV, telephone and steam.
  - N. Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools, if applicable.
  - O. Location, size, and specifications of all signs and advertising features.
  - P. Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
  - Q. Location, height, size and specifications of all fences, walls, and other screening features with cross sections.
  - R. Location and specifications for all proposed perimeter and internal landscaping and other buffering features. For each new landscape material, the proposed size at the time of planting must be indicated. All vegetation to be retained on the site must also be indicated, as well as its typical size by general location or range of sizes as appropriate.
  - S. Location, size, and specifications for screening of all trash receptacles and other solid waste disposal facilities.
  - T. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
  - U. Identification of any significant site amenities or unique natural features.
  - V. Identification of any significant views onto or from the site to or from adjoining areas.
  - W. North arrow, scale and date of original submittal and last revision.
  - X. Seal of the registered engineer, architect, landscape architect, surveyor, or planner who prepared the plan.
  - Y. The following additional information if requested by the Code Official:
    - 1. A report describing the soil types and the ability of soils to accommodate the

- proposed development.
2. A tree location survey signed by an engineer, surveyor, landscape architect, showing all existing tree having a diameter at breast height of six inches or greater, the common and/or scientific names and the diameter at breast height of these trees, plus an indication of trees to be preserved, to be transplanted, or to be removed during site development. Closely grouped trees shall be designated by the predominate species represented, the number present and the diameter at breast height range of the group or clump.
  3. The existing and proposed topography at two (2) foot contours.
  4. Any other information necessary to establish compliance with City Ordinances.

**1802.3. Waiver.** The Code Official may waive site plan diagram requirements when he or she determines that the submission of a site plan would serve no useful purpose.

## **SECTION 1803 SITE PLAN REVIEW**

**1803.1. General.** The following requirements must be met for all site plan reviews:

### **1803.1.1. Procedure for All Site Plans.**

**1803.1.1.1. Pre-application Conference.** Before submitting an application, an applicant may meet with the Code Official to review the proposed project, the City of Escanaba Code of Ordinances, and the City Comprehensive Plan. A pre-application conference may be held with the Planning Commission for the purpose of establishing general guidelines and eliciting feedback from the members of the Planning Commission regarding specific questions or problems areas. The pre-application conference is a vehicle intended to provide the applicant with general guidance prior to the expenditure of large amounts of time and money in the planning effort. Pre-application conferences shall be scheduled and heard at regular or special Planning Commission public meetings.

**1803.1.1.2. Application.** An applicant shall apply for site plan consideration not less than twenty-one (21) calendar days before the date on which such site plan shall be reviewed by the Planning Commission. All site plans shall be submitted to the Code Official for review according to the standards and requirements of this Code.

**1803.1.1.3. Official Review.** The Code Official shall circulate site plans to the relevant agencies or officials for comments as to the proposed development's conformance to all applicable standards and requirements and whether approval of the site plan is recommended.

**1803.1.1.4. Approval; Referral.** Once the Code Official deems the site plans or site diagram to be complete, the plan shall be referred to the Planning Commission for review with a recommendation to approve, deny, or modify the site plan. If modifications are recommended, the applicant shall be notified in advance of the Planning Commission meeting so that adjustments can be made prior to such meeting. A site plan shall be deemed approved only upon the signature of the Code Official on a land use permit. No land use permit or building permit shall be issued without an

approved site plan.

**1803.1.1.5. Time Limits.** Ten (10) days shall be allowed for departmental review of all site plans and site diagrams (seven (7) days for site plans which have been approved by the Planning Commission). If, for any reason, the Code Official cannot process the plan within these time limits, he or she shall so notify the applicant and shall set a date for finalizing the review.

**1803.2. Public Hearing Requirement.** Prior to voting on a final site plan, the Planning Commission shall hold a public hearing so as to facilitate public review and understanding of the proposed development. Notice of the date, time, location and subject matter of the public hearing shall be published in a newspaper of general circulation in the City at least fifteen (15) days before the actual hearing date.

**1803.3. Planning Commission Review.** Once a site plan is forwarded to the Planning Commission, the Planning Commission shall review the site plan according to the standards and requirements of this chapter. The Planning Commission shall approve or deny the site plan (not the use) according to the standards and requirements of this Code within forty-five (45) days of submission of said plan.

**1803.4. Site Plan Approval.** Upon Planning Commission approval of a site plan, the applicant, the owner(s) of record, or the legal representative thereof, the Planning Commission Chairperson and one (1) other member of the Planning Commission shall each sign four (4) copies of the approved site plan. The Planning Commission shall transmit one (1) signed copy of the plan and any conditions attached to the Code Official, and one (1) signed copy each to the Office of the City Clerk and the applicant. One (1) signed copy shall be retained in the Planning Commission file.

**1803.5.1. Site Plan Rejection.** The property owner may appeal a decision of the Code Official or Planning Commission to the Zoning Board of Appeals.

## **SECTION 1804 SITE PLAN APPROVAL STANDARDS**

**1804.1. General.** A site plan shall conform to all applicable requirements of the local, State and federal laws and ordinances and approval may be conditioned upon the applicant receiving necessary local, State and federal permits before final site plan approval or an occupancy permit is granted. In addition, a development shall conform to the following site development standards which shall be reflected on the site plan:

- A. Primary structures shall be oriented so that their main entrance faces the street upon which the lot fronts. If the development is on a corner lot, the main entrance may be oriented to either street or to the corner.
- B. All roof-mounted equipment, including satellite dishes and other communication equipment, must be screened from recreation trails or from public sidewalks adjacent to the site by a parapet wall or similar architectural feature.
- C. Reasonable visual and sound mitigation shall be provided. Fences, walks, barriers and landscaping shall be used appropriately for the protection and enhancement of property and for the privacy of its occupants.
- D. Every principal building or groups of buildings shall be so arranged as to permit

- emergency access by some practical means to all sides.
- E. Every development shall have legal access to a public or private street.
  - F. The development, where possible, shall provide vehicular and pedestrian circulation systems which reflect and extend the pattern of streets, pedestrian and bicycle ways in the area. Travelways which connect and serve adjacent development shall be designed appropriately to carry the projected traffic.
  - G. A pedestrian circulation system shall be provided which is physically separated and insulated as reasonably possible from the vehicular circulation system.
  - H. All parking areas shall be designed to facilitate safe and efficient vehicular and pedestrian circulation, minimize congestion at points of access and egress to intersecting roads, to encourage the appropriate use of alleys and minimize the negative visual impact of such parking areas.
  - I. Where the opportunity exists, developments shall use shared drives. Unnecessary curb cuts shall not be permitted.
  - J. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which are visible from residential districts or public rights-of-way shall be screened by a vertical screen consisting of structural and/or plant materials not less than six feet in height.
  - K. Exterior light sources shall be deflected downward and away from adjacent properties and rights-of-way.
  - L. Adequate utilities shall be provided to properly serve the development. All utilities shall be placed underground.
  - M. Sites at which hazardous substances and potential pollutants are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
  - N. All premises shall be graded and maintained to prevent the accumulation of stagnant water thereon, or onto adjacent property or within any structure located thereon.
  - O. Proof that all other provisions of the code have been met.

