

Appendix A - ZONING ORDINANCE

Footnotes:

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Editor's note— Appendix A contains the zoning ordinance of the city, Ordinance No. 451, as adopted on February 4, 1974. Amendments to Ordinance No. 451 are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets. The zoning map and zoning changes to specific property have been omitted and are on file in the office of the city clerk.

Cross reference— Planning commission, ch. 2, art. II; buildings and building regulations, ch. 7; streets, sidewalks and other public places, ch. 18; subdivisions, app. B; sign ordinance, app. C.

State Law reference— Michigan zoning enabling act, MCL 125.3101 et seq.

TITLE

An ordinance enacted under Act 207, Public Acts of 1921, as amended [MCL § 125.581 et seq.], governing the incorporated portions of the City of Petoskey, Emmet County, Michigan, to regulate and restrict the location and use of buildings, structures and land for trade, industry, residence and for public and semipublic or other specified uses; and to regulate and limit the height and bulk of buildings, and other structures; to regulate and to determine the size of yards, courts, and open spaces; to regulate and limit the density of population; and for said purposes to divide the municipality into districts and establishing the boundaries thereof; providing for changes in the regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement; establishing a board of appeals; and imposing penalties for the violation of this ordinance.

PREAMBLE

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case, made and provided and for the purpose of promoting, and protecting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the City of Petoskey, by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of the land and undue congestion of population; providing adequate light, air, and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan now therefore:

ENACTING CLAUSE

The City of Petoskey Ordains:

ARTICLE I. - SHORT TITLE

Sec. 100. - Short title.

This ordinance shall be known and may cited as the City of Petoskey Zoning Ordinance.

ARTICLE II. - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Sec. 200. - Construction of language.

For the purpose of this ordinance, certain numbers, abbreviations, terms, and words used herein shall be used, interpreted, and defined as set forth in this section. Unless the context clearly indicates to the contrary:

1. The particular shall control the general.
2. Words used in the present tense include the future tense.
3. Words used in the singular number include the plural; and words used in the plural number include the singular.
4. The word "herein" means contained in this ordinance.
5. The word "regulation" means the regulations of this ordinance.
6. The words "this ordinance" shall mean the ordinance illustrations, text, tables, maps, and schedules included herein, as enacted or subsequently amended.
7. In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
8. The term "shall" is always mandatory.
9. Lists of examples prefaced by "including," "such as," or other similar prefaces shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar examples which are not expressly mentioned.
10. The term "building," "structure," "premises," or any similar term shall be interpreted to include any part of the building, structure, premises, or other similar term, unless otherwise stated.
11. The "city council," "zoning board of appeals," and "planning commission" are respectively the city council, zoning board of appeals, and planning commission of the City of Petoskey.
12. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
13. The word "person" includes an individual, a corporation, a limited liability company, a partnership, an incorporated association, or any other similar entity.
14. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either...or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - b. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - c. "Either...or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

(Ord. No. 745, § 1, 5-19-2014)

Sec. 201. - Definitions.

For the purpose of this ordinance, the following terms shall take the meaning set forth in this Section. Terms not expressly defined shall be given their customary meaning from common parlance or as defined in other chapters of the Petoskey Municipal Code of Ordinances.

Access management: A method of planning, design, and implementation of land use and multi-modal transportation strategies that maintain a safe flow of traffic while accommodating the access needs of adjacent developments. This includes the systematic control of the location, spacing, design, and operation of driveways, median openings, interchanges, and street connections.

Accessory building: A detached building that is subordinate in size and character to a principal building situated on the same lot or parcel. The accessory building may contain a garage, carport, or storage area. When an accessory building is attached to the main building with a wall or roof (not including open roofs such as a pergola), the accessory building shall be considered a part of the main building for setback purposes.

Accessory use or accessory: A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as the principal use to which it is related.

When "accessory" is used in this text, it shall have the same meaning as accessory use.

An accessory use includes:

- a. Residential accommodations for caretakers.
- b. Swimming pools for the use of the occupants of a residence or their guests.
- c. Domestic storage in a barn, shed, carriage house, or similar accessory building/structure.
- d. A newsstand primarily for the convenience of the occupants of a building, which is located wholly within such building, and has no exterior signs or displays.
- e. Storage of merchandise normally stocked in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- f. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- g. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
- h. Uses clearly incidental to a main use, such as offices of an industrial or commercial complex that are located on the site of the commercial or industrial complex.
- i. Accessory off-street loading subject to the off-street loading regulations for the district in which the zoning lot is located.
- j. Accessory sign subject to the sign regulations for the district in which the zoning lot is located.

Access-way: A public or private street, service drive, alley, driveway, or other means of approach or departure from a property. The access-way provides ingress or egress to a property, parcel, or site via a curb cut at an existing or proposed public street outside the property limits of the site development.

Adult or sexually oriented uses: See article 28 of the Zoning Ordinance for definitions.

Affordable housing: Housing that meets the current United States Department of Housing and Urban Development (HUD) criteria.

Alteration: Any change, addition, or modification in construction; type of occupancy; or in the structural members of a building, such as walls, partitions, columns, beams, or girders. The consummated act of which may be referred to herein as "altered" or "reconstructed."

Architectural detail: That portion of a building constituting any subsidiary element of the larger whole, such as projection, relief, cornice, light fixture, window or door opening, or change of building material; but exclusive of signs.

Architectural projection: Any component, member, or part which juts out from a building, such as eaves, cornices, bay windows having no floor space, platforms, or porches.

Articulation: The provision of emphasis to architectural elements that create a complementary horizontal pattern or rhythm, by a measured and proportioned inflexion, which divides buildings into smaller identifiable segments.

Assembly area: A facility with fixed seats or large spaces, designed to accommodate temporary seating on a regular basis, for gatherings, events, or open exhibition halls. Examples include: churches, auditoriums, libraries, schools, theatres, stadiums, community centers, or similar places.

Assisted living facility: A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of residents who need help with activities of daily living; which may or may not include a central or private kitchen, dining, recreational, and other facilities; with separate bedrooms or living quarters; and where the emphasis of the facility remains residential.

Attic: The space between the ceiling beams, or similar structural elements, of the top story of a building and the roof rafters.

Automated teller machine (ATM): A machine used by bank and financial service patrons for conducting transactions, including deposits, withdrawals, and fund transfers without contact with financial institution personnel.

Automobile-related services: See *Vehicle*.

Average grade: The average between the highest and lowest elevation of the natural finished grade abutting the street walls of a structure.

Awning or canopy: Any covered structure made of cloth, metal, or other material with supporting frames attached to a building which projects beyond the building wall and/or is carried by a frame supported by the building, ground, or sidewalk below it.

Basement: That portion of a building which is partly or wholly below grade but so constructed that no more than 25 percent is above the average grade.

Bed and breakfast operation: An owner-occupied single family residence licensed to provide overnight sleeping accommodations to paying guests in accordance with regulations governing such activities.

Block face: That portion of a block or tract of land facing the same side of a single street and lying between the closest intersecting streets.

Boarding house: A dwelling unit with a single kitchen facility where lodging is provided and meals may be provided to occupants for compensation either directly or indirectly for no less than a 30-day period.

Brew pub/microbrewery: A commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises in compliance with applicable state and federal laws. Such establishments may also include restaurants as an accessory use.

Building: Any structure, either temporary or permanent, having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building envelope: The three-dimensional space within which a structure is permitted to be built on a lot that is defined by maximum height regulations and minimum yard setbacks or build-to-lines.

Building footprint: The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building (exclusive of terraces, patios, decks, steps, awnings, or nonpermanent canopies).

Building height: The vertical distance measured from the average grade: to the highest point of the roof (parapet) for flat roofs; to the deck line of mansard roofs; or to the average height between eaves and ridge for gable, hip, and gambrel roofs (see Figure 2).

Building line: A line formed by each face of the building (see Figure 3).

FIGURE 2
BUILDING HEIGHT

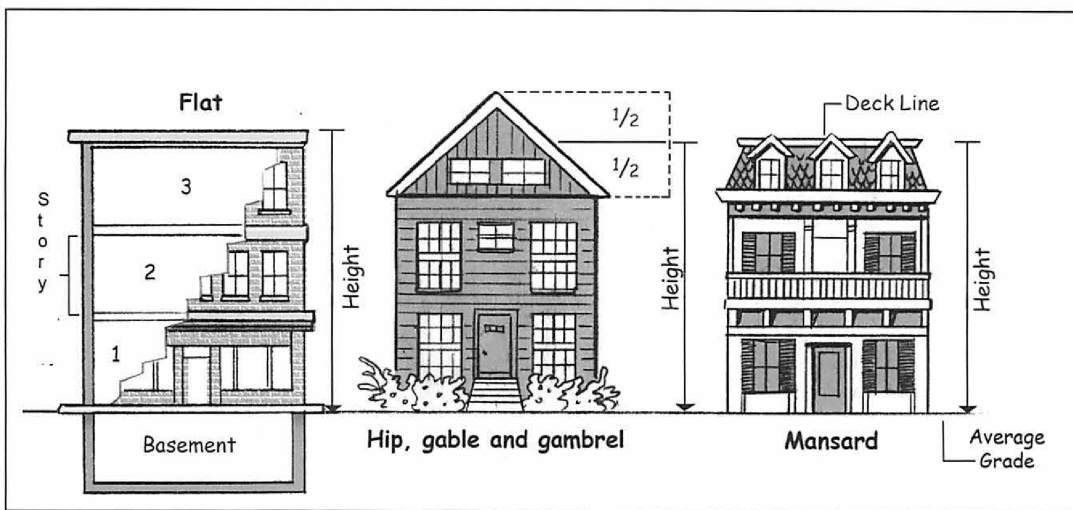
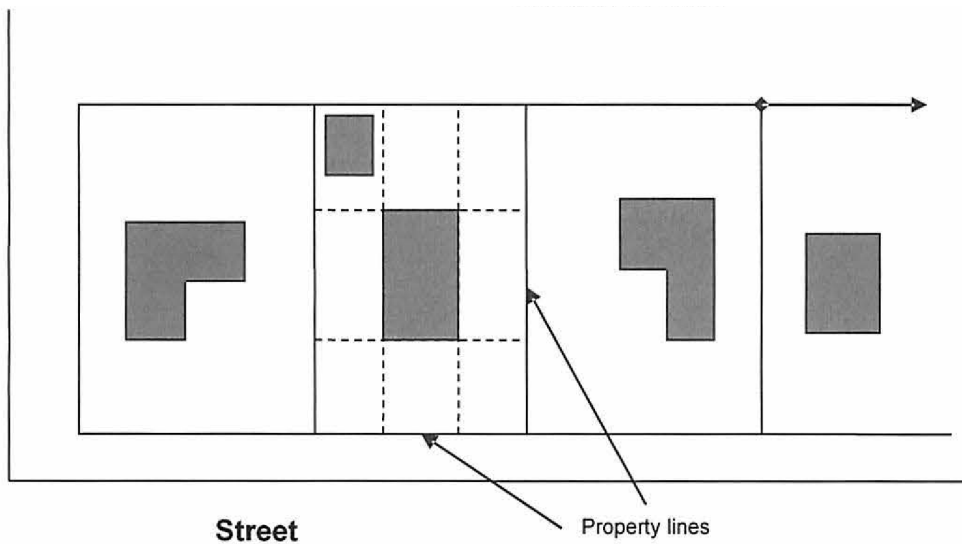


FIGURE 3
BUILDING LINE



Building placement: The placement of a building on its lot.

Building transparency: The ability to see into a building with clarity.

Build-to-line: A line parallel to the front property line along which a building or porch shall be built to create an even building facade line on a street.

Bulk: The size and mutual relationships of a building or structure with respect to: size and height of the building; location of exterior walls at all levels in relation to lot lines, streets, or other buildings; and gross floor area of the building in relation to the lot area.

Bus passenger station: A premises for the storage and parking of motor-driven buses and the loading and unloading of passengers.

Cantilever: A projecting beam, building member, or component supported at only one end.

Car wash: See *Vehicle wash*.

Carport: See *Accessory building*.

Cemetery: A place used for interment of human, animal, or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof (does not include a crematory).

Clinic: A health care facility providing medical or dental office visits, consultations, diagnostic tests, urgent care, treatments, ambulatory surgery, or other medical activities not requiring an overnight stay by patients.

Commercial parking facility: A parking area or parking structure available to the public, with or without fee, used to temporarily store motor vehicles.

Commercial storage facility: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented individually for varying periods of time.

Commercial vehicle: Any vehicle for hire which is used for the transportation of passengers, goods, wares, merchandise, or vehicle transport.

Commission: The planning commission of the City of Petoskey, Michigan.

Contractor's establishment: A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources, and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly, or staging areas.

Convalescent/nursing care facility: A structure with sleeping rooms, where persons are housed and are furnished with meals, nursing and medical care.

Convenience store: Any retail establishment offering for sale such items as prepackaged food products, household items, newspapers, magazines, and prepared foods for off-site consumption.

Corner clearance: Any obstruction within the vision triangle that is more than two feet higher than the street midpoint.

Corner-front yard: The secondary street-fronting yard of a corner lot not included in the property address.

Day care: Includes home day care facilities and day care centers as defined and licensed by the State of Michigan.

Deck: An accessory structure or platform supported by pillars or posts, either attached or unattached to a building, that is higher than seven inches above grade at any portion of the structure or platform and does not contain walls.

Decorative screening wall: A wall of masonry construction materials, such as brick, stone, or an architectural grade of concrete, which reflects or complements the architectural materials on the same or adjoining properties.

Dish antenna: An earth based station whose purpose is to receive communications or signals from orbiting satellites or other signal energizing sources together with other equipment pertaining directly to the function of a dish antenna.

District: A section, zone, or geographic area of the city regulated by particular or specific zoning or development provisions.

Drive-through business: A principal use or accessory use that permits customers to receive services or obtain goods while remaining in their vehicles.

Dwelling: A place of habitation with food preparation facilities regardless of building type.

Dwelling, accessory: A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities which is an attached or detached extension to an existing single-family structure.

Dwelling, duplex: A residential structure designed for two dwelling units.

Dwelling, multi-family: A building or portion thereof which consists of three or more dwelling units and which is designed for occupancy by three or more families living independently of each other.

Dwelling, single-family: A building consisting of only one dwelling unit occupied exclusively by one family.

Eating and/or drinking establishment: A retail establishment selling food and/or drink for on-site consumption or for take-out.

Educational facility: A public, private, or parochial school offering instruction at the primary, secondary, or post-secondary level.

Essential services: Services rendered, for the public's general health, safety, and welfare, by public utilities or municipalities. Services include gas, electrical, steam, fuel, or water transmission; or distribution, collection, communication, supply or disposal systems.

Excavation: Any breaking of ground (except common household gardening, ground care, or landscaping).

Exception: Permission to depart from the use or design standards of this zoning ordinance provided an "exception" is not a "variance."

Façade: The front or principal face of a building.

Family: One person or two or more persons related by blood, marriage, legal adoption or foster care; or a group not exceeding four unrelated persons living together as a single housekeeping unit using common cooking facilities.

Farm: The land, plants, animals, buildings, structures, including ponds used for agricultural or aqua-cultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products.

Fence: A constructed barrier erected to enclose, screen, or separate parcels.

Fence, decorative: A fence, no more than three and one-half feet (42 inches) in height measured from the established grade to the top of the highest fence post, no less than 50 percent open, and intended primarily as an ornament or accent on a parcel such as a picket, wrought iron, split rail or similar material. Chain link (with or without vinyl covering), wire mesh, wood stockade, and snow fencing shall not be considered decorative fencing.

Fence, living: A hedge or row of bushes planted with the purpose of screening a yard.

Fence, privacy, screening, security: A fence no more than six feet in height intended primarily to screen or provide security to property.

Fenestration: Openings in the building wall, including windows and doors, allowing light and views between the interior and exterior. Fenestration is measured as the glass area or as the open area for parking structures or other enclosed spaces.

Foster care: A State of Michigan licensed residential care facility.

Garage, private: An accessory building or portion of a main building, designed or used primarily for the storage of vehicles and boats, that is used by the occupants of the building to which it is accessory.

Grade: See *Average grade*.

Green building: Structures that incorporate the principles of sustainable design—design in which the impact of a building on the environment will be minimal over the lifetime of that building. Green buildings incorporate principles of energy and resource efficiency; practical applications of waste reduction and pollution prevention; good indoor air quality and natural light to promote occupant health and productivity; and transportation efficiency in design and construction during use and reuse.

Greenbelt, obscuring: A landscape area of definite width, height, and location, containing plant materials of definite spacing, designed to serve as an obscuring device in carrying out the screening requirements of this zoning ordinance.

Greenhouse: A building whose roof and sides are made largely of glass or other transparent or translucent material in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants.

Ground or first floor: The first floor or ground level of any building or structure above or on the same plane as the surface of the sidewalk.

Home business: An enterprise or activity conducted by the occupant of the dwelling unit that is secondary and incidental to the primary use of the dwelling as a residence.

Hospital: A facility providing health services primarily for in-patient medical or surgical care of the sick or injured. This includes related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the hospital facility.

Hotel: Any building, structure or part thereof, including a dwelling unit, which is used primarily for paid public lodging on a transient basis. For purposes of this definition, the word transient means occupancy for less than 30 consecutive days.

Impervious surface: Any material that prevents the absorption of storm water into the ground.

Junk yard: An area where waste, used, or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including: scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any open area of more than 200 square feet for storage, keeping, or abandonment of junk.

Kennel, commercial: Any lot or premises on which three or more dogs, cats, or other household pets are either permanently or temporarily boarded. Any lot or premises where household pets are bred or sold.

Land division: As defined in the Land Division Act of the State of Michigan, being Act 288 of the Public Acts of 1967, as amended, MCL 560.101 et seq.

LARA: The Michigan Department of Licensing and Regulatory Affairs.

Licensee: An entity that holds a license issued under the Medical Marihuana Facilities Licensing Act, Act 281 of 2016, as amended, that allows the licensee to operate as one of the following, specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.
- (5) A safety compliance facility.

Loading space: An off-street space on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Lot: A parcel of land which is or may be occupied wholly or in part by one principal building or use and its accessories, and having either immediate frontage upon a public street or a permanent, exclusive, non-obstructed deeded access to a public street.

Lot area: The total area within the lot boundaries.

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

Lot coverage: That portion of a lot that is covered by a building or buildings expressed as a percentage of the total lot area.

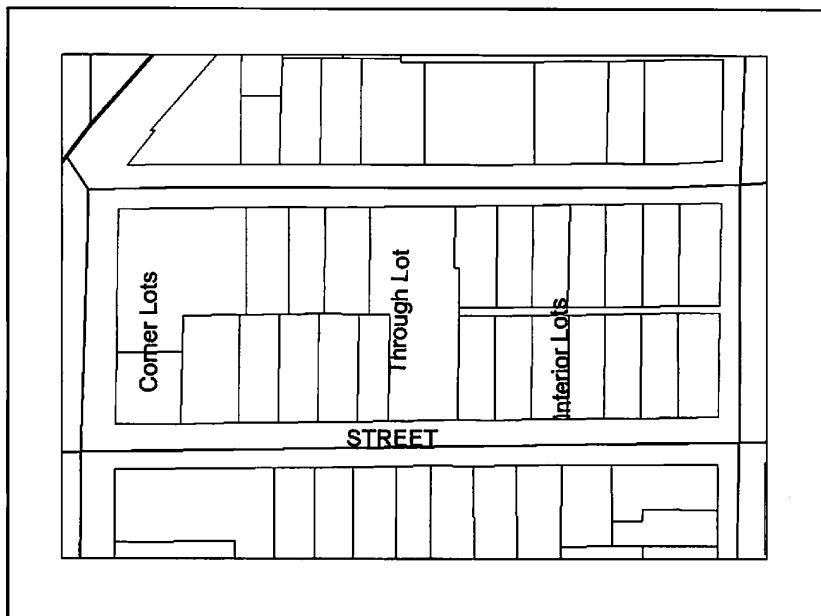
Lot depth: The distance between the front and rear lot lines measured along the median between the side lot lines.

Lot, interior: Any lot other than a corner lot.

Lot lines: The lines bounding a lot as defined herein:

- a. *Front lot line:* The line separating a lot from the street right-of-way. For a through lot, the line separating a lot from either street right-of-way. For a corner lot, the line designated on the building plans filed for a zoning compliance permit.
- b. *Rear lot line:* That lot line opposite the front lot line. In the case of a lot pointed at the rear: The rear lot line shall be an imaginary line parallel to the front lot line; not less than ten feet long lying farthest from the front lot line; and wholly within the lot.
- c. *Side lot line:* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior lot line.

FIGURE 4
INTERIOR, THROUGH AND CORNER LOTS



Lot, through: Any interior lot having frontage on two streets.

Lot width: The distance between the side lot lines measured between the two points where the front setback line intersects the side lot lines.

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

Manufactured home/mobile home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. It contains the plumbing, heating, air-conditioning, or electrical systems in the structure. Mobile home does not include a recreation vehicle.

Marihuana: The term as defined in section 7106 of the Public Health Code, 1978 PA 368, MCL § 333.7106 et seq.; the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.; the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.; and the Marihuana Tracking Act, MCL § 333.27901 et seq.