## **SECTION 1805 CONDITIONAL APPROVALS**

### **1805.1. Conditional Approvals.**

- A. The Planning Commission or Code Official may attach conditions to the approval of a site plan when such conditions:
  - Would insure that public services and facilities affected by a proposed land use or activity are capable of accommodating increased service and service facilities loads caused by the land use or activity.
  - Would protect the built and natural environment.
  - Would insure compatibility with adjacent uses of land.
- B. The Planning Commission or Code Official may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements of this Code and may collect a performance guarantee consistent with these requirements to insure conformance. When so doing, the following finding shall be made and documented as part of the review process:
  1. That such fencing, screening, buffering or landscaping would mitigate

- negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other similar impact on adjoining parcels;
2. That absent such conditions, the development would adversely affect the reasonable use, enjoyment and value of adjoining lands of like or similar benefits enjoyed by other properties in the area.

## **SECTION 1806 SITE PLAN AMENDMENTS**

**1806.1. Site Plan Amendments.** A Site Plan may be amended as follows:

**A. Minor Amendments.** Minor amendments are those which will have no foreseeable affect beyond the property boundary, such as minor changes in the alignment of utilities and the reconfiguration of parking areas. Minor amendments for good cause may be authorized by the Code Official without notice or hearing, provided no such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the development, significantly reduce useable open space, significantly reduce or increase parking areas, or significantly encroach on natural features proposed by the plan to be protected.

**B. Major Amendments.** Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the Planning Commission.

## **SECTION 1807 EXPIRATION OF SITE PLAN**

**1807.1. Expiration of Site Plan.**

- A. Approval of a site plan shall expire and be of no effect unless a Zoning Permit is issued and a Building Permit is issued within one (1) year of the date of the Planning Commission approval of the site plan. Approval of a site plan shall expire and be of no effect two (2) years following the date of the Planning Commission approval unless construction has begun on the property and is diligently pursued to completion in conformance with the approved site plan.
- B. In the case of a phased development, individual site plans shall be submitted and approved for the initial development phase and, in turn, for each subsequent phase of development.
- C. If any approved site plan has expired as set forth herein, no permits for development or use of the subject property shall be issued until all applicable requirements of the Chapter have been satisfied.
- D. Site plan approval shall automatically expire with the expiration of the land use permit.

## **SECTION 1808 SKETCH PLANS REQUIRED**

**1808.1. Sketch Plans Required.** The following uses, buildings and structures shall require only a sketch plan as approved by the Code Official :

- A. Construction, alteration or addition of/to a single family, two-family or multiple

- family dwelling with three (3) to four (4) residential dwelling or accessory structures.
- B. Building additions of twenty percent (20%) or less of the existing building not to exceed five thousand (5,000) square feet for buildings requiring site plan approval, provided that no more than four additional parking spaces will be required or provided. Measurements shall be made based on gross floor area of the ground floor area.
- C. Building additions up to 5,000 square feet that do not modify any other site characteristics such as parking, traffic circulation and drainage.
- D. Mobile Home parks.
- E. All parking lots or additions thereto containing five (5) or more spaces.
- F. Garages, accessory structures over one hundred (100) square feet and similar uses.

### **SECTION 1809 SKETCH PLAN DIAGRAM REQUIREMENTS**

**1809.1. General.** The following information shall be provided on all sketch plans:

- A. Scale, north arrow, name and date of plan; dates of revisions thereto;
- B. Name and address of property owner and applicant and the name and address of developer and designers;
- C. The applicant's ownership interest in the property and if the applicant is not the fee simple owner, a signed authorization from the owner for the application;
- D. Legal description of the property, dimensions and lot area;
- E. Existing building, structures and other improvements with a clear indication of all improvements to remain and to be removed;
- F. Use and zoning classification of adjacent properties;
- G. Names and right-of-way of existing streets, private roads and/or recorded easements on or adjacent to the property;
- H. Zoning classification of the subject property and total ground floor area;
- I. Location and exterior dimensions of proposed buildings and structures; with the location to be referenced to property lines; distances between buildings; height in feet and number of stores; and all required setbacks;
- J. Location and dimensions of proposed parking lots, numbers of spaces in each lot; dimensions of spaces and aisles; drainage pattern of lots; angle of spaces; and areas reserved for storage of snow;
- K. Location, type and size of other improvements such as sidewalks, fencing and screening, outdoor trash containers, signage and landscaping; and
- L. Additional information may be required by the Code Official.

### **SECTION 1810 SKETCH PLAN PUBLIC HEARING**

**1810.1. General.** No public hearing shall be required for sketch plan approvals. The Code Official shall have the authority to approve sketch plans. The Code Official may refer the matter to the Planning Commission if in his/her opinion the Planning Commission should be consulted.

### **SECTION 1811**

## **EXPIRATION OF A SKETCH PLAN**

### **1811.1. Expiration of a Sketch Plan.**

- A. Unless the land use permit states differently, a sketch plan expires after twelve (12) months from the date of granting such permit if the activity is not at least seventy-five percent (75%) completed, and after twenty-four (24) months if not one hundred percent (100%) completed. Completion percentages shall be determined in the sole discretion of the Code Official, subject to appeal to the Zoning Board of Appeals.
- B. Sketch plan shall automatically expire with the expiration of the land use permit.

**ORDINANCE 1045, effective 06/01/05**

**CHAPTER 19  
DEVELOPMENT STANDARDS**

**SECTION 1901  
GENERAL PROVISIONS**

**1.0. Purpose.** The intent and purpose of this Section is to maintain an attractive environment, which will ensure development, compliments the existing character of the city and promotes desirable economic development within all zoning districts of the City.