Marina: A facility, including three or more waterfront boat slips, which provides for the servicing, storing, fueling, berthing, and/or securing of boats; and that may include eating, sleeping, and retail facilities intended primarily for the owners, crews, and guests of boat owners using the marina.

Master plan: The comprehensive, long-range master plan intended to guide growth and development in the City of Petoskey which includes recommendations on future land use, economic development, intergovernmental cooperation, housing, transportation, natural, cultural, and historic resources, and community facilities pursuant to the requirements of the Michigan Planning Enabling Act, Act 33 of the Public Acts of 2008, as amended.

Medical, dental clinic: See *Clinic*.

Medical marihuana facility: An enterprise at a specific location at which a licensee is licensed and a permit holder is permitted to operate under the Medical Marihuana Facilities Licensing Act. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the Michigan Medical Marihuana Act, MCL § 333.26421 et seq.

Medical marihuana permit: A current and valid permit for a medical marihuana facility issued under the city's medical marihuana facilities ordinance, granted in accordance with that ordinance.

Mixed use development: A development of a tract of land, building, or structure with a variety of complementary and integrated uses as permitted by the applicable zoning district.

Mobile home park: A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home (MCL 125.2302).

Mortuary or funeral home: A facility used for preparation of the deceased and used to conduct visitation, burial, memorial, and funeral services.

Multi-modal transportation: A connected transportation system that supports cars, bicycles, pedestrians, and public transit.

Municipality: The City of Petoskey, Michigan.

Nursery: A space, building, structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this ordinance does not include any space, building, or structure used for the sale of fruits, vegetables, or pre-cut Christmas trees.

Off-street parking lot: A facility providing more than three vehicular parking spaces with adequate drives and aisles for maneuvering and access for entering and exiting.

Open-air business: A permanent business including the sales and/or display of retail merchandise or services outside of a permanent structure.

Open space: That part of a lot, including courts or yards, which is open and unobstructed from its lowest level to the sky.

Parapet: That portion of a building wall that extends above the roof line.

Park or parkland: A tract of land maintained and used by the public for active and/or passive recreation and which is owned and controlled by a public entity or unit of government.

Parking space: An area of defined length and width that shall be accessible for the parking of a vehicle.

Patio: A level, landscaped, and/or surfaced area, directly adjacent to a building, at or within seven inches of the finished grade and not covered by a permanent roof.

Pergola: An open trellis-like overhead frame which may be free-standing or attached to a building.

Personal service business: An establishment primarily engaged in providing services involving the care of a person, or his or her goods or apparel.

Planned unit development: See PUD.

Pond, detention: A pond designed to temporarily detain storm water runoff for a short period of time, gradually releasing it to the natural watercourse immediately after the peak volume of storm water has dissipated.

Pond, retention: A pond designed and intended to hold water for a considerable length of time for aesthetic or consumptive purposes, as well as for the collection and holding of storm water runoff, the volume of which may never be totally discharged to a natural watercourse.

Porch: A horizontal surface consisting of a deck, slab, or other similar construction attached to a building and designed for outdoor seating or as a means of entry to the building. A porch is covered by a roof structure that is supported by pillars or other similar means and may be enclosed by windows, screens, or other similar methods.

Power generating facility: A facility designed and used for the production of electrical energy primarily for the purpose of commercial sale to wholesale and retail customers connected to an electrical transmission grid. Such facilities include geothermal, hydro, solar, wind, coal, diesel, fuel oil, nuclear, natural gas combustion, or incinerator.

Principal building: A building in which the principal use of the lot is located.

Principal use: The main use to which the premises is devoted and the predominant purpose for which the premises exists.

Private communications antenna: An accessory structure used for, or intended to be used for, reception of satellite or radio transmissions.

Private road: A road that is owned and maintained by a private property owner or owners and that provides access to two or more principal buildings/uses.

Professional service establishment: An establishment engaged in providing assistance (as opposed to product) to individuals, businesses, industries, governments, and other enterprises. Professional services include financial, legal, insurance, real estate, engineering, consulting, and other similar services (excluding medical offices or clinics).

Provisioning center: A licensee that is a commercial entity located in this state that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the Michigan Medical Marihuana Act (MCL § 333.26421 et seq.) is not a provisioning center for purposes of this ordinance.

Public and quasi-public uses: Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools, and other buildings and structures; and other places where the public is directly or indirectly invited to visit or permitted to congregate, such as churches, municipal off-street parking lots, libraries, museums, schools, or hospitals.

Public assembly: Buildings, structures, and grounds, including theaters, churches, auditoriums, convention spaces, stadiums, sports arenas, concert halls, lecture halls, and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship, or similar activities involving assembled groups of people.

Public utility: A person, firm, corporation, municipal department, board, or commission duly authorized to provide under federal, state or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

PUD (planned unit development): A customized zoning district that allows flexibility in the regulation of land development and promotes mixed or varied uses guided by a comprehensive site plan.

PUD consolidated open space: An open space area in a planned unit development (PUD) that is a continuous and uninterrupted portion of the development that is set aside as an interior greenbelt for the enjoyment of the residents or other occupants of the planned unit development. This open space may follow natural features such as valleys, rivers, swales, wetlands, ponds, et cetera, or it may be simply an open area of vegetation that is reserved for passive recreation by the occupants or residents. Exterior setbacks for the planned unit development shall not be included in the determination of the area of this open space nor shall setback or lawn areas in yards for the residential buildings be included in the calculation of consolidated open space.

PUD exterior setbacks: The distance between a property line that is the outer limit of the PUD project, and the nearest point of any building wall.

PUD final rezoning plan (also called "final plan"): A detailed plan of the PUD project, drawn to scale which includes all of the preliminary plan as well as additional detailed information regarding building sizes, types and locations; physical arrangement of roads and other significant public utilities; drainage and environmental protection plans; identification of open spaces; location and type of landscape materials; signage plan; and other site plan information. The final plan must be detailed enough to meet the information display requirements of [section 2503](#) and [section 2504\(6\)](#).

PUD major revisions: A revision to an approved preliminary or final PUD plan that requires formal planning commission review and approval. There shall be two categories of major revisions in the ordinance as described in article XXV, [section 2504\(7\)](#). Administrative major revisions, also known as site plan amendments, shall only require planning commission review. Legislative major revisions, also known as zoning amendments, shall require planning commission review at a public hearing after notification of the property owners within 300 feet of the proposed PUD zoning amendment, and said amendment must be adopted by the Petoskey City Council.

PUD minor revisions: A revision to an approved final PUD plan that does not alter the basic design or any specific conditions of the final PUD plan as agreed upon by the planning commission and/or city council. The minor revisions are subject to administrative review and approval by the designated city staff.

PUD preliminary rezoning plan (also called "preliminary plan"): An overall plan of the PUD project, drawn to scale and including sufficient detail to show land use types, area and density in the project area in a clear and concise manner. The preliminary plan must be detailed enough to meet the information display requirements of [sections 2504\(3\)](#) and [\(4\)](#), of this ordinance.

Recreation, outdoor: Leisure time activities, areas, and accessory structures designed primarily for recreational activity in the open air.

Recreational facility, commercial: A recreation facility operated as a business and open to the public for a fee.

Recreational vehicle or equipment: Vehicle or equipment used for travel and leisure activities including:

- a. *Travel trailer:* A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses; and which is permanently identified as a "travel trailer" by the manufacturer.
- b. *Pickup camper:* A structure designed primarily to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses.
- c. *Motorized home:* A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- d. *Folding tent trailer:* A canvas or plastic folding structure, mounted on wheels, designed for travel and vacation use.
- e. *Utility trailer:* A vehicle designed for the purpose of hauling miscellaneous goods and materials.
- f. *Boats and boat trailers:* Includes boats, floats, rafts, canoes and kayaks; plus the normal equipment to transport them on the highway.
- g. *Other recreational equipment:* Includes snowmobiles, personal watercraft (e.g., jet skis), all terrain or special terrain vehicles, motorcycles, utility trailers, plus the normal equipment used to transport them on the highway.

Research and development: An establishment for carrying on investigation in the natural, physical, or social sciences, which may include engineering and process or product development, but which does not involve the mass manufacture, fabrication, processing, or sale of products or services.

Residential care and treatment facility: A residential structure with a state license to provide services, programs and temporary shelter for residents who are undergoing alcohol or substance abuse rehabilitation.

Retail business or retail sales: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right-of-way: An area owned or maintained by the City of Petoskey, Emmet County, Emmet County Road Commission, State of Michigan, federal government, public utility, railroad, or private entity for the placement of utilities or facilities and for the passage of vehicles or pedestrians including roads, streets, pedestrian walkways, utilities, or railroads.

Roof pitch: The slope of the roof expressed as the relationship between vertical and horizontal measure, for example, three units of vertical rise for 12 units of horizontal shelter is expressed as "3:12."

Rooftop mechanical equipment: Any permanently installed device, structure, or equipment, located on a building roof, intended or used for heating, air conditioning, make-up air, dust collection, plumbing ventilation, exhaust, telecommunication, or other purposes associated with the occupancy of the building.

Room: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room, or bedroom. Kitchens, sanitary facilities, utility provisions, closets, corridors, hallways, attics, basements, and storage areas are not considered rooms for this purpose. Plans showing one, two or three bedroom units that also include a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Satellite dish: A parabolic dish antenna, including its structural supports, used for reception of various television programming signals or used to transmit or receive other radio or electromagnetic waves between terrestrially or orbitally-based uses.

Screen/screening: A wall, wood fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier.

Self-service storage facility: A structure containing separate, individual, and private storage spaces of varying sizes leased or rented individually for varying periods of time.

Sensitive area: An area not suitable or desirable for intense development due to environmental constraints or natural features. Sensitive areas include: floodplains, wetlands, lakes, rivers, streams, dunes, and shorelines; significant vegetation; slopes; and habitat for animal and plant species of concern.

Service drive: A minor public or private street or driveway which may be parallel to and adjacent to a major thoroughfare. A service drive provides access to abutting properties and controls access to the major thoroughfare.

Setback: The minimum horizontal distance measured at right angles from the front, side, or rear lot line to the vertical plane of the building wall.

Sexually or adult-oriented business: See definitions in article XXVIII of this ordinance.

Sheltered housing: A community service facility offering temporary refuge for persons in domestic transition, including their natural or adopted children, living together as a group of individuals in a single housekeeping unit.

Sign: Any writing, pictorial representation, illustration, decoration, emblem, symbol, design, trademark, or figure that is a structure or a part of a structure; is written, printed, painted, projected, constructed, illuminated, or otherwise placed or displayed upon any structure, building, or parcel of land; attracts attention to the subject thereof; is used as a means of identification, advertisement, announcement, expression, or decoration; and is visible from a street, right-of-way, sidewalk, alley, park, or other public property.

Stoop: A small platform which may include an entrance stairway at a door opening.

Storage, motor vehicle: The parking or placement of operable new or used motor vehicles on display for sale, lease, or for private storage.

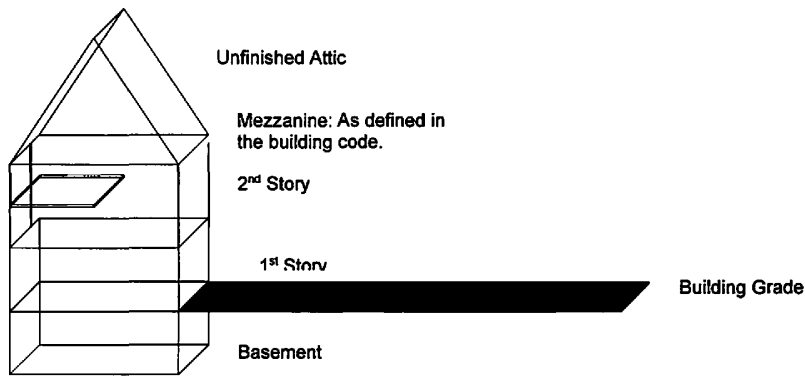
Storage, outside: The outdoor placement of usable and/or potentially usable goods or equipment (not including waste or scrap materials in junk yards).

Storage, wholesale and distribution: Activities and facilities for the storage of goods and the bulk sale and distribution of products. Examples include warehouses, freight-forwarding and delivery operations, and air courier services.

Storefront: A street level facade that has at least one street-level entrance on the primary front of the building.

Story: That part of a building included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement is not included as a story (see Figure 5).

FIGURE 5
BASIC STRUCTURAL TERMS



Street: A public or private thoroughfare, used or intended to be used for passage or travel by motor vehicles. "Street" also includes the term "Road."

Street, alley: Any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation.

Street, boulevard: A thoroughfare or collector that contains a median often landscaped with turf, trees, shrubs, or other landscape material.

Street, collector: A street that serves as a link between local and minor arterial streets (e.g., Howard Street, Kalamazoo Avenue, Lake Street, and Jennings Avenue).

Street, local: A street that primarily accesses individual properties and homes (e.g. Morgan Street, Grove Street, Summit Street, and Lockwood Avenue).

Street, minor arterial: A street with primary function to move traffic between principal arterials and local streets and between major parts of the city such as neighborhoods, employment and shopping. It also provides important roadway links into the city and to major activity areas and are considered secondary gateways (e.g., East Mitchell Street, Emmet Street, Sheridan Street, and Atkins Street).

Street, principal arterial: A road that generally carries long distance, through-travel and provides access to important traffic generators, such as employment centers and shopping areas. It is an important route through the city and is also a primary entrance or gateway from outlying areas (e.g., US 31 and US 131).

Street, private. A privately owned and maintained street serving two or more lots, parcels, buildings or dwellings, and constructed on a privately owned easement.

Street, public. An easement, right-of-way, or other interest that has been conveyed to and accepted by a governmental body for the purpose of providing access to abutting land.

Streetscape: The various components that make up the street, both in the right of way and on private lot frontages. Examples include pavement, parking spaces, planting areas, street trees, streetlights, sidewalks, front yards, front porches, and signs.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

Telecommunication antenna: A device used to transmit and/or receive radio-frequency signals, microwave signals, or other signals to or from other antennas or telecommunication facilities for commercial or municipal purposes.

Telecommunication tower: Any structure which is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio, or other communication purposes. Such structures may be freestanding, such as self-supporting lattice, guyed, or monopole towers; or attached to an existing structure, such as artificial trees, steeples, light poles, poles supporting power lines, or similar mounting structures that effectively camouflage or minimize the visual impact of antennas and towers.

Temporary structure: A structure that lacks a permanent foundation for a use that is temporary.

Temporary use: A use of property that is not the principal use and has a limited duration, such as a special event.

Traffic impact study: An analysis of the effect of traffic generated by a development on the capacity, operations, and safety of the public street and highway system.

Use: The principal purpose for which land or a building is arranged, designed, or intended; or for which land or a building is or may be occupied.

Use, change of: Any alteration in the primary use of a lot for zoning purposes that may entail consideration of additional ordinance requirements.

Usable floor area: The area used for, or intended to be used for, the sale of merchandise or services; the area for serving patrons, clients, or customers; and the area devoted to employee workspace. Such floor area which is used, or intended to be used, principally for the storage of merchandise, hallways, elevator or stair bulkheads, utilities, or sanitary facilities shall be excluded from this computation of "usable floor area." Measurement of usable floor area shall be the horizontal areas of the floor(s) of the building, measured from the interior faces of the exterior walls (see Figure 6).

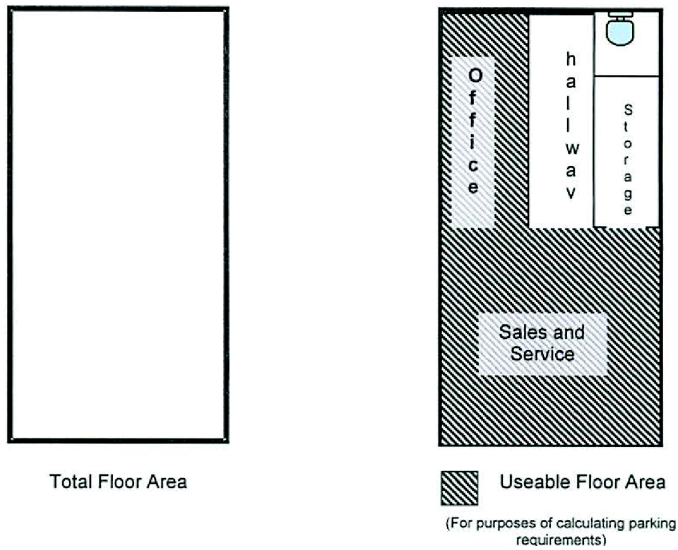
Variance: See [section 2004\(2\)](#) of this ordinance.

Vehicle and recreational vehicle sales area: An outdoor area used for the storage, display, sale, or rental of motor vehicles or recreational vehicles, new or used, in operable condition.

Vehicle charging station (electric vehicle): A device or station that provides power to charge the batteries of an electric vehicle.

Vehicle gasoline station: Any building, land area, or other premises, or portion thereof, used for retail sales and dispensing of vehicular fuels and/or convenience items to the general public.

FIGURE 6
USABLE FLOOR AREA



Vehicle repair, Major: An establishment engaged in the general repair, overhaul, or reconditioning of motor vehicles and recreational vehicles. Services include engine and transmission rebuilding; collision repair services, such as body, frame, or fender straightening and repair; major welding activities; and overall painting and undercoating of automobiles.

Vehicle repair, minor: An establishment engaged in the general mechanical repair and maintenance of passenger automobiles and trucks weighing less than 7,000 pounds. Services include muffler, suspension and brake repairs, upholstery repair, oil changes, general lubrication services, and tire services, but not including major automobile repairs.

Vehicle service establishment: A retail establishment engaged in light motor services such as: Changing engine oil, filters, and fluids; replacing spark plugs; and general lubrication services.

Vehicle wash: Any facility used for the commercial washing of motor vehicles.

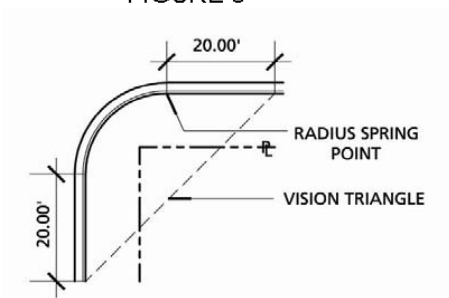
View corridor: A line-of-sight corridor from a public activity area such as a pedestrian walkway, outdoor recreation area, outdoor eating/drinking facility, outdoor attraction, or similar area to Little Traverse Bay.

Viewshed: A visually attractive, aesthetic, or significant area, such as Little Traverse Bay, that is visible from a defined observation point.

Visible light transmittance: A measure of the amount of visible light that passes through the glazing material of a window, door, or skylight.

Vision triangle: The area at an intersection formed by extending a straight line 20 feet along the back of each curb from its radius spring point and connecting these two points (see Figure 8).

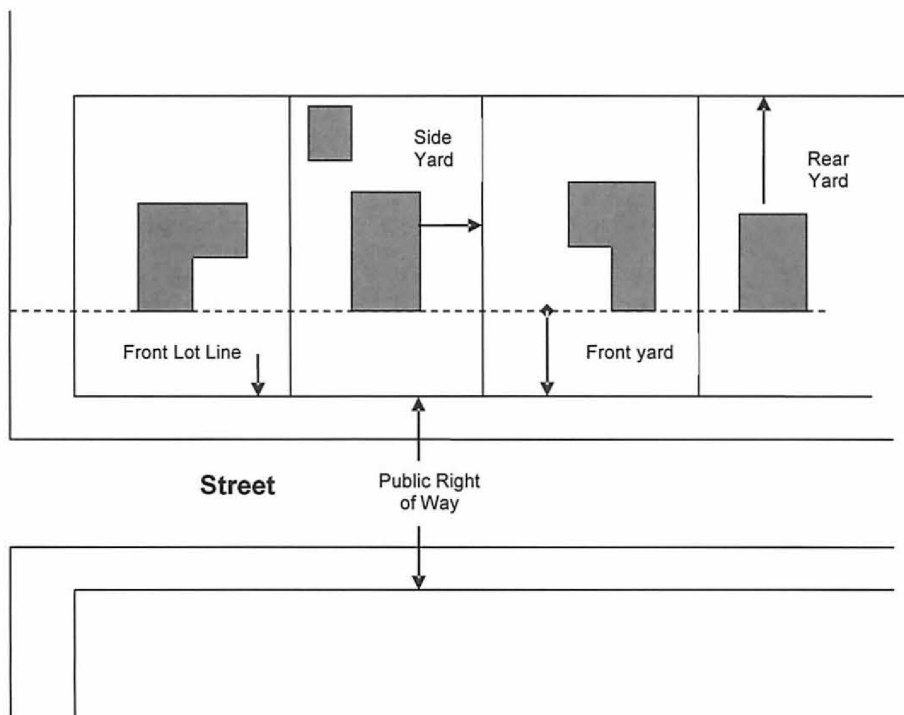
FIGURE 8



Yard: The open space (on the same lot with a main building) unoccupied and unobstructed from the ground upward except otherwise provided in this ordinance, and as defined herein (see Figure 7).

- a. *Front yard:* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.
- b. *Rear yard:* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.
- c. *Side yard:* An open space between a main building and the side lot line; extending from the front yard to the rear yard; the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

FIGURE 7
YARDS



Zoning compliance permit: A permit required when there is any building change of use or change in footprint including decks, accessory buildings, or temporary structures.