**1901.2. Cross References, as amended.**

- A. Zoning and planning in home rule cities - MCLA 117.4i.
- B. Regulation of location of trades, buildings and uses by local authorities - MCLA 125.581.
- C. Regulation of buildings; authority to zone - MCLA 125.582.
- D. Uses of land or structures not conforming to ordinances; powers of legislative bodies; acquisition of property - MCLA 125.583a.
- E. Duties of Code Official; Chapter 200, Section 203 Power and Duties of the Code Official and Section 204 Administrative Review and Permits.
- A. Chapter 18 Site Plan and Sketch Plan Standards of Escanaba's Zoning Ordinance.
- B. Chapter 5 Residence (A) District, Chapter 6 Residence (B) District, Chapter 7 Residence (C) District, Chapter 9 Local Business District (D), Chapter 10 Commercial (E) District, Chapter 11 Planned Commercial Development District (E-1), Chapter 12 Special Planned District (E-2), Chapter 13 Light Manufacturing District (F), Chapter 14 Industrial Park District (F-1), and Chapter 15 Heavy Manufacturing District (G) of Escanaba's Zoning Ordinance.
- C. Chapter 17 Parking and Circulation Requirements of Escanaba's Zoning Ordinance.
- D. Illuminating Engineering Society of North America Lighting Handbook, 9<sup>th</sup> Edition.

**SECTION 1902  
OBJECTIVES**

**1902.1. General.** The purpose of this Charter is to establish rules, regulations, standards, and procedures for approval of all new development proposals and the expansions of existing businesses and industries in order to:

- A. To conserve and protect the taxable value of land and buildings in the City of Escanaba.
- B. To permit public involvement in the planning of private land uses which have the potential for significant impact on the use and enjoyment of surrounding property or on the public resources and facilities of the community.
- C. To preserve, protect and encourage the development of buildings, groups of buildings and development sites of distinguished architectural character and appearance.
- D. Provide for safe, efficient vehicular, non-motorized and pedestrian circulation.
- E. Provide for screening, landscaping, signage, and lighting.
- F. Ensure efficient, safe, and attractive land development.
- G. Provide for compliance with appropriate design standards to ensure adequate light

- and air, proper building arrangements, and minimal adverse effect on adjacent properties.
- H. Develop proper safeguards to minimize the impact on the environment and to encourage energy and water conservation where possible.
  - I. Ensure the provision of adequate water supply, drainage, and storm water management, sanitary facilities, snow removal and storage, and other utilities and surveys.
  - J. Encourage modern and innovative design, construction, technology, and planning methods.
  - K. Advance and promote sound growth and continued development within the City.

### **SECTION 1903 APPLICABILITY**

**1903.1. General.** The requirements of this Chapter shall apply to the following:

- A. All multi-family buildings containing five (5) or more dwelling units.
- B. Building conversions from a commercial use to any other use on Ludington Street between Lincoln Road and 2<sup>nd</sup> Street.
- C. All principal nonresidential buildings or structures permitted in any residential district.
- D. Communication towers.
- E. All Commercial buildings and uses.
- F. All Special Land Use requests.
- G. All Residential Planned-Unit Developments (C-2).
- H. All Planned Commercial Developments (E-1).
- I. All Special Planned District Developments (E-2).
- E. All Light Manufacturing District Building and Uses (F)
- F. All Industrial Park District Building and Uses (F-1)
- G. All Heavy Manufacturing District Building and Uses (G)
- H. All Local Business District Building and Uses (D)

**1903.2. Incentives for Better Design and Creativity.** Excellence in design and planning which may be achieved through appropriate innovation and imaginative concepts is encouraged. To accomplish this, alternative compliance may be proposed to the Escanaba Planning Commission in achieving appearance standard goals, provided that such change will produce a more logical and attractive use of property, in that it will be beneficial rather than detrimental to the surrounding area and the community. Proposed design alternatives acceptable under this process must not represent a waiver of requirements: the alternatives must meet or exceed the “spirit” of the law.

### **SECTION 1904 STANDARD REQUIREMENTS**

**1904.1. General.** The interpretation and application of the provisions of these standards shall be held as minimum requirements for the promotion of the public health, safety, and welfare. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Chapter.

**Exception:** Where permitted, site and landscape regulations, building design criteria, off-

street parking and loading requirements, and other regulations contained herein are either more or less restrictive than comparable conditions imposed by provisions contained in the City of Escanaba Zoning Ordinance or of any other law, ordinance, rule, resolution or regulations, the requirements that are more restrictive or which impose a higher standard shall govern.

**Exception:** Historically significant buildings. Existing historic buildings that express the history of Escanaba may, with Planning Commission approval, be exempted from the requirements of this section provided the condition of the building is preserved, upgraded, or rehabilitated to its original state and maintained in a safe and defect-free condition.

## **SECTION 1905 ADMINISTRATION, DUTIES AND RESPONSIBILITIES**

**1905.1. General.** The administration of this Chapter shall be vested in the City Manager, Code Official, City Engineer, Building Inspector, Public Safety Fire Official, the City departments identified in Section (B), below and the City Planning Commission.

- A. It shall be the duty of the Code Official to be in charge of the day-to-day administration and interpretation of the development and design standards.
- B. All proposed site plans shall be forwarded to the following City Departments: City Engineering Department, Wastewater Department, Water Department, Public Safety Department, Recreation Department, Public Works Department and Electrical Department. These departments shall review each plan and make recommendations to approve, approve with conditions, or reject said plan to the City of Escanaba Planning Commission. These departments shall be responsive to applicants and their possible time constraints and shall expedite the review process to the extent possible.
- C. From time-to-time the design criteria may be amended, changed or deleted. Such action shall take place before the Escanaba Planning Commission in accordance with Public Act 207, 1921, as amended, Section MCL 125.584.a.b.c.d.

## **SECTION 1906 APPEALS**

**1906.1. General.** Unless otherwise provided herein, appeals from the requirements contained in these standards shall be heard by the Escanaba Zoning Board of Appeals.