(Ord. No. 538, § 1, 2-1-1982; Ord. No. 542, § A, 5-3-1982; Ord. No. 558, § 1, 5-7-1984; Ord. No. 605, 7-20-1987; Ord. No. 632, §§ 1, 2, 10-21-1991; Ord. No. 732, § 3, 2-18-2013; Ord. No. 745, § 1, 5-19-2014; Ord. No. 758, § 4, 10-16-2017; Ord. No. 759, § 1, 2-19-2018; Ord. No. 770, 5-20-2019; Ord. No. 772, 10-7-2019)

ARTICLE III. - ZONING DISTRICTS AND MAP

Sec. 300. - Districts established.

For the purposes of this ordinance the City of Petoskey is hereby divided into the following districts:

R-1	Single-Family Residential District
R-2	Single-Family Residential District
R-3	Single-Family Residential District
RM-1	Multiple-Family Residential District
RM-2	Multiple-Family Residential District
B-1	Local Business District
B-2	Central Business District
B-2a	Transitional Business District
B-2b	Mixed Use Corridor District
B-3	General Business District
B-3a	Resort Commercial District
B-3b	Business Industrial District
H	Hospital District
I-1	Light Industrial District
I-2	General Industrial District
O-S	Office Service District
P-1	Vehicular Parking District
PUD	Planned Unit Development District
PR	Park Reserve District

(Ord. No. 606, 7-20-1987; Ord. No. 643, § 1, 11-15-1993; Ord. No. 659, § 1, 10-20-1997; Ord. No. 759, § 8, 2-19-2018)

State Law reference— Districts authorized, MCL 125.2101.

Sec. 301. - District boundaries.

The boundaries of these districts are hereby established as shown on the Zoning Map, City of Petoskey Zoning Ordinance which accompanies this ordinance, and which map with all notations, references, and other information shown thereon shall be as much a part of this ordinance as if fully described herein.

Editor's note— The zoning map has been omitted from the appendix and is on file in the office of the city clerk.

Sec. 302. - District boundaries interpreted.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys, shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following city limits shall be construed as following city limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extension of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. Where physical or natural features existing on the ground are at a variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 6 above, the board of appeals shall interpret the district boundaries.
8. Insofar as some or all of the various districts may be indicated on the zoning map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

Sec. 303. - Zoning of vacated areas.

Whenever any street, alley or other public way, within the City of Petoskey shall be vacated, such street, alley, or other public way or portion thereof, shall automatically be classified in the same zone district as the property to which it attaches.

Sec. 304. - District requirements.

All buildings and uses in any district shall be subject to the provisions of Article XVII General Provisions and Article XVIII General Exceptions.

ARTICLE IV. - R-1 AND R-2 SINGLE-FAMILY RESIDENTIAL DISTRICTS

Sec. 400. - Intent.

The R-1 and R-2 Single-Family Residential Districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, one-family detached dwellings along with other residentially related facilities which serve the residents in the district.

Sec. 401. - Principal uses permitted.

In a Single-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Single-family detached dwellings provided that such dwellings meet the following minimum standards:
 - a. The dwelling and any additions to said dwelling shall be permanently anchored to a foundation. The foundation shall be constructed in accordance with the city building code and all state regulations.
 - b. The dwelling shall have permanently attached steps connected to the exterior door areas or to porches connected to said door areas where there is a difference in elevation between the dwelling floor and exterior grade or porch of seven and one-half inches or more.
 - c. The dwelling unit shall have a minimum exterior width of 24 feet and a minimum depth of 24 feet. Attached garages shall not be included in width or depth measurements.
 - d. The dwelling roof shall meet the live load standards of the city building code.
 - e. Wheels, towing or transportation mechanisms shall be removed from mobile- or modular-type dwelling units. The mobile or modular dwelling units shall be installed pursuant to the manufacturer's setup instructions.
 - f. In addition to the requirements of paragraphs a., e. above, in the case of a mobile home, the mobile home shall be secured by an anchoring system compatible with those required by the Michigan Mobile Home Commission regulations. Mobile homes shall also comply with U.S. Department of Housing and Urban Development construction safety and energy standards. (Effective June 16, 1976.)
2. Publicly owned marinas, libraries, parks, parkways and recreational facilities.
3. Cemeteries which lawfully occupied land at the time of the adoption of this ordinance.
4. Public, parochial and other private elementary schools offering courses in general education and not operated for profit.
5. Accessory building and uses customarily incident to any of the above-permitted uses, including:
 - a. Sales of personal items from a private residence, such as garage or yard sales, are allowed for no more than three days in any 90-day period.
6. Bed and breakfast operations as a subordinate use to single-family dwelling units and subject to city licensing provisions.
7. Home businesses subject to the following:
 - a. Are incidental to the primary residential use.
 - b. Are conducted entirely within a structure and not evident in any way from the street or from any neighboring premises.

- c. Do not involve any outdoor activities, and have no visible display or storage of goods from outside the dwell
- d. Business is carried on only by the inhabitants of the building.
- e. Do not change the character of the building in which it is conducted.
- f. Do not constitute, create or increase a nuisance.
- g. Employ only mechanical equipment which is similar in power usage and type used for household purposes, home offices, or hobby workshops.
- h. Devote no more than the equivalent of 25 percent of the principal building to the home business wherever located.
- i. Business-related traffic is restricted to between the hours of 8:00 a.m. and 6:00 p.m.
- j. Must not require business-related parking in excess of two spaces.
- k. Must not generate vehicle trips in excess of ten trips per day.

(Ord. No. 542, § B, 5-3-1982; Ord. No. 558, § 2, 5-7-1984; Ord. No. 628, § 1, 9-17-1990; Ord. No. 723, § 1, 2-7-2011; Ord. No. 724, § 1, 2-21-2011; Ord. No. 725, § 1, 4-25-2011; Ord. No. 751, § 1, 8-3-2015)

Cross reference— Bed and breakfast operations, ch. 6.

Sec. 402. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the site plan and section 1717, Standards of review.

1. Churches and other facilities normally incidental thereto subject to the following conditions:
 - a. Buildings of greater than maximum height allowed in article XVI, Schedule of Regulations may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed.
 - b. The site has frontage or direct access to an existing or planned principal or minor arterial.
2. Public, parochial and private intermediate and/or secondary schools offering courses in general education, not operated for profit when the site has frontage or direct access to an existing or planned principal or minor arterial.
3. Utility and public service buildings and uses (without storage yards) when operating requirements necessitate the locating of said building within the district in order to serve the immediate vicinity.
4. Non-public recreational areas and recreation facilities when not operated for profit and primarily intended to serve residents of a planned development.
5. Cemeteries subject to the following:
 - a. All sides of the cemetery shall be adequately screened from any residential view.
 - b. All access to said site shall be directly from a principal or minor arterial.
6. Municipal office buildings when in character with the neighborhood.
7. Accessory buildings and uses customarily incident to any of the above permitted uses.
8. Two-family attached dwellings subject to the following standards:
 - a. All regulations as contained in article XVI, section 1600, Schedule limiting height, bulk, density and area by zoning district, in accordance with the district in which the parcel is located.

b. A two-family dwelling shall meet parking requirements of section 1704.

c. A two-family dwelling shall not allow a garage to protrude beyond the front building plane.

(Ord. No. 501, § 1, 12-5-1977; Ord. No. 632, § 3, 10-21-1991; Ord. No. 751, § 1, 8-3-2015; Ord. No. 782, § 1, 8-2-2021)

Sec. 403. - Area and bulk requirements.

See article XVI Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

ARTICLE V. - R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 500. - Intent.

The R-3 Single-Family District is designed to afford a transition of use in existing housing areas by permitting controlled conversion of single-family units to two-family dwellings where conditions permit this transition without adversely affecting adjacent single-family dwellings in the district. This district recognizes the existence of older residential areas of the city where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures and allow the owners to justify the expenditures for repairs and modernization. This district also allows the construction of new two-family residences where slightly greater densities are permitted.

Sec. 501. - Principal uses permitted.

In an R-3 Single-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. All uses permitted and as regulated in the R-1 and R-2 Single-Family Residential Districts.
2. Home occupations.

Sec. 502. - Principal uses permitted subject to special conditions.

1. Two-family dwellings subject to the provisions of footnote (d) in article XVI, Schedule of Regulations, sec. 1600.
2. Duplex dwelling units as regulated in section 402.
3. Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 457, § 1, 7-15-1974; Ord. No. 501, § 2, 12-5-1977; Ord. No. 632, § 4, 10-21-1991)

Sec. 503. - Area and bulk requirements.

See article XVI Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot permitted by land use, the maximum density permitted, and providing minimum yard setback requirements.

ARTICLE VI. - RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Footnotes:

--- (2) ---

Editor's note— Ord. No. 759, § 2, adopted Feb. 19, 2018, repealed the former art. VI, §§ 601—604, and enacted a new art. VI as set out herein. The former art. VI pertained to similar subject matter and derived from the original Code and Ord. No. 682, § 1, adopted May 6, 2002.

Sec. 600. - Intent.

The RM-1 Multiple-Family Residential District is designed to provide sites for low-density multiple-family dwelling structures which will generally serve as zones of transition between less intensive nonresidential districts and lower density single-family development. This district will also accommodate the large planned multiple-family residential development.

(Ord. No. 759, § 2, 2-19-2018)

Sec. 601. - Principal uses permitted.

In the RM-1 Multiple-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this article:

- (1) All uses permitted and as regulated in the R-1 through R-3 Single-Family Residential Districts with the lot area and yards equal to at least the requirements of the immediately abutting Single-Family Residential District.
- (2) Multiple-family dwellings.
- (3) Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 759, § 2, 2-19-2018)

Sec. 602. - Required conditions.

In the case of multiple dwelling developments, all site plans shall be submitted to the planning commission for its review and approval prior to issuance of a building permit.

Approval shall be contingent upon a finding that:

- (1) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways, and parking areas to encourage pedestrian and vehicular traffic safety, and
- (2) All the development features including the principal building or buildings and any accessory buildings, or uses, open spaces, and any service roads, driveways and parking areas are so located and related to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to: channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulation routes located as to interfere with police or fire equipment access.

(Ord. No. 759, § 2, 2-19-2018)

Sec. 603. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to conditions hereinafter imposed for each use, and subject further to the review and approval of the planning commission pursuant to section 1717 of the zoning ordinance:

- (1) Nursery schools, day nurseries, child-care centers (not including dormitories or family day-care homes), and group day-care homes (seven or more minor children), provided that for each child so cared for, there is provided and maintained a minimum of 150 square feet of outdoor play area. Such play space shall have a

minimum area of at least 1,200 square feet, and shall be fenced or screened from any adjoining residential land with planting.

(2) Assisted living and convalescent/nursing care facilities not to exceed six occupants per structure. No such facility shall be less than 400 feet from any like facility.

(3) Accessory buildings and uses customarily incident to any of the above-permitted uses.

(Ord. No. 759, § 2, 2-19-2018)

Sec. 604. - Area and bulk requirements.

See article XVI, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements.

(Ord. No. 759, § 2, 2-19-2018)

ARTICLE VII. - RM-2 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Footnotes:

--- (3) ---

Editor's note— Ord. No. 759, § 3, adopted Feb. 19, 2018, repealed the former art. VII, §§ 701—703, and enacted a new art. VII as set out herein. The former art. VII pertained to similar subject matter and derived from the original Code and Ord. No. 696, § 1, adopted Apr. 17, 2006.

Sec. 700. - Intent.

The RM-2 Multiple-Family Residential District is designed to provide sites for intermediate density multiple-family dwelling structures primarily in close proximity to high traffic and pedestrian generators such as the downtown area. This zone is designed to provide a zone of transition between such generators and other residential zoning districts.

(Ord. No. 759, § 3, 2-19-2018)

Sec. 701. - Principal uses permitted.

In an RM-2 Multiple-Family Residential District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this section:

(1) All uses permitted and as regulated in the RM-1 Multiple-Family Residential District.

(2) Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 759, § 3, 2-19-2018)

Sec. 702. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use, and subject further to the review and approval of the planning commission pursuant to section 1717 of the zoning ordinance:

(1) Offices for executive or administrative occupations including legal, accounting, insurance, finance or similar professions in existing residential structures with the following conditions:

a. The property is immediately adjacent to, or directly across the street from, a business-zoned parcel (B1,

B2 or B3);

- b. The property is within one block of the parking-exempt district as defined in section 1704(11) of the zoning ordinance;
 - c. No on-site parking shall be constructed in excess of that required for residential use;
 - d. Architecture of additions or alterations shall be consistent with residential character of the neighborhood;
 - e. No interior display shall be visible from the exterior of the building;
 - f. The outdoor storage of goods or material shall be prohibited;
 - g. Exterior lighting shall be residential in character with fixtures restricted to no more than ten feet in height, 75 watts maximum with shielded or frosted fixtures and illumination levels limited to five foot-candles or less;
 - h. Customer hours shall be limited to 8:00 a.m. in the morning to 6:00 p.m. in the evening;
 - i. Trash and waste disposal shall only be curbside residential without use of on-site dumpsters; and
 - j. All provisions of the sign ordinance are met.
- (2) Assisted living, convalescent/nursing care, residential care and treatment, and sheltered housing facilities not to exceed six occupants per structure. No such facility shall [be] less than 400 feet from any like facility.
- (3) Boarding houses when located on a parcel of land not less than 7,200 square feet in area. Occupancy shall not exceed six persons per structure subject further to annual city licensing application for inspection and compliance with the International Property Maintenance Code (IPMC). No license shall be issued for a boarding house within 400 feet of an existing boarding house.
- (4) Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 759, § 3, 2-19-2018; Ord. No. 774, § 1, 12-2-2019)

Sec. 703. - Area and bulk requirements.

See article XVI, schedule of regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and minimum yard setback requirements.

(Ord. No. 759, § 3, 2-19-2018)

ARTICLE VIII. - B-1 LOCAL BUSINESS DISTRICTS

Sec. 800. - Intent.

The B-1 Local Business Districts, as herein established, are designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas.

Sec. 801. - Principal uses permitted.

In a B-1 Local Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any residential uses permitted in the RM-2 Multiple-Family Residential District. Uses shall be subject to the regulations of the B-1 District.
2. Generally-recognized retail businesses which supply commodities on the premises, such as but not limited to: groceries, meats, dairy products, baked goods or other foods, drugs, dry goods, clothing and notions or hardware.
3. Personal service establishments which perform services on the premises, such as but not limited to: repair shops (watches, radio, television, shoe, and etc.), tailor shops, beauty parlors or barbershops, photographic studios, and self-service laundries and dry cleaners.
4. Dry cleaning establishments, or pick-up stations, dealing directly with the consumer. central dry cleaning plants servicing more than one retail outlet shall be prohibited.
5. Business establishments which perform services on the premises, such as but not limited to: banks, loan companies, insurance offices, and real estate offices.
6. Office buildings for any of the following occupations: executive, administrative, professional, medical, dental, chiropractic, accounting, writing, clerical, stenographic, and drafting.
7. Post office and similar governmental office buildings, serving persons living in the adjacent residential area.
8. Other uses similar to the above uses.
9. Accessory structures and uses customarily incident to the above-permitted uses.

(Ord. No. 680, § 1, 11-5-2001; Ord. No. 783, § 2, 12-6-2021)

Sec. 802. - Required conditions.

1. All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on premises where produced.
2. All business, servicing, or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building.

Sec. 803. - Principal uses permitted subject to special conditions.

The following use shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission: publicly owned buildings, public utility buildings, telephone exchange buildings; electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.

Sec. 804. - Area and bulk requirements.

See article XVI Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE IX. - B-2 CENTRAL BUSINESS DISTRICT (CBD)

Footnotes:

--- (4) ---

Editor's note— Ord. No. 732, § 1, adopted February 18, 2013, repealed the former Art. IX, §§ 900—904, and enacted a new Art. IX as set out herein. The former Art. IX pertained to similar subject matter and derived from Ord. No. 632, adopted October 21, 1991; Ord. No. 701, adopted August 4, 2008 and Ord. No. 718, adopted August 16, 2010.

Sec. 900. - Intent.

The intent of the Central Business District is to protect and enhance the vibrant pedestrian-oriented shopping and service environment of historic downtown Petoskey. The physical building form and land uses are regulated to reflect the urban character of the historic commercial center of the community and to perpetuate the pedestrian-oriented business district by requiring street level commercial uses and permitting a mix of upper floor uses.

(Ord. No. 7332, § 1, 2-18-2013)

Sec. 901. - Principal uses permitted.

In the B-2 Central Business District, no building or land shall be used except in compliance with the uses and their placement identified in Table 9.1. Sexually-oriented businesses as defined in section 2800 of the zoning ordinance are specifically prohibited in the B-2 Central Business District.

TABLE 9.1 CENTRAL BUSINESS DISTRICT PERMITTED USES

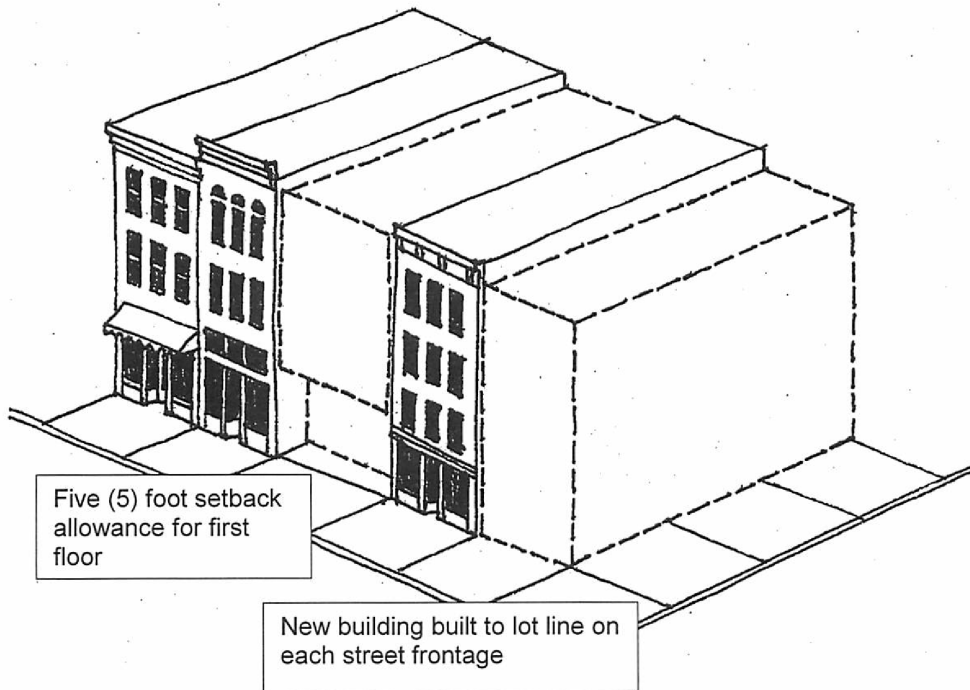
KEY	
P	Permitted Use
SCU	Special Condition Use (As regulated in <u>Sec. 1717</u>)

	First Floor	Upper Stories
Commercial		
General Retail	P	P
Public Assembly	P	P
Food Service Establishment	P	P
Personal Service	P	P
Banks	P	P

Open-Air Retail	SCU	
Professional or Medical Office	P	P
Brewpub, Microbrewery, Winery	P	P
Alcohol Beverage Service	P	P
Bakery, Confectionary Production	P	P
Health/Fitness Facility	P	P
Studio — Art, Dance, Music, Photography, Etc.	P	P
Civic		
Library	P	P
Museum	P	P
Government Offices	SCU	SCU
Jail	SCU	SCU
Education — Primary, Secondary, College	SCU	SCU
Residential		
Single-Family Residence		P
Boarding House		P
Nursing Homes, Assisted Living		P
Two-Family Residence		P
Multifamily Housing		P
Dormitory		P

Lodging		
Hotel	P	P
Bed and Breakfast		P
Seasonal Rental		P

Figure 9.1 Building Placement Requirement Illustration



(Ord. No. 7332, § 1, 2-18-2013)

Sec. 902. - Required standards.

1. *Building placement.* Buildings shall be placed on the lot according to the requirements of Table 9.2 and as illustrated in Figures 9.1 and 9.4.
 - (a) *Building placement exception.* A building may have up to a five-foot setback on the street frontage ground-floor level only to allow for recessed entries, outdoor seating, widened sidewalks or other public space.

TABLE 9.2 BUILDING PLACEMENT

Building Placement		
Setback (Distance from Property Line)	Minimum	Maximum
Front	0'	0'

Side (corner)	0'	0'
Rear (alley)	0'	NR

2. *Building form.*

- (a) All buildings shall have a primary first-floor entrance that faces the street at sidewalk grade.
- (b) Any building more than 50 feet in width along a street frontage must have a façade that is divided into minimum 25-foot and maximum 50-foot sections delineated by vertical piers, material patterns, or other articulation (see Figure 9.2b).
- (c) Floor and building heights shall be in accordance with Table 9.3 and as illustrated in Figures 9.2a and 9.2b.
- (d) Building facades shall have the proportions established in Figures 9.2a and 9.2b.
- (e) Loading docks, overhead doors, and other service entries are prohibited on street-facing facades.
- (f) Drive-through and drive-up accessory or principal uses are not allowed.