## **SECTION 1907 DEVELOPMENT STANDARDS FOR GRANTING PLAN APPROVAL**

**1907.1. General.** A site development plan shall conform to all applicable requirements of the City of Escanaba, State and federal laws and local Ordinances and approval may be conditioned upon the applicant receiving necessary local, State and federal permits before final site plan approval or an occupancy permit is granted. In addition, a development shall conform to the requirements of Chapter 18 Site Plan and Sketch Plan Standards of the Zoning Ordinance in addition to the following general development standards which shall be reflected on the site plan:

- A. **Building orientation.** Primary structures shall be oriented so that their main

- entrance faces the street upon which the lot fronts. If the development is on a corner lot, the main entrance may be oriented to either street or to the corner.
- B. **Roof equipment.** All roof-mounted equipment, including satellite dishes and other communication equipment, must be screened from recreation trails or from a public sidewalk adjacent to the site by a parapet wall or similar architectural feature. (Exception: Solar energy collection panels do not require screening to allow maximum effectiveness.)
  - C. **Visual and sound mitigation.** Reasonable visual and sound mitigation for all structures shall be provided. Fences, walls, barriers and landscaping shall be used appropriately for the protection and enhancement of property and for the privacy of its occupants.
  - D. **Emergency access.** Every principal building or groups of buildings shall be so arranged as to permit emergency access by some practical means to all sides.
  - E. **Street access.** Every development shall have legal access to a public or private street.
  - F. **Circulation system.** The development, where possible, shall provide vehicular and pedestrian circulation systems which reflect and extend the pattern of streets, pedestrian and bicycle ways in the area. Travelways which connect and serve adjacent development shall be designed appropriately to carry the projected traffic.
  - G. **Non-motorized circulation system.** A pedestrian and/or non-motorized vehicle circulation system shall be provided which is physically separated and insulated as reasonably possible from the vehicular circulation system.
  - H. **Parking areas.** All parking areas shall be designed to facilitate safe and efficient vehicular, pedestrian and non-motorized vehicle traffic, pedestrian circulation, minimize congestion at points of access and egress to intersecting roads, to encourage the appropriate use of alleys and minimize the negative visual impact of such parking area.
  - I. **Shared drives.** Where the opportunity exists, developments shall use shared drives. Unnecessary curb cuts shall not be permitted. Shared use access between two (2) or more property owners should be encouraged through the use of driveways constructed along property lines, connecting parking lots and construction of on-site of frontage roads and rear service drives; particularly within three hundred (300) feet of major intersections, for sites having dual frontage, at locations with site distance problems, and/or along roadway segments experiencing congestion or accidents. In such cases, shared access of some type may be the only access design allowed. In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility may be required by the Planning Commission through a mutual Access Easement Agreement. In cases where a site is adjacent to undeveloped property, the site should be designed to accommodate a future frontage road, parking lot connection, rear service drive or shared access drive. The applicant shall provide the City with letters of agreement or access easements from all affected property owners.
  - J. **Loading, unloading and storage areas.** All loading and unloading areas and outside storage areas, including areas for the storage of trash, which are visible from residential districts or public rights-of-way shall be screened by a vertical screen consisting of structural and/or plant materials not less than six feet in height. Loading docks should be located at the side yard or rear yard of the building.
  - K. **Light sources.** Exterior light sources shall be deflected downward and away from

- adjacent properties and rights-of-way so as to promote and enhance “dark-sky” designs.
- L. **Utilities.** Adequate utilities shall be provided to properly serve the development. All utilities shall be placed underground.
  - M. **Environmental issues.** Sites at which hazardous substances and potential pollutants are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, creeks or wetlands.
  - N. **Tree Preservation Purpose and Intent.** Trees are a critical part of the vegetation that serves to decrease and filter storm water runoff, to mitigate the urban heat island effect created by paved and other built surfaces, to remove pollutants from the air, to abate visual and noise pollution, and to provide habitat for wildlife. Tree removal thus increases the burden on the community to effectively address these issues. The goals of the tree preservation provisions are to reduce tree loss during development, to reduce damage to standing trees during construction, to provide for replacement of trees lost during construction, to provide for the planting of trees lost during construction, to provide for the planting of trees where none occurred previously, and to provide for the maintenance of preserved trees after construction is completed.
  - O. **Canopies.** Canopies covering gas station pumps, bank facilities or other drive-through facilities may have a clearance of no more than fifteen (15) feet and the overall height of canopies may not exceed twenty (20) feet. The square foot area of a canopy may be no greater than 450 square feet per parking space at regular gas pumps. Spaces next to special pumps, including pumps dedicated to diesel or propane, may not be factored into the calculation. Canopy design must match the architectural elements and styles of the main structure and the surrounding features of the area.
  - P. **Storm Water Control Plan.** A Storm Water Control Plan shall be designed appropriately to carry storm water away from buildings and adjacent properties into an approved collection system.

## **SECTION 1908 DEVELOPMENT AND DESIGN STANDARDS IN CERTAIN DISTRICTS**

**1908.1. General.** The purpose of this section is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration, and decay; and to enhance the health, safety, and general welfare of the residents of the community.

**1908.2. Compatibility and Integrity.** The City of Escanaba’s overall approach encourages a variety of architectural styles. However, basic harmony is intended to prevail so that no one structure detracts from the attractiveness of the overall environment. The Escanaba Planning Commission shall review building design in order to ensure architectural compatibility and integrity.

**1908.3. Local Business Districts (D), Commercial Districts (E), Planned Commercial**

**Districts (E-1), Special Planed Districts (E-2), Light Manufacturing District (F), Industrial Park District (F-1), and Heavy Manufacturing District (G).** Colors, materials, finishes, and building form shall be coordinated in a consistent manner on the front, side, and rear exterior walls. Materials shall be one of the following:

- A. Brick, masonry unit, marble aggregate, split face or broke concrete block or other composite materials of similar appearance and texture.
- B. Concrete masonry. Units shall be those generally described by the National Concrete Masonry Association as “customized architectural concrete masonry unit” or shall be broken faced brick type units with marble aggregate or split face or broke concrete block. There shall be no exposed concrete block on the exterior of any building. Any concrete masonry units that have a gray cement color shall be coated.
- C. Concrete may be poured in place, tilt-up or precast. Poured in place and tilt-up walls shall have a finish oil stone, a texture or a coating. Textured finishes, except in special cases, shall be coated. Pre-cast units which are not uniform in color shall be coated. Coating shall be an approved cementitious or epoxy type with a ten (10) year minimum life expectancy.
- D. Natural Stone.
- E. Glass Curtain walls.
- F. Metal siding may be used only in combination with one of the approved materials and with approval of the Planning Commission. Metal siding may be utilized only on the side and rear of the building walls that do not face an adjacent street. The first twenty five (25) feet of any building wall (vertically and/or horizontally) or 25 percent of the side wall surface, whichever is greater, and 25 percent of the rear wall (excluding door, window or other openings, shall be constructed of the materials listed under (a) through (e), above. Any metal siding proposed for use shall be entirely coated with a colorfast, abrasion and corrosion resistant, long life (minimum of 20 years) finish that is resistant to chemicals, withstands temperature extremes, and has a low permeability. Such panels shall be insulated (facing shall carry a U.L. Approval), have a vapor barrier and have a minimum eight (8) foot (from floor) interior rear wall. Any material utilized to attach the metal siding to the building shall be concealed or the utilization of shadow panels or semi-concealed fastener panels with fasteners painted to match the panels shall be required.
- G. In Industrial Park District (F-1) and Heavy Manufacturing District (G), metal siding may be used for the entire side and rear building walls with approval of the Planning Commission.
- H. Other materials approved by the Planning Commission.
- I. The building exterior requirements of this section are intended to be minimum requirements and more stringent requirements may be imposed by the Planning Commission, taking into consideration public interests such as coordinating a consistent appearance and quality of construction with adjacent structures, the size of the proposed structure, the topography of the site, and the proximity of the structure to public right-of-ways.

**1908.4. Residence Districts (C)/Multi-Family Buildings Containing Five (5) or More Dwelling Units and all Residential Planned Unit Developments (C-2).** All buildings hereafter constructed within this district shall be designed in such a manner so they provide basic harmony with and do not detract from the overall attractiveness of surrounding development and shall be constructed of the following materials:

- A. Brick.
- B. Natural stone.
- C. Vinyl siding, composite material, and steel siding may be used only in combination with one of the approved materials and with approval of the Planning Commission. Vinyl siding may be utilized only on the side and rear building walls that do not face an adjacent street or public right-of-way. On a case-by-case basis 100% vinyl siding designs which coordinate with the architectural and/or historic concepts in the neighborhood may be approved by the Planning Commission.
- D. Any other similar material as approved by the Escanaba Planning Commission.

**1908.5. Signage Requirements (All Uses).** Sign materials must be compatible with the appearance of the building's finished materials.

## **SECTION 1909 GENERAL OUTDOOR LIGHTING REQUIREMENTS**

### **1909.1 Definitions.**

**Direct Light.** Lighting emitted directly from the lamp, off the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

**Fixture.** The assembly that holds the lamp and may include as assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens.

**Flood or Spot Light.** Any light fixture or lamp that incorporates a reflector or refractor to concentrate the light output into a directed beam in a particular direction.

**Footcandle.** A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

**Full-Cutoff.** A light fixture which cuts off all upward transmission of light.

**Glare.** Direct light emitted by a luminaries that causes reduced vision or momentary blindness.

**HID Lighting.** High intensity discharge lighting, a family of bulb type including mercury vapor, metal halide, high pressure or low pressure sodium, which glow when an electric current is passed through a gas mixture inside the bulb.

**Horizontal (or vertical) Footcandles.** The amount of light striking a vertical or a horizontal plane.

**Indirect Light.** Direct light that has been deflected or has scattered off of other surfaces.

**Inventory of Lighting.** A list of lamps indicating the bulb type, bulb wattage, and manufacturer through which the rated lumens can be determined.

**Lamp.** The component of a luminaire that produces the actual light.

**Light Source.** The bulb and lens, diffuser, or reflective enclosure.

**Light Trespass.** Light projected onto a property from a fixture not located on that property.

**Lumen.** A unit of luminous flux. One footcandle is one lumen per square foot. For the purpose of this Chapter, the lumen-output values shall be the initial lumen output ratings of a lamp.

**Luminaire..** The complete lighting unit, including the lamp, the fixture, and other parts.

**Luminaire Full-Cutoff.** A luminaire that allows no direct light emissions above a horizontal plane through the luminaries' lowest light-emitting part.

**Outdoor Lighting.** The night-time illumination of an outside area of object by any manmade device located outdoors that produces light by any means.

**Temporary Lighting.** The specific illumination of an outside area of object by any manmade device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.

**1909.2. Light Measurement Technique.** Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) percent. Measurements shall be taken with a light meter that has been calibrated within the year. Light levels are specified, calculated and measured in footcandles (FC). All FC values below are maintained footcandles.

**1909.3. Directional Control.** All luminaries of 1800 or more lumens shall be full-cutoffs as installed. For luminaries under 1800 the bulb must be frosted glass or installed behind a translucent cover, except floodlights which must be aimed no higher than 45 degrees below horizontal. This can be accomplished by the use of full-cutoff (fco) fixture design, shielding, visors, louvers, or other devices.

**1909.4. Lighting Requirements.** To provide for the basic needs of safety and security, appropriate lighting shall be provided in order to delineate roads, drives, parking areas, pedestrian ways, buildings, and other organizational points. Lighting shall be an integral part of the overall architectural design; therefore, proposed lighting, whether free-standing or building-mounted, shall compliment the architectural character of the principal use. Lighting design shall correlate energy conservation with aesthetic, architectural, and safety factors. Any luminaire with a lamp or lamps rated at a total of more than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rated at a total of more than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light emitting part of the luminaire. any luminaire with a lamp or lamps rate at a total or more than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rated at a total of more that 900 lumens, shall be mounted at a height equal to or less that the value  $3 + (d/3)$ , where d is the distance in feet to the nearest property boundary. The maximum height of the luminaries shall not be taller than the building whose area they illuminate nor

taller than twenty-five (25) feet whichever is shorter. Lighting plans must include the following information:

- A. A site photometric plan indicating footcandle levels at grade to the lot lines.
- B. Specifications for all luminaries, poles and luminaire mounting arms.
- C. Lighting specifications including footcandle initial averages, and maximum-to-minimum uniformity ratio.
- D. The location, mounting height, lamp intensity for all exterior luminaries..
- E. An estimate of the average and peak energy requirements for the building and grounds.

**1909.5. Architectural Compatibility.** Outdoor lighting fixtures must be compatible with the architectural elements located throughout the development.

**1909.6. Wallpack Fixtures.** All wallpack fixtures shall be cut-off fixtures.

**1909.7. Lighting of Buildings and Landscaping.** Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building facade, plantings, and other intended site feature and away from adjoining properties in the public street right-of-way.