TABLE 9.3 BUILDING FORM

Building Form	
Street façade built to property line	100%
Lot width	25 feet minimum
Lot depth	145 feet maximum
Building height minimum	2 stories, 26 feet
Building height maximum*	3 stories, 45 feet
Accessory building height maximum	2 stories, 20 feet
Finish ground floor level (min)	Sidewalk grade
Finish ground floor level (max)	6 inches above sidewalk grade
First floor ceiling height (min)	12 feet
Upper floor ceiling height (min)	9 feet
* See definition of building height	

Figure 9.2a Building Form Illustration 1



EXISTING CITY BLOCK



EXISTING CITY BLOCK WITH POSSIBLE THREE-STORY BUILDING

Figure 9.2b Building Form Illustration 2



EXISTING CITY BLOCK



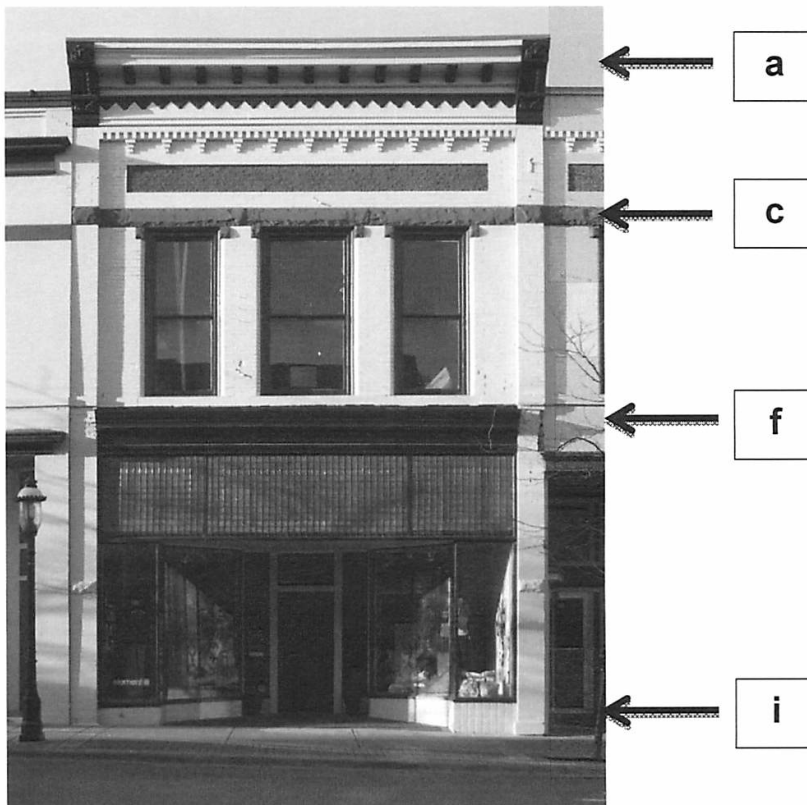
WINDOW COVERAGE 35%
CORNICE 15%

EXISTING CITY BLOCK
WITH TWO-STORY DEVELOPMENT

3. *Architectural standards.* All new construction shall be required to incorporate the architectural standards enumerated below and illustrated in Figure 9.3.
 - (a) Any building with a flat roof shall have a projecting horizontal element (e.g., cornice) that is no less than ten percent of the upper-most story wall area to articulate the top of the building (element is included in upper-story wall area calculation).
 - (b) Rooftop mechanical equipment shall be placed where it minimizes visibility from street frontage.
 - (c) Upper-story windows shall have articulated detailing such as expression of lintels or hoods or arches above them.
 - (d) Upper story windows shall occupy no less than 25 percent and no more than 50 percent of the upper floors façade surface (cornice or other decorative element is not included in the upper-story wall area calculation).
 - (e) Upper story windows shall be recessed back from the face of the building walls, or protruding bay windows to give the wall some three-dimensional depth.

- (f) A design separation between the first floor and upper stories shall be provided with a lower cornice or other horizontal feature.
 - (g) First floor fenestration shall be no less than 40 percent along street fronting walls; blank walls along street frontages are prohibited. Window and door glass shall provide a minimum of 60 percent visible light transmittance.
 - (h) Entry doors shall be recessed back from the face of the building, but no more than five feet.
 - (i) Storefront window sills shall be no higher than 30 inches above sidewalk grade.
4. *Parking.* If provided, off-street parking shall meet the following standards in addition to any applicable requirements of section 1704 of the zoning ordinance (see Figure 9.4 for illustration).
- (a) Parking is only allowed in the rear yard and screened with a hedge or finished masonry wall of at least three feet and no more than four feet in height from view of any public street or park.
 - (b) Parking spaces must be set back a minimum of three feet from the property line.

Figure 9.3 Architectural Standards Illustration



(Ord. No. 7332, § 1, 2-18-2013; Ord. No. 783, § 3, 12-6-2021)

Sec. 903. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed, for each use and subject further to the review and approval, with conditions, of the planning commission.

1. Open air business uses when developed in planned relationship with the B-2 District as follows:
Retail sales of plant material not grown on the site, lawn furniture, playground equipment, sporting goods and garden supplies.

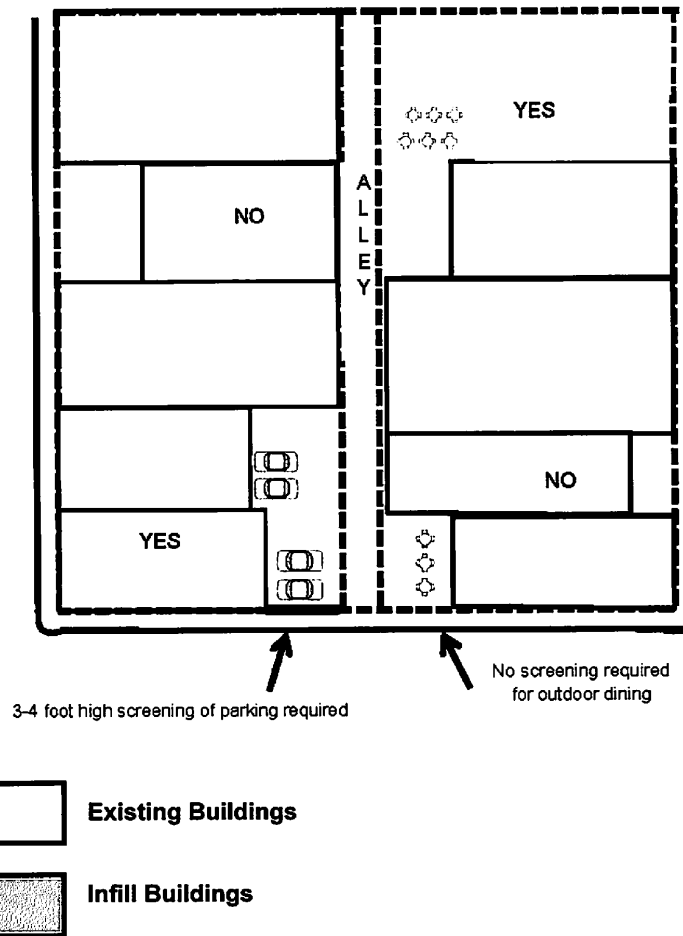
- 2. Publicly-owned buildings and public utility offices, but not including storage yards, transformer stations, substation regulator stations.

(Ord. No. 7332, § 1, 2-18-2013)

Sec. 904. - Area and bulk requirements.

Buildings and structures located in the B-2 Central Business district shall comply with Article XVI Schedule of Regulations of this zoning ordinance, as those regulations are amended from time to time.

Figure 9.4 Building and Parking Placement



(Ord. No. 7332, § 1, 2-18-2013)

ARTICLE X. - B-3 GENERAL BUSINESS DISTRICTS

Sec. 1000. - Intent.

The B-3 General Business Districts are designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the local business district or the central business district.

Sec. 1001. - Principal uses permitted.

In a B-3 General Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any commercial use permitted in the B-2 district and any residential uses permitted in the RM-2 Multiple Family District. Uses shall be subject to the regulations of the B-3 District.
2. Auto wash when completely enclosed in a building.
3. Bus passenger stations.
4. New and used car salesroom, showroom, or office.
5. Other uses similar to the above uses.
6. Other structures and uses customarily incidental to the above permitted uses.

(Ord. No. 783, § 2, 12-6-2021)

Sec. 1002. - Principal uses permitted subject to special conditions.

The following uses shall be permitted subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

1. Outdoor sales space for exclusive sale or rental of new or used automobiles, house trailers, travel trailers, snowmobiles, or marine craft, and building material sales when not exclusively wholesale, all subject to the following:
 - a. The lot or area shall be provided with a permanent, durable, and dustless surface and shall be graded and drained as to dispose of all surface water accumulated within the area.
 - b. Access to the outdoor sales area shall be at least 60 feet from the intersection of any two streets.
 - c. No major repair or major refinishing shall be done on the lot.
 - d. All lighting shall be shielded from adjacent residential districts.
2. Motel, subject to the following conditions:
 - a. Access shall be provided so as not to conflict with the adjacent business uses or adversely affect traffic flow on a major thoroughfare.
 - b. Each unit shall contain not less than 250 square feet of floor area.
 - c. No guest shall establish permanent residence at a motel for more than 60 days within any calendar year.
3. Business in the character of a drive-in/drive-through, or open-front store, subject to the following conditions:
 - a. A drive-through service window and canopy shall only be located in the side or rear yard of a business location.
 - b. Driveways shall be located at least 60 feet from the radius point of the curb at the intersection of any two streets.
 - c. All lighting shall be shielded from adjacent residential districts.
 - d. A six-foot high screening wall, fence or landscape material shall be provided when abutting or adjacent districts zoned for R, RM, OS, B-1, B-2 or B-3a districts. The height of the wall, fence or landscape material shall be measured from the surface of the ground, shall meet the requirements of article XVIII, General Provisions, and shall be of a material or construction approved by the city planning commission.
 - e. Reservoir stacking spaces shall be provided for drive-through operations subject to provisions of section

1704.12 and as required in section 1704, Figure 10. The approved site plan and layout shall provide for a separate lane to access parking or to bypass drive-through lanes where applicable.

4. Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed main building and provided further that all buildings are set back at least 200 feet from abutting residential districts on the same side of the street.
5. Plant materials nursery for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies subject to the following conditions:
 - a. The storage and/or display of any materials and/or products shall meet all setback requirements of a structure.
 - b. All loading and parking shall be provided off-street.
 - c. The storage of any soil, fertilizer, or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses.
6. Gasoline stations as regulated in the B-2 district, except that general vehicle repair work may be permitted; provided all repair services or accessory activities and do not constitute principal uses of the property.
7. Funeral homes and mortuaries, subject to the conditions imposed in section 1102, 1.
8. Warehouse and wholesale establishments, subject to the following conditions:
 - a. Warehouse and wholesale structures shall meet the setback requirements of the I-1 Light Industrial District.
 - b. The warehouse or wholesale establishment shall be located within 300 feet of a collector thoroughfare (designated in the Petoskey Future Land Use Plan).
 - c. The warehouse or wholesale establishment shall be located within 300 feet of a railroad right-of-way.
 - d. A screening wall of a height and material and location to be determined by the planning commission shall be required where the use abuts an existing residential land use.
9. The production, processing, and packaging of bakery, confectionary, and dairy goods subject to the following conditions:
 - a. Goods shall also be available for retail purchase on the premise;
 - b. Multi-modal transportation access shall be provided to meet the performance requirements established in section 1716(3);
 - c. Where the use abuts an existing residential or public land use, trucking-related operations shall be screened to meet the performance requirements established in section 1716(3) as determined by the planning commission.
10. Medical marihuana facilities, to the extent permitted by and subject to the terms and conditions of the City of Petoskey's general ordinances regulating same and subject to the requirements of article XXXII and the provisions of sections 1716 through 1718 of this ordinance.

(Ord. No. 562, § 1, 7-2-1984; Ord. No. 609, § 1, 3-21-1988; Ord. No. 632, § 6, 10-21-1991; Ord. No. 706, § 1, 2-2-2009; Ord. No. 772, 10-7-2019)

Sec. 1003. - Area and bulk requirements.

See article XVI, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of a lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE XI. - B-3a RESORT COMMERCIAL DISTRICT

Sec. 1100. - Intent.

The B-3a Resort Commercial District is designed to cater primarily to the lodging and ancillary needs of the vacationer or tourist to the area and restrict from this district uses that are not compatible with these services. The district is intended to be a restrictive commercial zone which can serve as transitional areas between major thoroughfares and residential districts. Only those uses whose function and/or development is similar to this intended lodging characteristic shall be allowed.

(Ord. No. 681, § 1(1100), 5-6-2002)

Sec. 1101. - Principal uses permitted.

In the B-3a Resort Commercial District, no building or land shall be used, and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. All uses permitted in the RM-2 Multiple-Family District.
2. Motels and hotels.
3. Accessory structures and uses customarily incident to any of the above uses.

(Ord. No. 615, 10-17-1988; Ord. No. 681, § 1(1101), 5-6-2002)

Sec. 1102. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject, further, to the review and approval of the planning commission:

1. Mortuary establishments, when adequate assembly area is provided off-street for vehicles to be used in funeral processions; provided, further, that such assembly area shall be provided in addition to any required off-street parking. A caretaker's residence may be provided within the main building of mortuary establishments.
2. Research laboratories, subject to review and approval of the zoning board of appeals after a public hearing; provided, further, that no heavy mechanical equipment is used of a type likely to cause noise or vibrations, and the nature of the activities to be conducted is not likely to be injurious to surrounding residential areas.
3. Multiple-family uses subject to the limitations imposed in section 602 and article XVI, Schedule of Regulations for RM-1, Multiple-Family Residential District.
4. Hospitals, medical clinics, rest and convalescent homes, sanitariums and orphanages (subject to the limitations contained in section 1202).
5. Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales (subject to the limitations contained in section 1202).

6. Churches (subject to the limitations contained in section 402).
7. Banks, credit unions, savings and loan associations and similar uses; drive-in facilities as an accessory use only.
8. Restaurants that do not have a drive-through or drive-in operation and, with a minimum indoor seating capacity of 60; and provided that said use shall only be permitted on a property that is a minimum of 300 feet from any property in the B-3a zoning district that has a restaurant as the principal use.
9. Motels and hotels that include a restaurant as a subordinate use within the principal structure, meeting the following conditions: The restaurant shall not exceed 30 percent of the total floor area of the building and shall not include a drive-through or drive-in operation.
10. Retail uses that do not have a drive-through window or drive-in operation; have outdoor displays or sales of goods; have beer, wine or liquor sales; or have take-out food service. No building shall exceed 6,500 square feet in usable floor area.
11. Personal service establishments that perform services on the premises such as, but not limited to repair shops (watches, radio, television, shoe, etc.), tailor shops, beauty parlors or barber shops, photographic studios, excluding self-service laundries and dry-cleaners. Such uses may be prohibited, or the total permitted floor area for such establishments at a parcel may be restricted, if the planning commission determines the mix of uses or on-site parking constraints requires such a prohibition or restriction.

(Ord. No. 486, § 1, 9-7-1976; Ord. No. 615, 10-17-1988; Ord. No. 668, § 1, 6-7-1999; Ord. No. 681, § 1(1102), 5-6-2002)

Sec. 1103. - Area and bulk requirements.

See article XVI, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of a lot by permitted land use, and providing minimum yard setback requirements.

(Ord. No. 681, § 1(1103), 5-6-2002)

ARTICLE XII. - O-S OFFICE SERVICE DISTRICT

Sec. 1200. - Intent.

The O-S Office Service District is designed to accommodate uses, such as offices, banks, and personal services, which can serve as transitional areas between residential and commercial districts and to provide a transition between major thoroughfares and residential districts.

Sec. 1201. - Principal uses permitted.

In an O-S Office Service District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. Any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the O-S District.
2. Office buildings for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, drafting and sales subject to the limitations contained below in section 1202,

Required Conditions.

3. Medical office, including clinics.
4. Banks, credit unions, savings and loan associations, and similar uses; drive-in facilities as an accessory use only.
5. Personal service establishments including barbershops, beauty shops and health salons.
6. Churches.
7. Other uses similar to the above uses.
8. Accessory structures and uses customarily incident to the above permitted uses.

(Ord. No. 697, § 3, 4-17-2006; Ord. No. 783, § 2, 12-6-2021)

Sec. 1202. - Required conditions.

1. No interior display shall be visible from the exterior of the building.
2. The outdoor storage of goods or material shall be prohibited.
3. Warehousing or indoor storage of goods or material, beyond that normally incident to the above permitted uses, shall be prohibited.

Sec. 1203. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

1. An accessory use customarily related to a principal use authorized by this section, such as but not limited to: a pharmacy or apothecary shop, stores limited to corrective garments or bandages, or optical service, may be permitted.
2. Mortuary establishments, when adequate assembly area is provided off-street for vehicles to be used in funeral processions, provided further that such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of mortuary establishments.
3. Publicly owned buildings, telephone exchange buildings, and public utility offices, but not including: storage yards, transformer stations, substations, or gas regulator stations.

Sec. 1204. - Area and bulk requirements.

See article XVI Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE XIII. - I-1 LIGHT INDUSTRIAL DISTRICT

Sec. 1300. - Intent.

The I-1 Light Industrial District is designed so as to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 district is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared material. It is further intended that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, not be permitted.

The general goals of this use district include, among others, the following specific purpose:

1. To provide sufficient space, in appropriate locations, to meet the needs of the city's expected future economy for all types of manufacturing and related uses.
2. To protect abutting residential districts by separating them from manufacturing activities, and by prohibiting the use of such industrial areas for new residential development.
3. To promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.
4. To promote the most desirable use of land in accordance with a well considered plan. To protect the character and established pattern of adjacent development, and in each area to conserve the value of land and buildings and other structures, and to protect the city's tax revenue.

Sec. 1301. - Principal uses permitted.

In an I-1 Light Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance:

1. All uses permitted and as regulated in the B-3 General Commercial District except for medical marihuana facilities.
2. Any use charged with the principal function of basic research, design, and pilot or experimental product development when conducted within a completely enclosed building.
3. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding, or processing shall be totally obscured by a wall on those sides abutting R-1 through R-3, RM-1, RM-2, O-S, B-1, B-2, B-3, and B-3a districts. In I-1 districts, the extent of such a wall may be determined by the planning commission on the basis of usage. Such a wall shall not be less than four feet six inches in height and may, depending upon land usage, be required to be eight feet in height, and shall be subject further to the requirements of article XVII General Provisions. A chain link fence, with intense evergreen shrub planting, shall be considered an obscuring wall. The height shall be determined in the same manner as the wall height is above set forth.
 - a. Warehousing and wholesale establishments and trucking facilities or terminals.
 - b. The manufacture, compounding, processing, packaging, or treatment of such products as, but not limited to: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge, and machine shops.
 - c. The manufacture, compounding, assembling, or treatment of articles or merchandise from previously

prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semi-precious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.

- d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 - e. Manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
 - f. Manufacture or assembly of electrical appliances, electronic instruments and devices, radios, and phonographs.
 - g. Laboratories—experimental, film, or testing.
 - h. Manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
 - i. Central dry cleaning plants or laundries.
 - j. All public utilities, including buildings, necessary structures, storage yards and other related uses.
4. Warehouse, storage and transfer and electric and gas service buildings and yards; public utility buildings, telephone exchange buildings, electrical transformer stations and substations, and gas regulator stations; water supply and sewage disposal plants; water and gas tank holder; railroad transfer and storage tracks; railroad rights-of-way; freight terminals.
 5. Storage facilities for building materials, sand, gravel, stone, lumber, storage of contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all residential or business districts, and on any yard abutting a public thoroughfare. In any I-1 district, the extent of such fence or wall may be determined by the planning commission on the basis of usage. Such fence or wall shall not be less than four feet six inches in height, and may, depending on land usage, be required to be eight feet in height. A chain link type fence, with heavy evergreen shrubbery inside of said fence, shall be considered to be an obscuring fence.
 6. Municipal uses such as water treatment plants, and reservoirs, sewage treatment plants, and all other municipal buildings and uses, including outdoor storage.
 7. Commercial kennels.
 8. Greenhouses.
 9. Trade or industrial schools specializing in auto mechanics, heavy equipment operation, engine repair and overhaul and uses with similar industrial type characteristics.
 10. Other uses of a similar and no more objectionable character to the above uses.
 11. Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 772, 10-7-2019)

Sec. 1302. - Principal uses permitted subject to special conditions.

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use and subject further to the review and approval of the planning commission:

1. Auto engine and body repair, and undercoating shops when completely enclosed.

2. Lumber and planing mills when completely enclosed and when located in the interior of the district so that no part shall form the exterior boundary of the I-1 District.
3. Metal plating, buffing and polishing, subject to appropriate measures to control the type of process to prevent noxious results and/or nuisances.
4. Retail uses which have an industrial character in terms of either their outdoor storage requirements or activities (such as, but not limited to: lumber yard, building materials outlet, upholsterer, cabinet maker, outdoor boat, house trailer, automobile garage or agricultural implement sales) or serve convenience needs of the industrial district (such as, but not limited to: eating and drinking establishments, bank, savings and loan association, credit union, automobile service station, motel or bowling alley, or industrial clinic.
5. Other uses of a similar character to the above uses.

Sec. 1303. - Area and bulk requirements.

See article XVI Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use and providing minimum yard setback requirements.

ARTICLE XIV. - I-2 GENERAL INDUSTRIAL DISTRICTS

Sec. 1400. - Intent.

The I-2 General Industrial Districts are designed primarily for manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations, whose external physical effects will be felt to some degree by surrounding districts. The I-2 district is so structured as to permit the manufacturing, processing, and compounding of semi-finished or finished products from raw materials as well as from previously prepared material.

Sec. 1401. - Principal uses permitted.

In an I-2 General Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this ordinance.

1. Any uses permitted in the I-1 Light Industrial District and any residential uses permitted in the RM-2 Multiple-family Residential District. Uses shall be subject to the regulations of the I-2 General Industrial District.
2. Heating and electric power generating plants, and all necessary uses.
3. Any of the following provided that they are located not less than 800 feet distant from any residential district and not less than 300 feet distant from any other district:
 - a. Junk yards, provided such are entirely enclosed within a building or within an eight foot obscuring wall and provided further that one property line abuts a railroad right-of-way.
 - b. Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.
 - c. Blast furnace, steel furnace, blooming or rolling mill.
 - d. Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of Paris.
 - e. Petroleum or other inflammable liquids, production, refining, or storage.
 - f. Smelting of copper, iron or zinc ore.

4. Any other use which shall be determined by the council after recommendation from the planning commission, t same general character as the above permitted uses in sec. 1401. The council may impose any required setback performance standards so as to insure public health, safety, and general welfare.
5. Accessory buildings and uses customarily incident to any of the above permitted uses.

(Ord. No. 783, § 2, 12-6-2021)

Sec. 1402. - Area and bulk requirements.

See article XVI Schedule of Regulations limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

ARTICLE XV. - P-1 VEHICULAR PARKING DISTRICTS

Footnotes:

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Cross reference— *Parking, stopping and standing, Ch. 21, Art. III.*

Sec. 1500. - Intent.

The P-1 Vehicular Parking Districts are intended to permit the establishment of areas to be used solely for off-street parking of private passenger vehicles as a use incidental to a principal use. This district will generally be provided by petition or request to serve a use district which had developed without adequate off-street parking facilities.

The following regulations shall apply to all P-1 districts.

Sec. 1501. - Principal uses permitted.

Premises in such districts shall be used only for an off-street vehicular parking area and shall be developed and maintained subject to such regulations as are hereinafter provided.

Sec. 1502. - Required conditions.

1. The parking area shall be accessory to, and for use in connection with one or more businesses, or industrial establishments, located in adjoining businesses or industrial districts, or in connection with one or more existing professional or institutional office buildings or institutions.
2. Such parking lots shall be contiguous to a nonresidential district.
3. Parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day and shall not be used as an off-street loading area.
4. No commercial repair work or service of any kind, or sale or display thereof, shall be conducted in such parking area.
5. No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.
6. No building other than those for shelter or attendants shall be erected upon the premises and they shall not exceed 15 feet in height.

- Applications for P-1 district rezoning shall be made by submitting a dimensional layout of the area requested showing intended parking plans in accordance with sec. 1704.

Sec. 1503. - Minimum distances and setbacks.

- Side and rear yards.* Where the P-1 district is contiguous to the side and/or rear lot lines of premises within a residentially zoned district, the required wall shall be located along said lot line. (See sec. 1708 Required walls).
- Front yards.* Where the P-1 district is contiguous to a residentially zoned district which has a common frontage on the same block with residential structures, or wherein no residential structures have been yet erected, there shall be a setback equal to the required residential setback for said residential district. The required wall shall be located on this minimum setback line unless, under unusual circumstances, the planning commission, finds that no good purpose would be served. The land between said setback and street right-of-way line shall be kept free from refuse and debris and shall be planted with shrubs, trees, or lawn and shall be maintained in a healthy, growing condition, neat and orderly in appearance.

Sec. 1504. - Parking space layout, standards, construction and maintenance.

P-1 Vehicular Parking Districts shall be developed and maintained in accordance with the requirements of article XVII General Provisions.

ARTICLE XVI. - SCHEDULE OF REGULATIONS

Sec. 1600. - Schedule limiting height, bulk, density and area by zoning district.

ZONING DISTRICT	Minimum Lot Size Per Unit		Maximum Height of Structure		Minimum Yard Setback (Per Lot in Feet)			Maximum Lot Area Coverage (All Buildings)	
	Area in Square Feet	Width in Feet	In Stories	In Feet	Front	Side Yards			Rear
						Side (one)	Side (total of two)		
R-1 Single-Family	8,400(a)	70(a)	2.5	25	(b)	10(c)	20	35	30%

R-2 Single-Family	7, 200(a)	60(a)	2.5	25	(b)	5(c)	15	35	33% lots 7, 200 sq. ft or greater 35% lots less than 7, 200 sq. ft.
R-3 Single-Family	6, 000(d)	50	2.5	25	25(b)	5(c)	15	35	35%
RM-1 Multi-Family	(e)	(e)	2	25	50(f)	10(f)	20(f)	35(f)	25%
RM-2 Multi-Family	(e)	(e)	3	33	25(f)	10(f)	20(f)	35(f)	30%
B-1 Local Business			2	25	20(b, g)	(h, g)	(h, g)	20(g)	
B-2 Central Business			3	45	0(p)	0	0	0	
B-2A Transitional Business			3	37	0(q)	5	10	0	
B-2B Mixed Use Corridor			3	37	5	5	10	5	
B-3 General Business			2	30	20(b, g)	(h, g)	(h, g)	20(g)	
B-3a Resort Commercial		150	2	25	50(t)	20(g)	40(g)	40(t, g)	
B-3B Business Industrial		(o)	2	25	15(m)	10	30	20(n)	
O-S Office Service			2	30	20(g)	(h, g)	(h, g)	20(g)	
I-1 Light Industrial			2	25	30(t)	20(g, j)	40(g, j)	(i, g, k)	

I-2 General Industrial			3	35	50(t)	30(g, j)	60(g, j)	(i, g, k)	
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(Ord. No. 732, § 2, 2-18-2013; Ord. No. 748, § 1, 6-16-2014; Ord. No. 751, § 2, 8-3-2015; Ord. No. 783, § 6, 12-6-2021)

Sec. 1600[.1]. - Notes to schedule.

- (a) See section 1601, Averaged Lot Size, and section 1602, Subdivision Open Space Plan, regarding flexibility allowances.
- (b) The minimum front-yard setback is the average of the front-yard setbacks of any three adjacent houses on the same block face, or 25 feet, whichever is less.
- (c) The minimum corner front-yard setback is the average of the front-yard setbacks of any three adjacent houses on the same block face, or 25 feet, whichever is less.
- (d) In the R-3 Single-Family District, two-family dwellings may be permitted subject to the following additional requirements:
 - (1) The lot area is at least 6,500 square feet.
 - (2) A parking plan is submitted to the planning commission indicating unobstructed access to a public way for each vehicle.
- (e) In the RM-1 Multiple-Family Districts, multiple-family dwellings shall be located on a lot area of not less than 8,000 square feet. The following minimum lot sizes shall be provided for every dwelling unit beyond the first unit whose land area need is 8,000 square feet:

Bedroom Unit *	Minimum lot area per unit
Efficiency Apt.	2,500 sq. ft.
1 Bedroom	2,500 sq. ft.
2 Bedroom	3,700 sq. ft.
3 Bedroom	4,900 sq. ft.

* A den or extra room shall count the same as a bedroom in multiple dwellings.

In the RM-2 Multiple-Family Districts, multiple-family dwellings shall be located on a lot area of not less than 5,000 square feet. The following minimum lot sizes shall be provided for every dwelling unit beyond the first unit whose land area need is 5,000 square feet:

Bedroom Unit *	Minimum lot area per unit
Efficiency Apt.	1,500 sq. ft.
1 Bedroom	1,500 sq. ft.
2 Bedroom	2,000 sq. ft.
3 Bedroom	2,500 sq. ft.

* A den or extra room shall count the same as a bedroom in multiple dwellings.

- (f) There shall be a minimum setback of 30 feet to any exterior property line.

Where a side yard abuts a street, the width of the side yard shall not be less than 25 feet.

Where buildings stand front-to-front or front-to-rear, there shall be a minimum distance between buildings of not less than 70 feet; where buildings stand side-to-side, not less than 20 feet.

- (g) Parking may be permitted in all yard areas after approval of the parking plan layout by the planning commission.
- (h) No side yards shall be required along interior side lot lines; provided, however, that all applicable provisions of building codes in effect are satisfied.

On a corner lot which borders on a residential district, a minimum side yard setback equal to the front yard setback of the adjacent residential district shall be provided. Any other side yard abutting a residential district shall be at least equal to the height of the structure.

- (i) The minimum front and rear yard setbacks shall be increased one foot for every one foot of height above 20 feet of the principal structure.
- (j) No building shall be located closer than 50 feet to the outer perimeter (property line) of such district when said property line abuts any residential district.
- (k) All storage shall be in the rear yard and shall be completely screened with an obscuring masonry wall, not less than six feet in height; or with a chain link fence and a greenbelt planting so as to obscure all view from any adjacent residential office, or business district, or from a public street.
- (l) Off-street parking for visitors, over and above the number of spaces required under section 1704, may be permitted within the required front yard.
- (m) For industrial uses in this district, the front yard setback shall be increased to 30 feet.
- (n) The planning commission may increase the rear yard requirements up to twice this minimum where the commission finds it is necessary to protect a less intensive use abutting the rear of the property or to protect the on-site use from a more intensive abutting use.
- (o) A minimum lot width of 100 feet shall only apply to the following high impact land uses:
- (1) Industrial buildings exceeding 5,000 square feet in area; or
 - (2) Commercial establishments with drive-through operations or stacking needs, such as restaurants, car washes, open-front stores, banks, or service stations; or
 - (3) Commercial establishments having open air retail display.
- (p) In the B2 Central Business District, buildings shall be placed at the lot line along street-facing walls (zero lot line minimum and maximum). There is a five-foot exception only as noted in section 902(1)(a).
- (q) In the B-2A Transitional Business and B-2B Mixed Use Districts, the maximum front-yard setback is the average of the front setbacks of the buildings on adjacent lots or 15 feet, whichever is less.

(Ord. No. 615, 10-17-1988; Ord. No. 643, § 4, 11-15-1993; Ord. No. 686, § 1, 7-23-2003; Ord. No. 732, § 2, 2-18-2013; Ord. No. 748, § 2, 6-16-2014; Ord. No. 751, § 3, 8-3-2015; Ord. No. 759, § 4, 2-19-2018)

Sec. 1601. - Averaged lot size.

1. The intent of this section is to permit the subdivider or developer to vary his lot sizes and lot widths so as to average the minimum size of lot per unit as required in article XVI Schedule of Regulations, for each one-family

residential district. If this option is selected, the following conditions shall be met:

- a. In meeting the average minimum lot size, the subdivision shall be so designed as not to create lots having an area or width greater than ten percent below that area or width required in the Schedule of Regulations, and shall not create an attendant increase in the number of lots.
- b. Each final plat submitted as part of a preliminary plat shall average the minimum required for the district in which it is located.
- c. All computations showing lot area and the average resulting through this technique shall be indicated on the print of the preliminary plat.

Sec. 1602. - Subdivision open space plan.

Intent: The intent of the subdivision open space plan is to promote the following objectives:

Provide a more desirable living environment by preserving the natural character of open fields, stands of trees, brooks, hills and similar natural assets.

Encourage developers to use a more creative approach in the development of residential areas.

Encourage a more efficient, aesthetic and desirable use of open area while recognizing a reduction in development costs and by allowing the developer to by-pass natural obstacles on the site.

Encourage the provision of open space within reasonable distance to all lot development of the subdivision and to further encourage the development of recreational facilities.

- 1. Modifications to the standards as outlined in article XVI, Schedule of Regulations, may be made in the one-family residential districts when the following conditions are met:
 - a. The lot area in all one-family residential districts, which are served by a public sanitary sewer system, may be reduced up to 20 percent. In the R-1 District, this reduction may be accomplished in part by reducing lot widths up to ten feet. In the R-2 district, this reduction may be accomplished in part by reducing lot widths up to five feet. These lot area reductions shall be permitted, provided that the dwelling unit density shall be no greater than if the land area to be subdivided were developed in the minimum square foot lot areas as required for each one-family district under article XVI Schedule of Regulations. All calculations shall be predicated upon the one-family districts having the following gross densities including roads:

R-1	Equals 3.9 dwelling units per acre.
R-2	Equals 4.5 dwelling units per acre.

- b. Rear yards may be reduced to 30 feet when such lots border on land dedicated for park, recreation, and/or open space purposes, provided that the width of said dedicated land shall not be less than 100 feet measured at the point at which it abuts the rear yard of the adjacent lot.
- c. Under the provisions of item (a) above of this section, for each square foot of land gained within a residential subdivision through the reduction of lot size below the minimum requirements as outlined in

the Schedule of Regulations, at least equal amounts of land shall be dedicated to the common use of the lot owners of the subdivision or to the city in a manner approved by the city.

- d. The area to be dedicated for subdivision open space purposes shall in no instance be less than four acres and shall be in a location and shape approved by the planning commission.
- e. The land area necessary to meet the minimum requirements of this section shall not include bodies of water, swamps or land with excessive grades making it unsuitable for recreation. All land dedicated shall be so graded and developed as to have natural drainage. The entire area may, however, be located in a flood plain.
- f. This plan, for reduced lot sizes, shall be permitted only if it is mutually agreeable to the city council and the subdivider or developer.
- g. Under this open space approach, the developer or subdivider shall dedicate the total park area (see item (a) above) at the time of filing of the final plat on all or any portion of the plat.

ARTICLE XVII. - GENERAL PROVISIONS

Sec. 1700. - Conflicting regulations.

Whenever any provision of this ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this ordinance shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this ordinance, then the provisions of such ordinance shall govern.

State Law reference— Conflicts between zoning and other ordinances, MCL 125.3210.

Sec. 1701. - Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained, and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this ordinance.

Sec. 1702. - Nonconforming lots, nonconforming uses of land, nonconforming structures and nonconforming uses of structures and premises.

1. *Intent.* It is the intent of this ordinance to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exists within the districts established by this ordinance and subsequent amendments, lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended which would be prohibited, regulated, or restricted under the terms of this ordinance or future amendments.

Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.

If a building permit has been issued for a building prior to the passage of this ordinance, such building shall be permitted, even if nonconforming to the provisions of this ordinance, provided: (1) Construction is begun within 30 days after the effective date of this ordinance, (2) That construction is continuous until the building is completed, (3) That actual construction has been undertaken at the time of the effective date of this ordinance when the building permit was issued more than 60 days prior to the effective date of this ordinance.

2. *Nonconforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the board of appeals.
3. *Nonconforming uses of land.* Where, at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
 - a. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
 - b. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance;
 - c. If the use of any nonconforming structure or land is discontinued through abandonment, vacancy, lack of operation or as otherwise provided by law, for a continuous period of 365 days or more, then the use of such structure or land shall not be resumed until such use or structure strictly conforms to the regulations specified by this zoning ordinance for the district in which such building or land is located. A structure or use of land is deemed to be discontinued and abandoned if, in addition to the use ceasing for 365 days, any one or more of the following conditions exist:
 - (a) Utilities, such as water, gas and electricity to the property have been disconnected;
 - (b) The property, building or grounds have fallen into disrepair in a manner which result in a violation of applicable zoning and property maintenance codes or would otherwise give the appearance of neglect or abandonment;
 - (c) Signs or other indications of the existence of the non-conforming use have been removed;
 - (d) Equipment or fixtures necessary for the operation of the non-conforming use have been removed;
 - (e) Other actions which, in the opinion of the city manager or zoning administrator, constitute an intention on the part of the property owner or lessee to abandon the non-conforming use or structure.
4. *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be

continued so long as it remains otherwise lawful, subject to the following provisions:

- a. No such structure may be enlarged or altered in a way which increases its nonconformity. Such structures may be enlarged or altered in a way which does not increase its nonconformity.
 - b. Should such structure be destroyed by any means to an extent of more than 60 percent of its replacement costs, exclusive of the foundation, it shall be reconstructed only in conformity with the provisions of this ordinance.
 - c. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is removed.
5. *Nonconforming uses of structures and land.* If a lawful use of a structure, or a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be permitted in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- a. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
 - c. If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or a more restricted classification provided that the board of appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board of appeals may require conditions and safeguards in accord with the purpose and intent of this ordinance. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.
 - d. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
 - e. Reserved.
 - f. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
6. *Repairs and maintenance.* On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the equalized value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
7. *Uses under exception provisions not nonconforming uses.* Any use for which a special exception is permitted as provided in this ordinance shall not be deemed a nonconforming use, but shall, without further action, be

deemed a conforming use in such district.

8. *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures or land and structures in combination.

(Ord. No. 736, §§ 1, 2, 12-2-2013)

State Law reference— Nonconforming uses or structures, MCL 125.3208.

Sec. 1703. - Accessory buildings.

Accessory buildings, except as otherwise permitted in this ordinance, shall be subject to the following regulations:

1. Where the accessory building is structurally attached to a main building, it shall be subject to and, must conform to, all regulations of this ordinance applicable to main building.
2. Buildings accessory to residential buildings shall not be erected in any required yard, except a rear yard.
3. Buildings accessory to residential buildings shall not occupy more than 25 percent of a required rear yard, provided further that no accessory building shall exceed the ground floor area of the main building.
4. A single-story detached building not exceeding 14 feet in height, accessory to a residential building shall be located no closer than three feet from any side or rear lot line.

In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than one foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right-of-way.

5. A detached accessory building in R-1 through R-3, RM-1, RM-2, O-S and P-1 Districts may have a maximum height of one and one-half stories and 16 feet, or the height of the principal structure, whichever is less. A detached accessory structure greater than 14 feet in height shall have a setback of no less than five feet.
6. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in rear of such corner lot. In no instance shall an accessory building be located nearer than ten feet to a street right-of-way line.
7. Accessory buildings in residential districts may only be used for storage, hobby or home business use as regulated by section 401(7).
8. The parking of a trailer coach for periods exceeding 24 hours on lands not approved for trailer courts shall be expressly prohibited, except that the building inspector may extend temporary permits allowing the parking of a trailer coach in a rear yard on private property, not to exceed a period of two weeks. All trailer coaches owned by residents of the city and stored on their individual lots shall be stored only within the confines of the rear yard and shall further respect the requirements of this Section applicable to accessory buildings, insofar as distances from principal structures, lot lines, and easements are concerned. All trailer coaches parked or stored, shall not be connected to sanitary facilities and shall not be occupied.

(Ord. No. 751, § 4, 8-3-2015)

Sec. 1704. - Off-street parking and driveway curb-cut standards.

- (a) *Intent.* This section shall apply to all zoning districts as provided for herein. The purpose of this section is to make

the city safe and accessible for drivers, pedestrians and cyclists in the design of all parking areas by promoting site designs that help to reduce conflicts, enhance the community and support a multi-modal transportation mix.

(b) *General provisions applying to all zoning districts.*

- (1) No parking area, driveway, or off-street parking space shall be constructed, expanded or improved without a zoning permit. Normal maintenance, such as regrading of legal non-conforming gravel parking areas or the addition of top coat or sealer to existing paved parking areas, will not trigger full off-street parking compliance; however, pulverizing an existing asphalt, concrete or other paved parking surface, the outright removal or substantial modification of the paved surface in preparation for paving and demolition by neglect which serves to return a parking area substantially to gravel or other aggregate surface, shall, for the purposes of this section, be considered new parking.
- (2) New parking lot construction shall require a detailed site plan in accordance with section 1716 and planning commission approval. Driveways in single family zoning districts are exempt from this requirement.
- (3) Any expansion of an existing building shall require review of the adequacy of on-site parking.
- (4) Required off-street parking spaces shall not be replaced by any other use unless and until an equal number of parking spaces are provided elsewhere and are so provided in compliance with this section.
- (5) All parking areas and driveways shall be constructed with an approved hard surface: paved with asphalt, concrete or other similar materials, which shall extend as a continuous uninterrupted pavement from the garage, parking area or combination thereof to a street or alley. Driveway approaches shall be concrete and provide for a sidewalk profile. The parking area shall be surfaced within one year of the date the zoning permit is issued.
- (6) To minimize excessive areas of pavement that contribute to higher rates of storm water runoff, exceeding the parking space requirements of subsection 1704(h) in non-residential districts shall be prohibited.
- (7) Driveway curb cuts shall be placed at least 30 feet from an intersection measured from the radius sprint point as defined in section 1714.
- (8) Driveway curb cuts shall be no wider than 16 feet in one- and two-family districts and 24 feet in commercial districts.

(c) *Exception to general provisions.* The area delineated as the Central Business Parking Exempt District is exempt from providing off-street parking, but if off-street parking and loading requirements are provided, the lot shall meet all applicable design standards of this Zoning Code. The Central Business Parking Exempt District is defined as the area bounded by Michigan Street on the south, Rose Street on the north, U.S. 31 and Emmet Street on the west, and on the east, it follows Woodland and Division Streets to a point 138 feet north of the Bay Street right-of-way to an east-west alley, thence west to the former railroad corridor now identified as the Downtown Greenway Corridor, thence northeast until it reaches the Rose Street right-of-way as illustrated below:



(d) *One- and two-family residential parking area and driveway requirements.*

(1) *General requirements.*

- a. In no case should more than 40 percent of a required front yard be a paved surface. Parking on non-paved surfaces is prohibited.
- b. A one-family dwelling is restricted to a single curb cut.