**1909.8. Prohibition Against Glare (Light Trespass).** Outdoor lighting may not create a glare that may be hazardous for motorist, bicyclist or pedestrians. Unless otherwise stated, the maximum illumination shall be 0.5 maintained footcandles at any property line in a residential district or local business district, and 1.0 maintained footcandles at any property line or public street right-of-way, unless otherwise approved by the Planning Commission. In order to prevent unreasonable light pollution, any luminaire and all wall-mounted luminaries used for area light shall use a cut off luminaire positioned in a way that the cut off effect is maximized.

**1909.9. Fascia Lighting.** Fascia lighting is limited to the street-facing side of the building and may not exceed an area twice the size of the building sign.

**1909.10. Walkway Lighting.** Walkway lighting shall have a height of ten (10) to fourteen (14) feet above grade.

**1909.11. Lighting Context.** Outdoor lighting must consider existing light sources that impact the site and land uses that will be impacted by the lighting. In order to prevent lighting redundancy, proposed new outdoor lighting must factor in existing light affecting the site, including light provided by public light fixtures. The maximum allowable total lumens generated on each parcel is 80,000 lumens per net acre with full cut-off lighting. Parcels less than one net acre are allowed full cutoff lighting lumens in a portion equal to the parcel's portion of a net acre.

**1909.12. Light Levels, Luminaire Mounting Position, and Timing of Parking Areas.** Lighting levels, mounting positions and timing of parking areas shall be constructed and installed as follows:

**1909.12.1. District Levels.** Lighting levels for commercial , business, industrial, and natural zones and any roadway adjacent to residential zones may have a level of lighting which does not exceed 0.5 footcandles at any residential property line or

1.0 footcandles at any non-residential property line. Any canopy structure used at a business location must have recessed lights with diffusers which do not extend below the surface of the canopy. Any luminaire on a pole, stand or mounted on a building must have a shield, an adjustable reflector and non-protruding diffuser.

**1909.12.2. Lighting in Parking Lots and Outdoor Areas.** Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures which are more than 2,000 lumens shall be cut-off fixtures, or comply with the exceptions.

### **Exceptions.**

All metal halide, mercury vapor, fluorescent, induction, white high pressure sodium and color improved high pressure sodium lamps used in non cut-off fixtures shall be coated with an internal white frosting inside the out lamp envelope.

All metal halide fixtures equipped with a medium base socket must utilize either an internal refractive lens or a wide-body refractive globe.

All non-cutoff fixture open-bottom lights shall be equipped with full cut-off fixture shields that reduce glare and limit up light.

**1909.13. Lighting Exceptions.** All temporary lighting needed by the police, fire, or other municipal departments, emergency services, as well as all vehicular luminaries, shall be exempt from the requirements of this article. All hazard-warning luminaries required by law are exempt from the requirements of this article. Recreational and outdoor event lighting is exempt only during times the lighted area is actually in use. Nonetheless, recreational and outdoor event lighting shall be installed in a way that minimizes light emitted above the horizontal and onto adjacent property. Lighting associated with a holiday IS EXEMPT. Other exceptions as required by law.

## **SECTION 1910 SCREENING OF OUTDOOR STORAGE**

**1910.1. General.** All materials, equipment, and receptacles and containers for refuse and recyclables shall be stored within a building or fully screened as so not to be visible from adjoining properties by using an opaque fence or wall that is architecturally compatible to the building's finished materials or landscaping which will shield all items outdoors, and be located in the side or rear yard, except for construction and landscaping materials currently being used or intended for use on the premises within six (6) months.

## **SECTION 1911 FENCES/HEDGES**

**1911.1. General.** The requirements of this Section shall apply to all land uses, buildings and structures. A fence/hedge plan review is required for all land uses, buildings and structures.

**1911.2. Construction and Maintenance;** Every fence shall be constructed in a

substantial, workmanlike manner and of material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in good repair and shall not be a danger or nuisance, public or private. Any such fence which is, or has become, dangerous to the public safety, health or welfare, is a public nuisance and shall be repaired or removed. Link fences, wherever permitted, shall be constructed in such a manner that no barbed ends shall be at the top except for limited outdoor storage areas. No fence shall be installed, erected or maintained except in strict compliance with the following requirements:

- A. Metal Fences – Shall consist of new materials treated in a manner to prevent rust and corrosion.
- B. Wood Fences – Shall be constructed of new materials and painted, stained or preserved in a manner to maintain the fence in a good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents. For example only, a so-called rustic or stockade fence shall be treated and/or maintained in a manner to represent the best appearance of that type of fence.
- C. Plastic or Other Synthetic Material Fences – Where any of these materials are used as a fence, or part thereof, only new materials shall be used and they shall be treated and maintained in a manner to maintain the fence in good structural condition and with an appearance that is aesthetically compatible with the type of fence it represents. Further, such materials shall be of a design and constructed or integrated with the fence to which they are a part in a manner that will not be destroyed or torn apart from the fence by climatic elements. For example, only metal or synthetic material slats inserted in a fence shall be done in a manner not to allow them to be blown away, or removed by the wind or other weather conditions.
- D. Masonry Fences – Except as otherwise provided in any other City of Escanaba Ordinance requiring such fences or “walls”, this type of fence shall only be permitted with the written approval of all property owners abutting the sides of the property upon which the fence is to be erected.

**1911.3. Location:** No fence or hedge shall be erected or installed in any yard that will shut-off light or ventilation to any window or opening in a habitable space of a dwelling. A minimum distance of three feet shall be maintained between any solid fence or hedge and any such opening in a dwelling in determining such light and ventilation. No fence or hedge shall be erected or installed nearer than two (2) feet from the inside line of the sidewalk, and, in the case of any corner lot, within the sight distance triangle. No fence or hedge shall be erected or installed on any legal easement and/or right-of-way.

**1.0. Fence/Hedge Heights.** Fences/hedges shall not exceed the following heights in the

specified district:

Zoning District	Fence Height Above Grade	
	Front Yard (Feet)	Side & Rear Yards (Feet)
Residence "A" District	4	6
Residence "B" District	4	6
Residence "C" District	4	6
Residential Planned-Unit Development "C-2"	4	6
Local Business District "D"	4	6
Commercial Development "E"	4*	6
Planned Commercial Development "E-1"	4	6
Special Planned District "E-2"	4	6
Light Manufacturing District "F"	4*	12
Industrial Park District "F-1"	8	12
Heavy Manufacturing District "G"	8	12

\* With a Special Land Use Permit, a front yard fence can be up to six (6) feet in height.