(e) *Multifamily parking area and driveway design requirements.*

(1) *General requirements.*

- a. Parking areas shall be located to the rear of the building or internal to the building to continue or establish a continuous facade wall along the street and/or to conceal the expanse of parking area.
- b. Bicycle parking shall be provided for any building with five or more units at a ratio of one space per two units. See subsection [1704\(g\)\(2\)](#).

(f) *Commercial parking area and driveway design requirements.*

(1) *General requirements.*

- a. Parking areas shall not be located within a required front-yard setback or a street frontage side-yard setback on a corner lot.
- b. Parking areas shall have barriers such as concrete bumpers or curbs to prevent vehicles from extending over or into any public sidewalk, walkway, rights-of-way or landscape buffer areas. Parking areas shall include striping that delineates each individual parking space.
- c. The storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited within a required off-street parking area.
- d. Parcels greater than 100 feet in width shall have curb cuts at least 60 feet from an intersection measured from the curb face.
- e. Curb cuts shall be aligned with driveways on the opposite side of the street or offset a minimum distance

of 30 feet.

- f. Driveways on the same side of the street shall be separated by at least 30 feet, measured from the entrance radius spring point as illustrated in section 1714.
- g. Any new parking lot with at least ten vehicle parking spaces shall provide bicycle parking for a minimum of one bicycle and one additional bicycle parking space per 15 vehicle parking spaces. See subsection 1704(g)(2).

(2) *Use of on-street parking to meet parking requirements.*

- a. Upon planning commission review and approval, on-street parking may be used for up to 20 percent of parking space requirements, not exceeding six spaces, provided that:
 - 1. The on-street spaces are within 300 feet walking distance from the main entrance of the subject building;
 - 2. An on-street parking space shall not be counted unless its entire area falls within said 300-foot walking distance; and
 - 3. An on-street parking space shall not be counted if it is restricted in its use as a designated loading zone or if parking is prohibited for more than five hours in any 24-hour period.

(3) *Shared parking agreements.* Where a mix of land uses creates staggered peak periods of parking demand, shared parking agreements that have the effect of reducing the total amount of required parking spaces are encouraged. Shared parking agreements for off-street parking for two or more buildings or uses is permitted subject to the following:

- a. The total number of required parking spaces for each use on each lot shall not be reduced by more than 25 percent.
- b. Shared parking areas shall be located within 300 feet of the use, measured from the nearest point of the building to the nearest point of the off-street parking area or space.
- c. If lots are adjacent, they shall be interconnected for vehicular passage.
- d. Written agreements that provide for continued use and maintenance of shared parking shall be submitted at the time of site plan or zoning permit approval. All agreements shall include provisions to address changes in use.
- e. Shared parking agreements or leases shall remain in full force and effect binding on both parties. In the event the shared parking agreement or lease is terminated by either party, or is not being enforced or complied with, full parking requirements must be met.

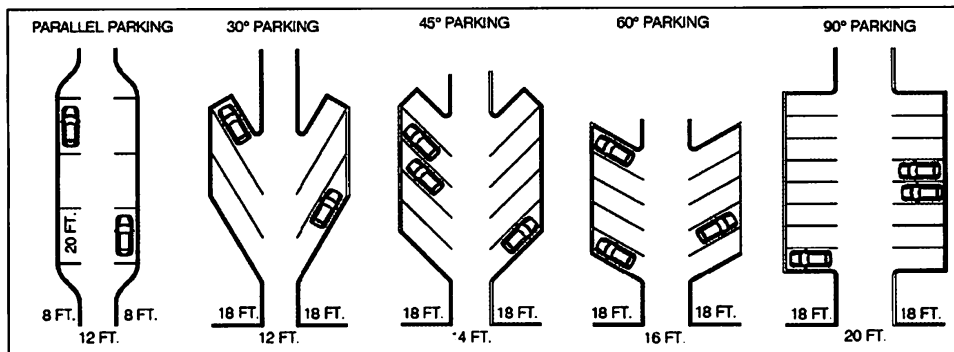
(g) *Dimensional requirements for parking lots.*

(1) *Vehicle parking.*

- a. All parking lot spaces shall be provided adequate access by means of maneuvering lanes; access directly onto a street or public right-of-way shall be prohibited.
- b. Maneuvering lanes for 90° parking patterns shall accommodate two-way traffic.
- c. Parking spaces and maneuvering lanes shall be provided in accordance with the requirements below.
- d. A driveway that is not a property-line shared driveway shall be a minimum of five feet from the property line.

PARKING LOT DIMENSIONAL REQUIREMENTS

Parking Pattern	Minimum Maneuvering Lane Width	Parking Space Width	Parking Space Length	Compact Vehicle Space Dimensions
0° (parallel)	12 feet	8 feet	20 feet	8 feet
30° to 53°	12—14 feet	9 feet	18 feet	Same
54° to 74°	16 feet	9 feet	18 feet	Same
75° to 90°	20 feet	9 feet	18 feet	8 feet x 16 feet



(2) *Bicycle parking.*

- a. A bicycle parking space is an area provided for bike parking with a dedicated bicycle rack; the size or number of racks is dependent on the number of bicycle parking spaces required.
- b. Bicycle rack requirements.
 1. The bicycle rack must be within 50 feet of the main building entrance or inside a building in a location that is easily accessible by bicyclists;
 2. The bicycle frame and one wheel can be locked to the rack with a high security, U-shaped shackle lock if both wheels are left on the bicycle;
 3. 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;
 4. The rack must be securely anchored when necessary; and



A bicycle parking space with a single U-shaped rack supports two bikes.

5. Each required bicycle parking space must be accessible without moving another bicycle and there

must be an aisle at least five feet wide behind all required bicycle parking to allow room for bicycle maneuvering.

(3) *Landscaping.*

a. Parking area landscaping requirements as established in section 1709 shall be followed.

(h) *Required number of parking spaces by use.*

USE		PARKING SPACES REQUIRED (Minimum and Maximum)
RESIDENTIAL	Single and two-family	Two per dwelling unit
	Multiple family	One and one-half per dwelling unit
	Boarding houses	Two spaces per dwelling
	Senior housing	One for each three units and one for each employee on the largest shift
	Bed and breakfast	Two spaces for the principal dwelling use, plus one off-street space per rental room
	Residential above commercial	One per dwelling unit
	Residential care and treatment facility	One space per three beds
	Sheltered housing	One space per three beds
INSTITUTIONAL	Place of public assembly	One space per four seats of legal capacity
	Hospitals	Four and one-half spaces per licensed bed; areas of out-patient care follow medical office requirements

	Nursing care facility	One per employee in the largest shift plus one space for each six beds
	Educational facilities (office and auditorium or gymnasium uses calculated separately)	One per 1,000 square feet plus one per classroom
	Stadium, sports arena or similar place of outdoor assembly	One for each six seats or 12 feet of bench
BUSINESS/ COMMERCIAL	Office (non-medical), financial institutions, retail	One space per 350 square feet of gross floor area
	Medical office (non-urgent care)	Four per 1,000 square feet gross floor area
	Urgent care facilities	One per employee or staff in the largest shift plus two spaces per exam room
	Lodging	One space per rental room and one for each employee
	Automobile gasoline station	One per 150 square feet dedicated to retail activity, plus one space at each fuel pump, plus one stacking space per fuel pump
	Open air business	One per 350 square feet of indoor space devoted to retail activity, plus one space for each 2,000 square feet of outdoor display area
	Day care, group and adult care	Two spaces for the principal dwelling use, if applicable, plus one space per employee of largest shift, plus one space per four clients

	Drive-through business	Five stacking spaces per drive-through lane with window service or three stacking spaces for drive-through ATM, in addition to any spaces required for the non-drive-through uses
	Mortuary	One per employee of largest shift plus one space per four seats of legal capacity
	Personal service establishment	One per employee of the largest shift plus one space per service station
	Recreational facility, commercial	One space for each 100 square feet of useable floor area
	Planned commercial or shopping center	One space per 375 square feet gross floor area
	Retail business; consumable and convenience goods	One per 400 gross square feet floor area
	Retail business; durable goods (furniture, antiques, bicycles)	One per 800 square feet useable floor area
	Eating and drinking establishment	Two for every five seats
INDUSTRIAL/ STORAGE AND RELATED	Municipal uses—Utilities	Applicant shall demonstrate demand
	Research and development	One per employee of largest shift plus five visitor spaces
	Assembly/warehouse/wholesale/manufacturing facility	One per 600 gross square feet

(Ord. No. 756, § 1, 10-3-2016; Ord. No. 759, § 7, 2-19-2018; Ord. No. 777, § 1, 5-18-2020)

Editor's note— Ord. No. 756, § 1, adopted Oct. 3, 2016, repealed the former § 1704, and enacted a new § 1704 as set out herein. The former § 1704 pertained to off-street parking requirements and derived from Ord. No. 597, § 1, adopted Mar. 16, 1987; and Ord. No. 632, § 7, adopted Oct. 21, 1991.

Cross reference— Parking, stopping and standing, ch. 21, art. III.

Sec. 1705. - Reserved.

Editor's note— Ord. No. 756, § 2, adopted Oct. 3, 2016, repealed § 1705, which pertained to off-street parking space layout, standards, construction and maintenance, and derived from Ord. No. 632, § 8, adopted Oct. 21, 1991; and Ord. No. 669, § 1, adopted July 19, 1999.

Sec. 1706. - Loading requirements.

- (a) Loading spaces shall be provided on the same property as any nonresidential use involving the receipt or distribution of materials or merchandise, except within the Central Business District where alleys may be used for loading.
- (b) Loading spaces shall be provided adequate access by means of maneuvering lanes; access directly onto a street or public right-of-way shall be prohibited.
- (c) Loading spaces shall be located within the rear yard or side yard in any zoning district other than the industrial districts (11 and 12). Landscaping and buffering, in addition to that required by section 1709, shall be provided to fully screen loading spaces from public view when located in an interior side yard, unless the planning commission determines such screening is not needed based on existing land uses, site features or topography.
- (d) Loading spaces shall be at least ten feet in width, 25 feet in length, and have height clearance of 14 feet.
- (e) Loading spaces shall be located so loading and unloading activities do not interfere with pedestrian or private motor vehicle movement.

(Ord. No. 756, § 3, 10-3-2016)

Editor's note— Ord. No. 756, § 3, adopted Oct. 3, 2016, repealed the former § 1706 and enacted a new § 1706 as set out herein. The former § 1706 pertained to off-street loading and unloading and derived from the original Code.

Sec. 1707. - Uses not otherwise included within a specific use district.

Because the uses hereinafter referred to possess unique characteristics making it impractical to include them in a specific use district classification, they may be permitted by the board of appeals under the conditions specified, and after public hearing, and after a recommendation has been received from the planning commission. In every case, the uses hereinafter referred to shall be specifically prohibited from any residential districts.

These uses require special consideration since they service an area larger than the city and require sizable land areas, creating problems of control with reference to abutting use districts. Reference to those uses falling specifically within the intent of this section is as follows:

1. *Commercial television and radio towers and public utility microwaves, and public utility T.V. transmitting towers.* Radio and television towers, public utility microwaves and public utility t.v. transmitting towers, and

their attendant facilities shall be permitted in I-1 and I-2 districts provided said use shall be located centrally on a zoning lot on which the distance from the base of the tower to all points of each property is not less than the height of the tower.

2. *Mobile homes and trailer courts.* Mobile home courts may be permitted in the B-3 districts, or as a transition use in "I" districts provided the following conditions are satisfied:
 - a. Trailer courts for the parking of two or more trailers shall be developed pursuant to the requirements of Act 243 of the Public Acts of the State of Michigan, 1959, as amended [MCL § 125.-1001 et seq.].
 - b. No land shall hereafter be utilized for the erection, construction, operation and/or maintenance of a residential mobile home or trailer coach park as defined by the laws of the State of Michigan, except upon application for a permit from the city signed by the person, firm or corporation seeking the permit and by the owner and legal title holder of the property sought to be used for such purposes.
 - c. The land parcel being proposed for trailer courts shall be of such land areas as to provide for a minimum of at least 20 trailer coach sites.
 - d. Trailer coach sites shall contain a minimum area of at least 4,000 square feet. All such trailer site areas shall be computed exclusive of service drives, facilities and recreation space.
 - e. All trailer courts shall have access to major or secondary thoroughfares within the city by directly abutting thereon. Frontage on said thoroughfare shall be equal to at least 200 feet in width.
 - f. A wall, or obscuring fence four feet and six inches in height shall be provided on all sides of the trailer court, with the exception of that portion providing ingress and egress to the site.
 - g. Fences when provided around trailer lots shall be uniform in height and shall not exceed 30 inches in height and shall be constructed in such a manner as to provide firemen access to all sides of each trailer.
 - h. Recreation space and landscaping as follows:
 1. There shall be provided an area of not less than 100 square feet for recreation, for each trailer space in the trailer park, with a minimum area of not less than 5,000 square feet, which shall be no longer than two times its width. Such area shall be developed and maintained by the management so as to provide healthful recreation for the children housed in the mobile home park.
 2. The front yard and the side yard adjacent to a street shall be landscaped and the entire trailer park shall be maintained in a clean, presentable condition at all times.
 - i. The sum of the side yards at the entry side of and non-entry side of a mobile home stand shall be not less than 20 feet; provided however, there shall be a side yard of not less than 15 feet at the entry side of the mobile home stand and a side yard of not less than five feet at the non-entry side of the mobile home stand. There shall be a rear yard of not less than five feet at the rear end of the stand and a front yard of not less than ten feet at the front end of the mobile home stand. For irregularly shaped side yards, the sum is determined as the sum of the average width of each side yard, provided that the required minimums above are maintained at all points in the side yard.
 - j. No mobile home shall be located closer than 50 feet to the right-of-way line of a major thoroughfare, or 20 feet to any mobile home park property line.

Sec. 1708. - Walls.

1. For those districts and uses listed below there shall be provided and maintained an obscuring wall as required by the conditions, heights, and locations noted: (See Table in Fig. 13)

Districts Requiring Walls	Conditions	Height	Location of Wall
B-1, B-2, B-3, B-3a, O-S, P-1, I-1, I-2.	When abutting any R or RM District.	6'0"	Along common district boundary.
Specific Uses Requiring Walls	Conditions	Height	Location of Wall
Required off-street parking areas in RM-1 or RM-2.	When abutting R-1, R-2 or R-3 District.	4'6"	Along property line between R district and parking area.
Junk yards		8'0"	All sides of use
Storage facilities or areas.	When abutting any R, RM, B, O-S or P District.	4'6"-8'0"	Along property line between storage and R, RM, B, O-S, or P District.
Required off-street parking areas in R-1, R-2, or R-3 (except single family-and two family).	When abutting any single family use areas.	4'6"	Along property line between single family area and parking area.

FIG. 13

2. Obscuring walls shall not be required when any building, parking or storage area within any district requiring a wall, or any use requiring a wall, when such buildings, parking or storage areas are located more than 200 feet from an abutting residential district.
3. Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this ordinance requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the planning commission may approve an alternate location for the wall or may waive the wall requirement if in specific cases it would not serve the purposes of screening the parking area effectively. Required walls may, upon approval of the board of appeals, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the board of appeals in reviewing such request.
4. Walls shall be of masonry construction. Decorative openings in the wall may be permitted provided they do not exceed 20 percent of the surface. Where walls are so pierced, the openings shall be spaced as to maintain the obscuring character required and shall be reviewed and approved by the building inspector.
5. Where an obscuring wall is required, a landscaped earthmound may be permitted in lieu of such wall, provided that the height of the earthmound not be less than the required height of the obscuring wall.
6. The board of appeals may waive or modify for foregoing requirements where cause can be shown that no good purpose would be served, provided that in no instance shall a required wall be permitted to be less than four feet six inches in height except where section 1714 applies.

In consideration of request to waive wall requirements between nonresidential and residential districts, the board shall refer the request to the planning commission for a determination as to whether or not the residential district is considered to be an area in transition and will become nonresidential in the future.

In such cases as the planning commission determines the residential district to be a future nonresidential area, the board may temporarily waive wall requirements for an initial period not to exceed 12 months. Granting of subsequent waivers shall be permitted, provided that the planning commission shall make a determination as hereinbefore described, for each subsequent waiver prior to the granting of such waiver by the board.

Sec. 1709. - Plant materials.

Whenever in this ordinance a greenbelt or planting is required, it shall be planted within six months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Suitable materials equal in characteristics to the plant materials listed with the spacing as required shall be provided. (See Table in Fig. 14)

SUGGESTED PLANT MATERIALS

Suggested Plant Materials	Minimum Height in Feet
a. Evergreen Trees	
(1) Juniper	
(2) Red Cedar	
(3) White Cedar	5 feet
(4) Pines	
b. Narrow Evergreens	
(1) Pyramidal Arbor-Vitea	3 feet
(2) Columnar Juniper	
(3) Irish Juniper	
c. Tree-like Shrubs	
(1) Flowering Crabs	
(2) Russian Olives	
(3) Mountain Ash	4 feet
(4) Redbud	
(5) Rose of Sharon	
d. Large Deciduous Shrubs	
(1) Honey Suckle	
(2) Viburnum	
(3) Mock-Orange	6 feet
(4) Forsythia	
(5) Lilacs	
(6) Ninebark	
e. Large Deciduous Trees	
(1) Hard Maples	
(2) Ash	8 feet
(3) Hackberry	
(4) Sycamore	

FIG. 14

1. *Plant material spacing.*
 - a. Plant materials shall not be placed closer than four feet from the fence line or property line.
 - b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
 - c. Evergreen trees shall be planted not more than 30 feet on centers.
 - d. Narrow evergreens shall be planted not more than six feet on centers.
 - e. Tree-like shrubs shall be planted not more than ten feet on centers.
 - f. Large deciduous shrubs shall be planted not more than four feet on centers.
 - g. Large deciduous trees shall be planted not more than 30 feet on centers.
2. *Trees not permitted.*
 - a. Box elder.
 - b. Soft maples.
 - c. Elms.
 - d. Poplars.
 - e. Ailanthus (tree of heaven).

Sec. 1710. - Signs.

Signs shall be regulated as provided in Ordinance No. 550 (Appendix C of this Code).

(Ord. No. 550, § 12, 2-7-1983)

Sec. 1711. - Exterior lighting.

1. All outdoor lighting in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences.
2. All outdoor lighting in all use districts shall be directed toward and confined to the ground areas of lawns or parking lots.
3. All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
4. All illumination of any outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

Sec. 1712. - Fences (single- and two-family residential).

All fences shall require a zoning compliance permit issued by the zoning administrator and shall comply with the following regulations and requirements.

- (1) *Location (see Figure 1712).*
 - a. Corner-front yard. Only decorative and living fences are allowed within a corner-front yard with a minimum setback of two feet from the street-fronting property line.
 - b. Side and rear yards. Fences may be placed up to a lot line in side and rear yards.

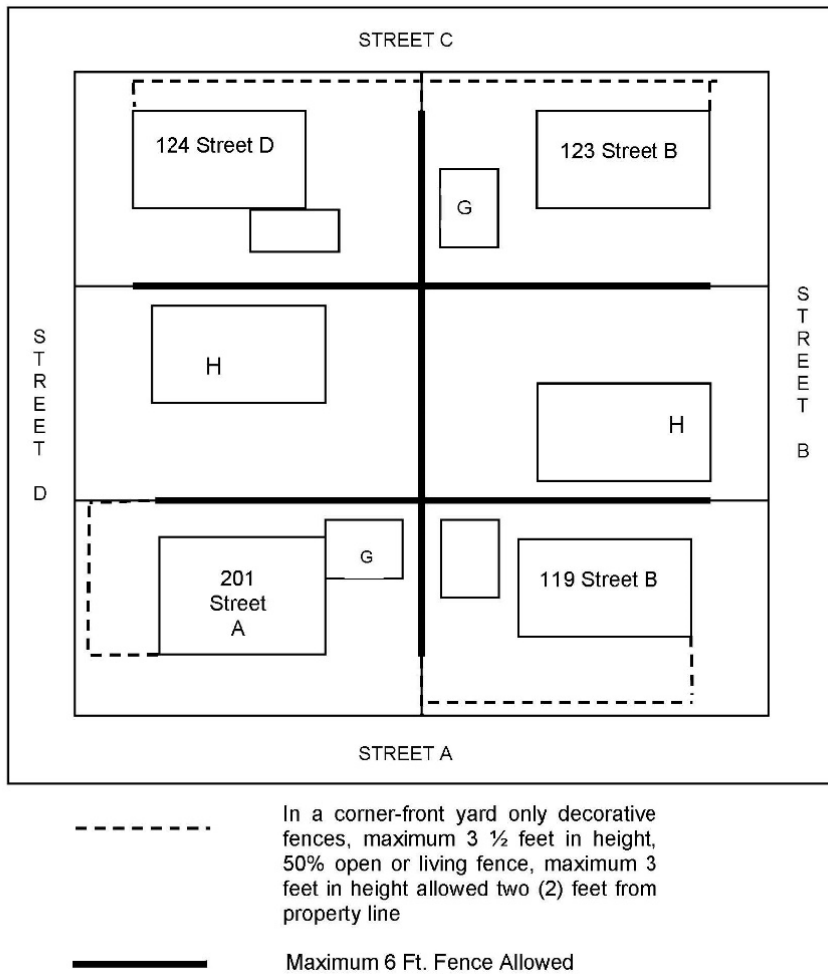
- c. Fences shall be located so as to not obstruct corner clearance or vision of motorists exiting driveways.
- d. No fence shall be placed within the city right-of-way and if so placed shall be removed at the owner's expense.
- e. Underground electric fences shall be set a minimum of five feet from a front or corner-front property line.

(2) *Height and design restrictions.*

- a. Side and rear-yard fences shall not exceed six feet in height and shall not extend beyond the principal structure into a front yard.
- b. Corner-front yard decorative fences shall not exceed three and one-half feet (42 inches) in height and shall not obstruct vision to an extent greater than 50 percent of total area.
- c. Chain link fences are only allowed in rear and side yards.
- d. Living fences shall not exceed three feet in height in a corner-front yard, shall be placed so that growth is kept at least two feet from the property line, and shall not contain invasive species.
- e. Fences that enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots shall not exceed eight feet in height, measured from the surface of the ground.
- f. Fences may be placed on retaining walls, berms or similar features with the fence height to be measured from the established grade.
- g. All fences shall have the finished side facing the adjacent property or public right-of-way.

(3) *Maintenance of nuisances.* Fences shall be maintained so as not to endanger life or property. Any fence which, through lack of repair, type of construction, or otherwise, endangers life or property is hereby deemed a nuisance per chapter 13 of this Code.

Figure 1712



(Ord. No. 708, § 1, 6-1-2009; Ord. No. 770, 5-20-2019)

Sec. 1713. - Residential entranceway.

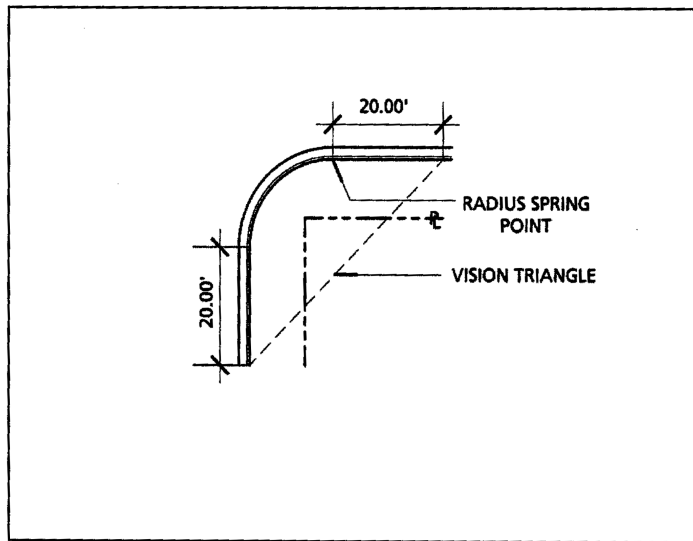
In all residential districts, so called entranceway structures including, but not limited to: walls, columns, and gates marking entrances to single family subdivisions or multiple housing projects may be permitted and may be located in a required yard, except as provided in sec. 1714 Corner Clearance, provided that such entranceway structures shall comply to all codes of the City of Petoskey, and shall be approved by the building department and a permit issued.

Sec. 1714. - Corner clearance.

Any vision obstruction to vehicular traffic, including fences, walls, shrubbery, hedges, trees or signs above a height of two feet from the street midpoint height are not permitted within the vision triangle. The vision triangle is the area at an intersection formed by extending a straight line 20 feet along the back of each curb from its radius spring point and connecting these two points (see section 1714, Figure A). Obstructions not in conformity with this ordinance identified by city staff to negatively impact public safety shall be removed at the property owner's expense.

SECTION 1714**FIGURE A**

(PL = Property Line)



(Ord. No. 708, § 2, 6-1-2009)

Cross reference— Traffic and motor vehicles, ch. 21.

Sec. 1715. - Frontage on a public street.

No lot shall be used for any purpose permitted by this ordinance unless said lot abuts a public street, unless otherwise provided for in this ordinance.

Sec. 1716. - Site plan review [all districts].

1. *[Requirements.]* A site plan review is required for:
 - a. Any use or development for which the submission of a site plan is required by any provision of this ordinance.
 - b. Any development, except single-family and two-family residential, for which off-street parking areas are provided as required in section 1704, Off-street parking requirements.
 - c. Any use in an RM-1, RM-2, OS-1, B-1, B-2, B-3, B-3a, I-1 or I-2 district lying contiguous to, or across a street from, a single-family residential district.
 - d. Any use except single or two-family residential which lies contiguous to major thoroughfare or collector street.
 - e. All residentially-related uses permitted in single-family district such as, but not limited to, churches, schools, and public facilities.
 - f. Building additions or accessory buildings shall not require planning commission review unless off-street parking in addition to that already provided on the site is required.
 - g. Multiple-detached, single-family dwelling units on a single parcel shall require site plan review unless a plan is submitted showing that the dwelling units, accessory structures and parking areas are located such that the

parcel could be divided in the future into conforming lots (based upon lot width, lot area and location of structures) in the zoning district in which the property is located.

In review of a site plan for multiple-detached units on one lot, the planning commission may consider setbacks and other zoning ordinance standards applicable to single-family dwelling units in the zoning district which overlays the site.

2. *Site plan review package.* A complete site plan review package shall include all of the items listed below and shall be submitted and reviewed in accordance with the planning commission bylaws. The city reserves the right to reject incomplete site plan review packages.

- a. Fee: The petitioner, for a site plan review, shall pay the required fee to the city.
- b. Application form: A signed and completed application form shall be included.
- c. Professional drawing(s): All site plans shall be prepared by a registered professional architect, engineer, landscape architect or surveyor who shall then provide at least one copy of the drawing(s) embossed with his or her professional seal.
- d. Number of drawings: 15 copies of the site plan drawing shall be submitted to the city.
- e. Information on drawings:

(1) *Legend:*

- (a) Project title.
- (b) Name and address of person preparing the plan.
- (c) North arrow.
- (d) Scale (not less than one inch equals 50 feet for less than three acres, or one inch equals 100 feet if three acres or more).
- (e) Date of drawing and any revisions.
- (f) Street address location of project.

(2) *Site data:*

- (a) Site size in lot width and depth.
- (b) Property use, present and proposed.
- (c) Setbacks (ordinance requirements/proposed).
- (d) Building heights (ordinance requirements/proposed).
- (e) Lot area (ordinance requirements/proposed).
- (f) Total building area and usable floor area of commercial buildings.
- (g) Off-street parking (ordinance requirements/proposed).
- (h) Barrier-free parking (ordinance requirements/proposed).
- (i) Number of dwelling units (ordinance requirements/proposed).
- (j) Present lot coverage (ordinance requirements/proposed).
- (k) Screening (ordinance requirements/proposed).

(3) *Graphic illustration:* The following items shall be included in a complete site plan drawing. The petitioner may want to show existing features on a separate drawing from proposed improvements for better illustration.

- (a) Freestanding and directional signs shall be labeled with setback, height, and relative location measurement with elevation drawings, unless proposed for separate review.
- (b) Hydrants: For large sites such as apartment complexes, subdivisions, or shopping centers, existing and proposed hydrants shall be shown.
- (c) Ingress/egress for the site shall be shown with the location, throat width, radii and depth of all driveway dimensions labeled, including the distance to other driveways or intersections shown within 100 feet of the site. Include any driveways across the street.
- (d) Landscaping, fencing, berms, walls, lawns or greenbelt as existing and as proposed shall be shown on the drawing. Existing trees or shrubs shall be labeled and identified as to species, typical or significant size, and whether they are to be saved or removed. Proposed landscape materials should be labeled as to species, size and quantity. Fences or walls should be identified by type and material. Berms should be illustrated as to width, height and slope.
- (e) Lighting fixtures that are freestanding or attached to a building shall be shown and shall be labeled as to type and height of fixture for parking areas, walkways, buildings, exteriors, etc.
- (f) Loading zones, truck docks and similar facilities should be labeled with exterior dimensions provided.
- (g) Natural features such as unique or constraining soils, creeks, ponds, drainage courses, wetlands, floodplains, etc., shall be shown.
- (h) Parking lots and layouts shall show existing and proposed access, aisles, fire lanes, location of parking spaces, location of handicapped spaces and shall provide labeling of dimensions of such elements. All pavement markings shall be shown as proposed and type of parking lot surface identified. Snow storage areas, if applicable, shall be identified for parking lots.
- (i) Principal and accessory buildings and structures shall be shown with perimeter dimensions, and with identification of building entrances/exits.
- (j) Sidewalks shall be shown at street frontage locations and near buildings, with any barrier-free access ramps labeled.
- (k) Site location and surroundings shall be shown by illustrating all buildings within 100 feet of the site.
- (l) Site plan compliance certificate: A certificate for [of] occupancy shall not be issued for a building approved as part of a site plan review until a final inspection has been conducted by city staff to determine if the site improvements comply with all requirements of the approved site plan. The city would then issue a site plan compliance certificate for the property. The city may issue a temporary occupancy certificate for approved projects where conditions require a delay in site improvements, only where a performance bond (cash, certificate of deposit, bank letter of credit) is provided, in an amount equal to 100 percent of the value of the site improvements as estimated by a registered engineer, architect or landscape architect or by a licensed contractor. Only upon completion of site improvements and upon obtaining a site plan compliance certificate will the performance bond be returned to the applicant. A site plan compliance certificate will not be issued until as-built drawings, reflecting any changes for site improvements, including utilities, are submitted and approved.
- (m) Soil erosion control plan: Plans for soil erosion control shall be submitted in accordance with provisions of Michigan Public Act 347.
- (n) Stormwater drainage shall be shown on-site and at adjacent streets, including existing and proposed catchbasins, proposed direction of surface drainage flow on impervious surfaces, and proposed

connections to street stormwater drains. If stormwater retention areas are to be established, they shall be identified and illustrated as to outside limits, elevations of the bottom and top of the retention area, capacity, and the percent grade of all slopes.

- (o) Streets adjacent to the site shall be labeled, with identification of right-of-way width, pavement width, and shall show size and location of any underground stormwater sewer.
- (p) Topography, such as existing steep embankments or abrupt grade changes that present physical limitations or special considerations for site layout, shall be shown with an estimate of the percent grade or difference in elevation from top to bottom of such a feature. Proposed grade and elevation changes on the site shall be shown. If a retaining wall is to be used, the height of the structure and proposed material to be used should be labeled or illustrated.
- (q) Trash dumpsters (if any) shall be shown with illustration of proposed structure and materials to be used for screening. For large sites such as shopping centers, institutional campuses, etc., site trash receptacles should be shown.
- (r) Utilities, existing and proposed, including water and electric service lines, shall be shown for new developments and labeled as to capacity, location, etc.

3. *Standard performance requirements for site plan elements.* Specific standards for accessory buildings, off-street parking, off-street loading and unloading, roads and streets, walls, plant materials, exterior lighting, fences and hedges, residential entranceways and corner clearance shall be found in sections 1703 through 1714 of this ordinance and in the Petoskey Subdivision Regulations, Appendix B of the Petoskey Code of Ordinances. In addition, the following standards shall apply:

- a. *Buildings and accessory structures.* The city will review building locations with consideration of on-site and off-site conditions. In particular, building and structure locations will be examined with consideration for:
 - (1) Best on-site circulation and ingress/egress for pedestrians and vehicles.
 - (2) Proximity of buildings on adjacent sites, particularly with regard to doorways, windows, docks or loading areas of on-site or off-site structures.
 - (3) Accessibility of building and its entrances for emergency vehicles and equipment.
 - (4) Visual image of the building(s) and its facades as presented from the street view. Screening of rooftop mechanical units, vents, or other equipment shall be incorporated into architectural plans.
 - (5) Proximity to residential building(s) or site(s).
 - (6) Location relative to street(s), alley(s), etc., and impact upon clear vision areas.
 - (7) Necessity for screening of accessory equipment or ground structures will be examined.
 - (8) Location of accessory structures in appropriate yard areas as designated in section 1703 of this ordinance.
- b. *Ingress/egress.* Curb cut locations for ingress and egress shall be subject to final review and approval of the city and shall meet standards provided in particular sections of this zoning ordinance, as well as engineering requirements of the department of public works. Curb cuts on a state highway must also meet Michigan Department of Transportation standards and approval. In addition, site plans should be prepared with consideration of the following principles:
 - (1) The number of curb cuts for a site should be held to a minimum, and consolidation of curb cuts will be encouraged by the planning commission. The city may require such consolidation as necessary, but may

also permit a somewhat larger than standard curb cut width, if needed, when driveways are consolidated.

- (2) Where a corner parcel fronts on a state highway or major city street and also has frontage on a side street, curb cuts may particularly be restricted on the highway or major street as to number of cuts, size of cuts, direction of turning movements, etc.
 - (3) The city may also restrict any curb cut as to ingress only or egress only movements, or may eliminate or restrict turning movements at a particular curb cut as deemed necessary.
 - (4) Curb cuts on a corner parcel should be located as far from any street intersection as feasible. In addition, the city will consider the relative location of curb cuts at adjacent parcels to provide adequate separation of turning movements. In the case of parcels directly opposite a site plan parcel, curb cut locations will be considered to provide an alignment that reduces conflicting turning movements at opposing curb cuts and at nearby street intersections.
- c. *Landscaping/screening/buffering.* The city will review landscaping of sites with consideration of the following:
- (1) Landscaping such as trees and shrubs should be used to screen residential areas from light, sound or visual impacts of a commercial or industrial use, or to screen particular on-site elements such as trash storage, utility structures, accessory buildings, parking lots or other such elements. Screening elements should not adversely impact clear vision areas within the site or on ingress/egress points for the site.
 - (2) Provision of adequate lawns, trees and shrubs to offer a pleasant site and setting where green lawns and greenbelts offer health, safety and aesthetic benefits, such as cooling of hard surfaces, shading from sun, shelter from wind, open area for recreation or rest by residents or employees, vegetation to soften an urban environment, lawns or plant beds to absorb stormwater drainage and stabilize soils, and varied landscape materials to provide visual relief and interest. Trees included in a landscape plan shall be a minimum of two and one-half inch caliper.
 - (3) Berms shall not exceed a 1:3 slope and shall be planted with natural vegetative cover.
 - (4) The city may require revision of a site plan to provide the best landscape, greenbelt or open space plan and to incorporate the minimum amount of impervious surface in a site. Landscape materials planted shall meet requirements of section 1709 of this ordinance.
- d. *Lighting.* Lighting fixtures are to be of the cutoff variety, no greater than 20 feet in height and with down-lighting to be directed on site only. The planning commission may only permit taller or require shorter fixtures where the commission determines that unique conditions exist and where a waiver would reduce the number or size of light fixtures; not adversely impact neighboring properties; and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. Site lighting shall not exceed 20 footcandles as measured six feet above the ground surface, directly under the fixture.
- e. *Natural and historic features.* The site plan shall be designed in order to protect and enhance natural and historic features wherever feasible. Plans should be designed to minimize alteration of existing topography on the site and to reduce or eliminate disturbance of natural or historic features.
- f. *Parking.* Barrier-free spaces shall be provided per Michigan Building Code and located nearest the main entrance or the approach to a ramped entry.
- Parking plans that use right angle or parallel parking are preferred. Internal circulation roads that provide access to parking lots should only have parallel parking spaces, if any. Where angle parking is proposed, one-way drives should be provided.

Parking spaces should be set back from entrance drives to avoid conflict between traffic entering a site and vehicles exiting parking spaces. The city may revise a plan as needed to provide the safest, most efficient circulation system possible.

- g. *Sidewalks.* Site plans should show where sidewalks are to be provided or restored. Pedestrian traffic should be separated from vehicular traffic where possible. Sidewalks should be located so as to provide safe access to building entrances, and to provide safe crossing at driveways, intersections or parking areas. Sidewalks shall meet standards and specifications of the city Code, section [chapter] 18.
- h. *Signage.* Any freestanding signs or directional signs may be shown on a site plan. The city will review the sign location in accordance with provisions of the city sign ordinance, Appendix C of the city Code of Ordinances.
- i. *Stormwater drainage.* The city will review and approve stormwater drainage for all site plans. Plans may also require approval of the Michigan Department of Transportation where stormwater drainage facilities owned by the state are proposed for use.

All runoff generated from site improvements should be retained on site. Stormwater drainage plans shall be designed to detain stormwater from buildings, parking lots and other impervious surfaces on site. Stormwater drainage facilities shall be designed for a 50-year storm event performance standard.

Where sites have adequate open space or lawn area, stormwater retention should be used to minimize the impact upon existing drainage facilities and to allow for on-site filtration and settling. Retention basin slopes shall not exceed 1:3.

Where drainage is directed to a street, underground connection via catch basins may be required to minimize surface "sheeting" of drainage across streets, sidewalks or other access areas.

Where there is no available retention area or there is limited stormwater drainage capacity in adjacent storm sewers, plans may utilize a portion of the parking lot on a site for storage of stormwater during peak storm conditions. The site plan drawing shall show the location and perimeter of the area in the lot impacted by stormwater under storm event conditions. Such retention should be removed from high pedestrian or vehicular traffic areas.

All plans should address seasonal requirements for either on-site snow storage or complete removal of plowed snow.

- j. *Trash storage.* Trash dumpsters shall be screened with a wood privacy-type fence or other solid visual barrier at height equal to or greater than the height of the trash receptacle.

Outdoor trash storage shall be located in a side or rear yard and shall be at least ten feet from any building for fire safety purposes.

If outdoor storage is added to a property after site plan review approval, it shall be provided with screening and shall meet other standards as required in this section and subject to city approval.

- k. *Utilities.* Location of buildings, structures and other surface features will be reviewed with consideration for access, emergency and otherwise, to public utility facilities on site or nearby.

Utilities shall be provided in compliance with standard specifications and requirements of the department of public works of the city.

Fire hydrants shall be set back from adjacent curbs and roads so as to avoid burial by snowplowing.

4. *General requirements for site plan review.* The city will review all site plans with consideration of those elements identified in sections 1703 through 1714, and in section 1716, subsection 3. In addition, any other existing or proposed site plan features impacting the health, safety or welfare of the community shall be considered during the site plan review process. Where the city determines that there may be a negative impact upon the health, safety or welfare of the community, such features may be rejected or alteration of the plan required. The site plans will be considered in the context of the overall community, the properties and features in proximity to the site, and the existing and proposed features within the site.

(Ord. No. 601, § 6-15-1987; Ord. No. 632, § 9, 10-21-1991; Ord. No. 669, § 2, 7-19-1999)

State Law reference— Site plan review, MCL 125.3501.

Sec. 1717. - Standards for review.

In review of uses identified in this ordinance as "uses permitted subject to special conditions," the planning commission shall consider the following general standards in addition to any specific standards cited in the ordinance:

- a. The special land use type shall be located on a site of adequate size and appropriate location to make it feasible for that particular use to be compatible with surrounding land uses.
- b. The special land use shall be designed and located in order to protect, accommodate and enhance natural or manmade features of the site such as topography, vegetation, soils, water features, historic structures and scenic views.
- c. The special land use shall be located on a site that can accommodate on-site traffic circulation and vehicle storage needs for the particular use. The use shall not be located on a site or arranged in a manner that would create a significant traffic or pedestrian hazard on adjacent roads or walkways.
- d. The special land use and its accessory uses and structures shall be located and arranged on the site in a manner allowing for adequate buffering and screening to protect adjacent uses and properties where needed.
- e. The scale, bulk, elevation, exterior materials and color of the buildings in the special land use shall be designed to blend with the character of the surrounding land uses and neighborhood. Where the bulk, scale or elevation of such buildings varies greatly from the surrounding structures, greater setbacks may be required.
- f. The special land use shall not be located where, due to use of particular equipment, or import, storage or production of certain materials, or emission of waste products, it would be a significant hazard to adjacent properties.

(Ord. No. 529, § 1, 8-4-1980; Ord. No. 636, § 2, 5-18-1992)

State Law reference— Special land uses, MCL 125.3202.

Sec. 1718. - Procedures for review of special condition uses.

1. *Notification.* The planning commission shall make no decision regarding a special condition use until public notice has been given and a public hearing held in accordance with the following provisions:
 - a. Notice shall be provided in the local newspaper.

- b. Notice shall be provided by direct mailing to all property owners and building occupants within 300 feet of the property being considered for the proposed use. In the case of multifamily dwelling units, notification may be provided to the manager of said units for distribution.
 - c. Such notice shall be given no less than five and no more than 15 days in advance of the meeting in which the request will be considered.
 - d. The notice shall contain information as to the nature of the request and a property description of the parcel or parcels for which the use is requested. The notice shall also indicate the time and place where the request will be considered and shall furnish an address and state a deadline for submission of written comment.
2. *Survey and plans.* The applicant shall furnish such surveys, plans or other information as may be reasonably required by said commission for the proper evaluation and consideration of the matter. Where site plan review is also required, the applicant may submit the site plan in conjunction with the special condition use request.