## SECTION 1912 LANDSCAPING, BUFFERS, AND SCREENING

**1912.1. General Statement.** The requirements of this Section shall apply to all land uses, structures and buildings. The City of Escanaba finds that it is in the public interest for all developments to provide landscape improvements for the purpose of: complimenting the natural environment; improving the general appearance of the City and enhancing its aesthetic appeal; preserving the economic base; improving quality of life; delineating and separating use areas; increasing the safety, efficiency, and aesthetics of use areas and open space; screening and enhancing privacy; mitigating the diverse impact of climate; conserving energy, abating erosion and stabilizing slopes; deadening sound; and preserving the quality of our air and water.

**1912.2. Guidelines for Landscaping Buffers.** The arrangement of trees and shrubs in the buffer area shall be done in a manner that provides a visual separation between abutting land uses. Shrubs and/or trees shall be massed in rows or groups to achieve the maximum screening effect.

**1912.3. Landscape Plan.** All applicants for zoning land use permits for Residence Districts (C), Residential Planned-Unit Development Districts (C-2), Local Business Districts (D), Commercial Districts (E), Planned Commercial Development District (E-1), Special Planned District (E-2), Light Manufacturing Districts (F), Industrial Park District (F-1), and Heavy Manufacturing Districts (G) shall submit a landscape plan.

**1912.4. Submittal Procedure.** The following procedure shall be followed for the submittal of landscape plans.

**1912.4.1. Preliminary Consultation.** Prior to the submittal of a landscape plan, it is recommended that the developer meet with the Code Official and/or other appropriate City staff to discuss zoning district, site plan, and landscaping plan requirements. Such meeting should occur prior to any extensive outlay of funds on the part of the developer since it is intended to identify potential problems and methods to alleviate them and to encourage a cooperative effort between the

developer and the City.

**1912.5. Plan Submittal.** After the preliminary consultation with City Staff, Fifteen (15) copies of all landscape plans requiring approval by the Planning Commission shall be submitted to the Code Official. Landscaping plans may be submitted separately or included in the Site Plan. All plans shall be drawn to an engineering scale. Plans shall be drawn to scale, rendered on a minimum sheet size of twenty-four (24) inches by thirty-six (36) inches and contain the following information:

- A. The location and dimensions of all proposed open space areas.
- B. Identification of all proposed vegetation:
  - 1. Symbols, quantities, common names, and size of all plant materials, and whether plant is balled burlapped, potted, or bare root.
  - 2. Showing all species to scale of mature crown diameter or spread.

**1912.6. Required Buffers.** Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance and replacement, or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements:

- A. The removal of any tree larger than 8 inches caliper shall require the approval of the City of Escanaba.
- B. If utility lines run longitudinally within a buffer yard, the width of the buffer yard shall be increased by the same amount that is cleared for placement of the utility lines.
- C. To the extent possible, the path cleared for the utility lines shall be replaced with plant materials, which are consistent with those that existed prior in the buffer yard.

**1912.7. Screening Requirements.** The provisions of this Section must be met at the time that land is developed or land and structures are redeveloped. The requirements of this Section do not apply to lots or portions of lots, which are vacant or undeveloped. The following special requirements for certain parking lots, solid waste storage areas, service entrances, loading docks and outdoor spaces must comply with the following:

**1912.7.1. Parking Lots.** Parking lots for more than ten (10) automotive vehicles and parking decks, excluding new and used automotive sales lots and parking areas for detached, duplex, triplex or quadraplex dwellings on a single lot must be screened from abutting properties.

**1912.7.2. Solid Waste Storage Areas.** Dumpsters, recycling containers (except for recycling containers located at recycling collection centers), or solid waste handling areas must be screened from abutting property and from public view from a public street with the use of an opaque fence or wall that is architecturally compatible to the building's finished materials or landscaping which will shield all items outdoors.

**1912.7.3. Service Entrances.** Service entrances or utility structures associated

with a building, except in the area where such use abuts other service entrances or utility structures shall be screened from abutting property and from public view from a public street.

**1912.7.4. Loading Docks.** Loading docks or spaces, except in the area where such use abuts other loading docks or spaces shall be screened from abutting property and from public view from a public street. Loading docks should be located at the side yard or rear yard of the building.

**1912.7.5. Outdoor Storage.** Outdoor storage of materials, stock and equipment shall be screened from abutting property and from public view from a public street.

**1912.7.6. Electrical and/or Mechanical.** All electrical and/or mechanical equipment, including roof mounted, shall be integrated into the design of the structure to the extent possible, enclosed or screened as part of the overall architectural design.

**1912.7.7. Additional Screening.** Any other uses for which screening is required under these regulations as determined by the Planning Commission Site Plan Review.

**1912.8. Screening and/or Buffer Areas.** Any screening or buffer areas used to comply with the provisions of this Section or other ordinance provisions for uses other than parking decks must consist of a planted area which is at least five (5) feet wide. This area may contain any type screening materials sufficient to separate visually the land uses, provided such materials meet the requirements of this Section. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance. The composition of the screening material and its placement on the lot must be indicated on the site plan drawing and reviewed and approved by the Planning Commission. The following list contains specific standards to be used in installing screening:

**1912.8.1. Fences or Walls.** Any fences or walls used for screening shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks or metal or other materials specifically designed as fencing materials or any combination thereof as may be approved by the Code Official. Other materials may also be considered through the alternate buffer and screening process as detailed in Section 1914.8 Screening and/or Buffer Areas. No more than 25 percent of the fence surface shall be left open and the finished side of the fence shall face the abutting property. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this Section when abutting residential uses and districts, and public streets.

**1912.8.2. Earth Berms.** Any earth berm used to meet the requirements of this Section must be a minimum of four (4) feet wide with a maximum slope of 2:1. Berms in excess of six (6) feet in height shall have a maximum slope of 3:1 as measured from the exterior property line.

**1912.8.3. Screening Height.** The minimum height for screening will be whatever is

sufficient to separate visually the uses, but not less than four (4) feet.

**1912.8.4. Vegetation Plant Sizing.** Required vegetation shall be of the following minimum planting size:

- A. Deciduous trees – 2.5 inch diameter as measured 6 inches above ground.
- B. Coniferous trees – 6 feet in height.
- C. At least 20% of the required number of trees shall be hardwood deciduous trees.
- D. Evergreen shrubs used for screening purposes, including those used in conjunction with berms, shall be a minimum of 24 inches in height with a minimum spread of 2 feet when planted and no further apart than five feet.
- E. Required trees and shrubs used in site development must be indigenous to Escanaba and/or Delta County.

**1912.8.5. Ground Cover.** The street front yard and the front 1/3 of the side yards abutting the building shall be maintained in an attractive maintained state, either as a natural landscape or plantings with sodded grass areas. All other open space areas shall, at a minimum be seeded. The following deviations from this standard may be granted by the Planning Commission during the review process if it is determined that less water demand is needed or lower maintenance designs will be more effective:

- A. The use of mulch material for shrubs and foundation plantings.
- B. The seeding of future expansion areas delineated on the site plan.
- C. Areas maintained in a natural state that are undisturbed or that are in construction.
- D. Other landscape elements such as decks, patios, stepping stones or landscape stones may be incorporated therein.
- E. Other ground cover uses will be considered on a case-by-case basis by the Escanaba Planning Commission.

**1912.9. Special District Requirements.** Future development within the City shall meet the following minimum requirements:

**1912.9.1. Residence (C) District.** Residence (C) District (all multi-family buildings containing five or more dwelling units) shall contain at a minimum:

- A. Ten percent of the total lot area shall remain open green space.
- B. One (1) indigenous tree per dwelling unit, or two (2) indigenous trees per dwelling unit for every mature tree removed, whichever is greater.

**1912.9.2. Principal Non-Residential Buildings in a Residential District.** All principal nonresidential buildings or structures permitted in any Residential District shall contain at a minimum:

- A. Ten percent of the total lot area shall remain open green space.
- B. One indigenous tree per 1,000 square feet of gross floor area, in any fraction thereof, for nonresidential uses.

**1912.9.3. US2, 41, and M35 Corridor (North Lincoln Road) and Ludington**

**Street west of Lincoln Road, M35 Corridor (South Lincoln Road) between Lake Shore Drive and Ludington Street shall contain at a minimum:**

- A. Twenty percent of the total lot area shall remain open green space.
- B. One indigenous canopy tree per 10,000 square feet of lot area or fraction thereof.

**1912.9.4. Residential Planned Unit Development Districts (C-2).** Residential Planned Unit Development Districts (C-2) shall contain at a minimum:

- A. Ten percent of the total parcel area shall remain open green space.
- B. One indigenous tree per dwelling unit, or two (2) indigenous trees per dwelling unit for every mature tree removed, whichever is greater.

**1912.9.5. Commercial District (E), Planned Commercial Development Districts (E-1) and Local Business District (D).** Commercial District (E), Planned Commercial Development Districts (E-1), and Local Business District (D) shall contain at a minimum:

- A. Ten percent of the total lot area shall remain open green space.
- B. One indigenous tree per 1,000 square feet, or fraction thereof, of gross floor area.

**Exception:** Uses on Ludington Street between Stephenson Avenue and 2<sup>nd</sup> Street.

**1912.9.6. Light Manufacturing District (F)/Special Planned District Developments (E-2).** Light Manufacturing District (F)/Special Planned District Developments (E-2) shall contain at a minimum:

- A. Ten percent of the total lot area shall remain open green space.
- B. Two (2) indigenous trees per every 10,000 square feet of lot area or fraction thereof.

**1912.9.7. Industrial Park District (F-1).** Industrial Park District (F-1) shall contain at a minimum:

- A. Ten percent of the total lot area shall remain open green space.
- B. Two (2) indigenous trees per every 10,000 square feet of lot area or fraction thereof.

**1912.9.8. Heavy Manufacturing District (G).** Heavy Manufacturing District (G) shall contain at a minimum:

- A. Fifteen percent of the total lot area shall remain open green space.
- B. Two (2) trees per 10,000 square feet of lot area or fraction thereof. Trees shall be deciduous hardwood or approval of an existing tree/shrub disbursement plan which shows an equal distribution of trees surrounding the premises.

**SECTION 1913**

## **ALTERNATIVE BUFFER AND SCREENING REQUIREMENTS**

**1913.1. General.** In the event that the unusual topography or elevation of a development site, the size of a parcel to be developed, the soil or other sub-surface condition on the site, or the presence of required buffer or screening on adjacent developed property would make strict adherence to the requirements of this Chapter serve no meaningful purpose or would make it physically impossible to install and maintain the required buffer or screen, the Planning Commission may alter the requirements of this Chapter as long as the existing features of the development site comply with the spirit and intent of this Chapter. Such an alteration may occur only at the request of the property owner, who shall submit a plan to the Code Official showing existing site features that would buffer or screen the proposed use and any additional buffer materials the property owner will plant or construct to buffer or screen the proposed use. The Planning Commission shall not alter the requirements of this Chapter unless the developer demonstrates that existing site features and any additional buffer materials will screen the proposed use as effectively as the required buffer or screening.

### **SECTION 1914 IMPLEMENTATION/REPLACEMENT**

**1914.1. General.** All approved landscaping is to be installed in accordance with the approved landscape plan and compliance timetable.

**1914.2. Vegetation Replacement.** Any vegetation included on a landscape plan that dies shall be replaced within one (1) planting season. Vegetation replaced shall conform to the approved landscape plan and the requirements contained herein.

### **SECTION 1915 MAINTENANCE RESPONSIBILITY**

**1915.1. General.** In order for any buffers or screening to fulfill the purpose for which it was established it must be properly maintained. It shall be the joint responsibility of the owner and/or lessee of the principal use, uses, or building to maintain in a neat and adequate manner all landscaping materials, vegetation, screening, and fences contained in the approved landscape and site plan. All buffers, screening and landscaping areas must be protected from damage by motor vehicles or pedestrians, which could reduce the effectiveness of the screening.

### **SECTION 1916 COMPLIANCE TIMETABLE**

**1916.1. General.** All landscape plans shall include a timetable for construction, installation or planting within a period not to exceed two (2) years from the date of commencement of construction. Any person who is, or has been, required to landscape any part of a zoning lot/use and who has not complied with that requirement shall, within sixty (60) days of receipt of written notice from the City of Escanaba that a violation of this section exists comply with all requirements or be subject to Section 212, Violations.