(Ord. No. 544, § 1, 6-7-1982)

State Law reference— Special land uses, MCL 125.3202.

ARTICLE XVIII. - GENERAL EXCEPTIONS

Sec. 1800. - Area, height and use exceptions.

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

1. *Essential services.* Essential services shall be permitted as authorized and regulated by law and other ordinances by law and other ordinances of the city, it being the intention hereof to exempt such essential services from the application of this ordinance.
2. *Voting place.* The provisions of this ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.
3. *Height limit.* The height limitations of this ordinance shall not apply to chimneys, church spires, flag poles, public monuments or wireless transmission towers; provided however, that the board of appeals may specify a height limit for any such structure when such structure requires authorization as a conditional use.
4. *Lots adjoining alleys.* In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements of this ordinance, one-half the width of such alley abutting the lot shall be considered as part of such lot.
5. *Yard regulations.* When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.
6. *Projections into required open spaces.*
 - a. An open, unenclosed, and uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.
 - b. Architectural features, not including vertical projections, may extend or project into a required yard not more than four inches for each one foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than three feet.

7. *Lot area.* Any lot existing and of record on the effective date of this ordinance may be used for any principal use in the district in which such lot is located, other than conditional uses for which special lot area requirements are in this ordinance whether or not such lot complies with the lot area requirements of this ordinance except as provided in sec. 1702, (2), Nonconforming Uses. Such use may be made provided that all requirements other than lot area requirements prescribed in this ordinance are complied with, and provided that not more than one dwelling unit occupy any lot except in conformance with the provisions of this ordinance for required lot area for each dwelling unit.

ARTICLE XIX. - ADMINISTRATION AND ENFORCEMENT

Footnotes:

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Cross reference— *Administration, Ch. 2.*

Sec. 1900. - Enforcement.

The provisions of this ordinance shall be administered and enforced by the city manager, zoning administrator, city planner, building official or other officer appointed by the city manager.

(Ord. No. 699, § 1(1900), 10-2-2006)

Secs. 1901—1906. - Reserved.

Sec. 1907. - Interpretation, purpose and conflict.

In the interpretation and application, the provisions of this ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. All use of land within the city shall be in compliance with all state and federal laws. It is not intended by this ordinance to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance other than the above described zoning ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.

(Ord. No. 699, § 1(1907), 10-2-2006; Ord. No. 723, § 2, 2-7-2011)

State Law reference— Conflicts between zoning and other ordinances, MCL 125.3210.

Sec. 1908. - Zoning commission.

The city planning commission is hereby designated as the commission specified in section 4 of Act 207 of the Public Acts of 1921 [MCL § 125.584], and shall perform the zoning duties of said commission as provided in the statute in connection with the amendment of this ordinance.

(Ord. No. 699, § 1(1908), 10-2-2006)

Cross reference— Planning commission, ch. 2, art. II.

State Law reference— Zoning commission and transfer of powers thereof to planning commission, MCL 125.3301.

Sec. 1909. - Planning commission approval.

In cases where the city planning commission is empowered to approve certain use of premises under the provisions of this ordinance the applicant shall furnish such surveys, plans or other information as may be reasonably required by said commission for the proper consideration of the matter.

The planning commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.

The planning commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this ordinance.

Any approval given by the planning commission, under which premises are not used or construction has not started within 18 months, or when such use or work has been abandoned for a period of 18 months from the meeting date when approved, shall lapse and cease to be in effect and submittal of a new application and fee will be required.

(Ord. No. 699, § 1(1909), 10-2-2006; Ord. No. 774, § 2, 12-2-2019)

Sec. 1910. - Changes and amendments.

The city council may from time to time, on recommendation from the planning commission or on petition, amend, supplement or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 as amended [MCL § 125.581 et seq.]

(Ord. No. 699, § 1(1910), 10-2-2006)

State Law reference— Zoning ordinance amendments, MCL 125.3403.

Sec. 1911. - Violations; municipal civil infractions.

1. Any person, firm or corporation violating any of the provisions of this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine pursuant to the City of Petoskey Municipal Civil Infraction Ordinance, as amended, plus costs and other sanctions, for each violation (as authorized by Section 24 of Act 184 of the Public Acts of Michigan of 1943, as amended, the City of Petoskey Municipal Civil Infraction Ordinance, and other applicable laws).
2. Repeat offenses under this ordinance shall be subject to increased fines, as provided by the City of Petoskey Municipal Civil Infraction Ordinance, as amended from time to time.
3. Each day on which any violation of this ordinance occurs or continues constitutes a separate offense, subject to separate sanctions. The paying of a fine or sanctions under this Ordinance shall not exempt the offender from meeting the requirements of this ordinance.
4. The city's zoning administrator, city planner and the city's authorized city officials (as defined by the Municipal Civil Infraction Ordinance, as amended) are hereby designated as the authorized city officials to issue municipal civil infraction citations for violations of this ordinance.
5. A violation of this ordinance is deemed to be a nuisance, per se. In addition to any remedies available at law, the

city may bring an action for an injunction or other process against any person to restrain, prevent or abate any violation of this ordinance.

(Ord. No. 699, § 1(1911), 10-2-2006)

State Law reference— Authority to make violation municipal civil infraction, MCL 125.3407.

Sec. 1912. - Fair housing accommodation policy.

(a) *Purpose.* It is the policy of the city, pursuant to the Federal Fair Housing Act and the Michigan Elliot Larsen Civil Rights Act (hereafter "fair housing laws") to provide individuals with disabilities reasonable accommodation in rules, practices and procedures to ensure equal access to housing and to facilitate the development of housing for individuals with disabilities. This section is intended to provide a procedure for individuals with disabilities and developers of housing for individuals with disabilities to seek relief from the application of zoning regulations, practices and procedures to further the city's compliance with fair housing laws and provide greater opportunities for the development of critically needed housing for individuals with disabilities.

(b) *Definitions.* For purposes of this section, the following terms shall have the meanings ascribed to them:

Eligible person: A person who is an individual with a disability, his or her representative, or a developer or provider of housing for individuals with disabilities.

Individual with a disability: Someone who has a physical or mental impairment that limits one or more major life activities; anyone who is regarded as having such impairment; or anyone with a record of such impairment as defined by the fair housing laws. Individuals with a disability include those in recovery from drug or alcohol abuse, but such term does not include current illegal use of a controlled substance (as defined in 21 U.S.C. § 802).

Person: An individual, partnership, limited-liability company, corporation or other entity.

Reasonable accommodation: Providing eligible persons with flexibility in the application of zoning regulations, practices and procedures, or even granting variances from certain requirements, when it is necessary to eliminate barriers to equal housing opportunities.

Request for reasonable accommodation: A request by any individual with a disability, his or her representative, a developer or provider of housing for individuals with disabilities, when the application of a zoning regulation, policy, practice or procedure acts as a barrier to fair housing opportunities.

(c) *Notice of fair housing accommodations policy, assistance available.*

- (1) Notice of the availability of reasonable accommodation shall be prominently displayed at City Hall, advising the public of the availability of the procedure for eligible individuals. Forms for requesting reasonable accommodation shall be available to the public in the office of city planner.
- (2) The notice shall indicate that the office of city planner will provide an applicant with assistance in filing a request for reasonable accommodation or an appeal from a decision on such request so that the process is accessible.

(d) *Requests for reasonable accommodation.*

- (1) The zoning board of appeals shall have the jurisdiction and power to grant a special exception from the non-use requirements of the zoning ordinance where necessary to provide reasonable accommodation to allow individuals with disabilities to have reasonable access to housing in the city.

- (2) A special exemption is not necessary for state-licensed adult foster care homes to the extent that state law preempts zoning and may exist legally without the special exception.
- (3) An eligible person may request a reasonable accommodation in zoning regulations, practices and procedures.
- (4) Requests for reasonable accommodation shall be made in writing, filed in the office of the city planner and provide the following information:
 - a. Name and address of the individual(s) requesting reasonable accommodation;
 - b. Name and address of the property owner(s) (if different);
 - c. Address of the property for which accommodation is requested;
 - d. Evidence that the request is for an individual with a disability under fair housing laws;
 - e. Description of the requested accommodation and the regulation(s) or procedure for which accommodation is sought;
 - f. Reason that the requested accommodation may be necessary for the individual(s) with the disability to use and enjoy the dwelling;
 - g. Evidence that all alternative accommodations and other options have been considered by the applicant;
 - h. Evidence of whether the property is within 400 feet of another property granted accommodations for use by four or more unrelated persons under this section; and
 - i. The written consent of the property owner.
- (5) Any information identified by an applicant as confidential shall be retained in a manner so as to respect the privacy rights of the applicant and shall not be made available for public inspection except as may be required by the Michigan Freedom of Information Act.
- (6) A request for reasonable accommodation in regulations, practices and procedures may be filed at any time that the accommodation may be necessary to ensure equal access to housing. A reasonable accommodation does not affect an individual's obligations to comply with other applicable regulations not at issue in the requested accommodation.
- (7) Requests for reasonable accommodation shall be reviewed by the zoning board of appeals using the criteria set forth in subsection (e).
- (8) Notice of the application and hearing shall be given in accordance with section 2006.
- (e) *Standards of review.* The written decision by the zoning board of appeals shall be consistent with fair housing laws and shall take into account the following factors:
 - (1) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
 - (2) Whether the requested accommodation is necessary to make housing available to an individual with disabilities under the fair housing laws;
 - (3) Whether the requested accommodation would impose an undue financial or administrative burden on the city;
 - (4) Whether the requested accommodation would require a fundamental alteration in the nature of the city's zoning plan;
 - (5) Whether there is an alternative accommodation which may provide an equivalent level of benefit to the

applicant;

For reasonable accommodations requested by a recovery residence or other group treatment facility, the zoning board of appeals, consistent with fair housing laws, shall also take into account the following additional factors:

- (6) Whether the recovery residence is state licensed as a substance use disorder facility;
 - (7) Whether the recovery residence is a certified member of an established entity that conducts its own inspections and has its own standards for the benefit of occupants, e.g., CARF International, National Alliance for Recovery Residences (NARR) or any equivalent entity having similar requirements for membership;
 - (8) Whether the property should be managed by a person living on site;
 - (9) Whether and how the requested accommodation will benefit the people in the program; and
 - (10) Whether the property is within 400 feet of another property granted accommodations for use by four or more unrelated persons under this section.
- (f) *Written decisions, notice to applicant.*
- (1) The zoning board of appeals shall issue a decision on a request for reasonable accommodation within 45 days from the date a complete application has been filed with the office of city planner and may either grant, grant with modifications or conditions, or deny a request for reasonable accommodation in accordance with the criteria in subsection (e).
 - (2) If necessary to reach a determination on the request for reasonable accommodation, the zoning board of appeals may request further information from the applicant consistent with fair housing laws, specifying in detail the information that is required. In the event that a request for additional information is made, the 45-day period to issue a decision is stayed until the applicant completely responds to the request.
 - (3) If the zoning board of appeals fails to render a decision on the request for reasonable accommodation within the 45 days from the date a complete application has been filed with the office of city planner, the request shall be deemed granted.
 - (4) The written decision of the zoning board of appeals shall explain in detail the basis of the decision, including its findings on the criteria set forth in subsection (e). The decision shall give notice of the applicant's right to appeal and to request reasonable accommodation in the appeals process as set forth below. A copy of the decision shall be provided to the applicant or sent to the applicant by first class mail.
 - (5) The written decision of the zoning board of appeals shall be final unless an applicant appeals it to the circuit court.
- (g) *Effect of zoning pending a determination.* While a request for reasonable accommodation is pending, all zoning regulations, practices and procedures otherwise applicable to the property that is the subject of the request shall remain in full force and effect.
- (h) *Appeals.* An applicant may appeal a decision by the zoning board of appeals as provided by statute.

(Ord. No. 763, § 1, 5-21-2018)

ARTICLE XX. - BOARD OF APPEALS

Footnotes:

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Cross reference— *Administration, ch. 2; appeal of decisions concerning soil erosion and sedimentation control to zoning board of appeals, § 16-6.*

State Law reference— *Board of zoning appeals, MCL 125.3601 et seq.*

Sec. 2000. - Creation and membership.

There is hereby established a board of zoning appeals, which shall perform its duties and exercise its powers as provided in Section 5 of Act 207 of Public Acts of 1921 as amended [MCL § 125.585], and in such a way that the objectives of this ordinance shall be observed, public safety secured, and substantial justice done. The board shall consist of six members appointed by the city council. Appointments shall be as follows: Two members appointed for a period of one year; two members appointed for a period of two years; and two members appointed for a period of three years, respectively; thereafter each member to hold office for the full three year term. Any vacancies in the board shall be filled by appointment by the council for the remainder of the unexpired term. The zoning board of appeals shall annually elect its own chairman, vice chairman, and secretary.

State Law reference— Zoning board of appeals required, membership, etc., MCL 125.3601 et seq.

Sec. 2001. - Meetings.

All meetings of the board of appeals shall be held at the call of the chairman and at such times as such board may determine. All hearings conducted by the said board shall be open to the public. The city clerk, or his representatives, shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. Four members of the board shall constitute a quorum for the conduct of its business. The board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

State Law reference— Meetings of zoning board of appeals, MCL 125.3602.

Sec. 2002. - Appeal.

An appeal may be taken to the board of appeals by a person, firm or corporation aggrieved, or by any officer, department, board or bureau of this state or the City of Petoskey. Such appeal shall be taken within 30 days of a decision, by filing with the zoning administrator and with the board of appeals a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of appeals after notice of appeal has been filed with him or her that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by a court of record.

The board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

(Ord. No. 739, § 1, 1-7-2014)

State Law reference— Appeals to zoning board of appeals, MCL 125.3604.

Sec. 2003. - Fees for appeals.

The city council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the zoning board of appeals. At the time of notice for appeal is filed said fee shall be paid to the secretary of the board of appeals, which the secretary shall forthwith pay over to the city treasurer to the credit of the general revenue fund of the municipality.

Sec. 2004. - Jurisdiction.

The zoning board of appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any change in the terms of this ordinance, but does have power to act on those matters where this ordinance provides for an administrative review, interpretation, exception or special approval permit and to authorize a variance as defined in this section and laws of the State of Michigan. Said powers include:

1. *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning official or any other administrative official in carrying out or enforcing any provisions of this ordinance. Administrative Review appeals must be filed within 30 days of an order, requirement, permit, decision or refusing made by the zoning official or any other administrative official carrying out or enforcing any provisions of this ordinance.
2. *Variances.*
 - a. *Non-use variances.* The zoning board of appeals shall have the authority to grant non-use variances relating to the construction, structural changes or alterations of buildings or structures related to dimensional requirements of this zoning ordinance or any other nonuse-related standards in the ordinance. If there are "practical difficulties" for non-use variances the zoning board of appeals may grant a variance so that the spirit of this zoning ordinance is observed, public safety secured and substantial justice done. The zoning board of appeals shall consider dimensional standards where by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property at the time of enactment of this ordinance or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or practical difficulties to the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance.
 - b. *Use variances.* The zoning board of appeals shall have the authority to grant variances from uses of land where the historic use or character of a building suggests that, absent relief, an "unnecessary hardship" may occur. For use variances, the zoning board of appeals may grant a variance so that the spirit of this zoning ordinance is observed, public safety secured and substantial justice done. The zoning board of appeals shall consider standards where by reason of undue hardship upon the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance.

In granting a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this ordinance. In granting a variance, the board shall state the grounds upon which it justifies the granting of

a variance. Use variances shall not run with the land and shall lapse upon change in ownership or the abandonment of the use for which a variance was granted.

- c. *Sign variances.* The zoning board of appeals shall only have the authority to grant sign variances for sign dimensions, height, and the relocation of existing non-conforming signs. The zoning board of appeals shall consider the intent of the sign ordinance, the practical difficulty presented by the proposed sign and sign location, and public safety. Where the strict application of the regulations enacted would result in peculiar or practical difficulties to the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance.
3. *Exceptions and special approvals.* To hear and decide in accordance with the provisions of this ordinance, requests for exceptions, for interpretations of the zoning map, and for decisions on special approval situations on which this ordinance specifically authorizes the board to pass. Any exception or special approval shall be subject to such conditions as the board may require to preserve and promote the character of the zone district in question and otherwise promote the purpose of this ordinance, including the following:
 - a. Interpret the provisions of this ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this ordinance, where street layout actually on the ground varies from the street layout as shown on the map aforesaid.
 - b. Permit the erection and use of a building or use of premises for public utility purposes, upon recommendation of the planning commission.
 - c. Permit the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
 - d. Permit such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape, or so located with relation to surrounding development or physical characteristics, that it cannot otherwise be appropriately improved without such modification.
 - e. Permit temporary buildings and uses for periods not to exceed one year, renewable upon re-application, to the board of appeals. The board of appeals, in granting permits for the above temporary uses, shall do so under the following conditions:
 - (1) The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the district nor on the property wherein the temporary use is permitted.
 - (2) The granting of the temporary use shall be granted in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
 - (3) All setbacks, land coverage, off-street parking, lighting and other requirements to be considered in protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the City of Petoskey, shall be made at the discretion of the board of appeals.
 - (4) In classifying uses as not requiring capital improvement, the board of appeals shall determine that they are either demountable structures related to the permitted use of the land; recreation developments, such as, but not limited to: golf-driving ranges and outdoor archery courts; or structures which do not require foundations, heating systems or sanitary connections.

- (5) The use shall be in harmony with the general character of the district.
 - (6) No temporary use permit shall be granted without first giving notice to owners of adjacent property of the time and place of the review. Further, the board of appeals may seek the review and recommendation of the planning commission prior to taking action on the temporary use request.
4. In consideration of all appeals and all proposed variations to this ordinance the board shall, before making any variations from the ordinance in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Petoskey. The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision or determination of the administrative official or body; to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under this ordinance; or to grant a variance under this zoning ordinance. Nothing herein contained shall be construed to give or grant to the board the power or authority to alter or change this ordinance or the zoning map, such power and authority being reserved to the city council of the City of Petoskey, in the manner provided by law.
 5. *International Property Maintenance Code*. The zoning board of appeals shall have the power to hear appeals under the International Property Maintenance Code as established in § 13-34.

(Ord. No. 739, § 2, 1-7-2014)

Sec. 2005. - Exercising powers.

In exercising the above powers, the Board may reverse or affirm wholly or partly, or may modify the orders, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the building official from whom the appeal is taken.

Sec. 2006. - Notice of hearing.

The board shall make no recommendation except in a specific case and after a public hearing conducted by the board. It shall determine the interested parties who, in the opinion of the board, may be affected by any matter brought before it, which shall in all cases include all owners of record of property within 300 feet of the premises in question. Notices of the public hearing shall be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. The board may require any party applying to the board for relief to give such notice to other interested parties as it shall prescribe.

Sec. 2007. - Miscellaneous.

1. No order of the board permitting the erection of a building shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
2. No order of the board permitting a use of a building or premises shall be valid for a period longer than one year, unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a building

permit for said 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.

3. The decision of the zoning board of appeals shall be final. A party aggrieved by the decision may appeal to the circuit court for the County of Emmet.

(Ord. No. 739, § 3, 1-7-2014)

ARTICLE XXI. - REPEAL OF PRIOR ORDINANCE

The zoning ordinance adopted by the City of Petoskey, known as Ordinance No. 383 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 right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

ARTICLE XXII. - VESTED RIGHT

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.

ARTICLE XXIII. - SEVERANCE CLAUSE

Section[s] of this ordinance shall be deemed to be severable and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.

ARTICLE XXIV. - EFFECTIVE DATE

Public hearing having been held hereon, the provisions of this ordinance are hereby given immediate effect upon its publication, pursuant to the provisions of section 4 of Act 207 of the Public Acts of 1921, as amended [MCL § 25.584].

Made and passed by the city council of the City of Petoskey, Emmet County, Michigan, on this 4th day of February, A.D., 1974.

1. Date of public hearing: August 16, 1973.
2. Date of publication: February 5, 1974.
3. Date of adoption by city council: February 4, 1974.
4. Date ordinance shall take effect? February 5, 1974.

ARTICLE XXV. - PUD PLANNED UNIT DEVELOPMENT DISTRICT

Footnotes:

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State Law reference— *Planned unit development, MCL 125.3503.*

Sec. 2500. - Intent.

The purpose of this district is to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout, and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; encourage provision of useful open space; provide adequate housing, employment, and shopping opportunities particularly suited to the needs of the residents of the city; and encourage the use, reuse and improvement of existing sites and buildings when the uniform regulations contained in other zoning districts do not provide adequate protection and safeguards for the site or surrounding area.

This district is intended to accommodate developments with mixed or varied uses, sites with unusual topography or unique structures or settings within the community, or on land which exhibits difficult or costly development problems. This district is not intended to solely circumvent the provisions of other zoning districts contained in the Petoskey Zoning Ordinance.

(Ord. No. 604, 7-20-1987)

Sec. 2501. - Site eligibility criteria.

Each parcel proposed for development as a PUD shall meet the following site eligibility requirements:

1. The petitioner shall demonstrate that the characteristics of the site make the site suitable and desirable for a PUD project due to certain site features which may include the topography, soils, drainage characteristics, vegetation, site size and location, historic buildings, scenic views or other unique features.
2. The petitioner shall demonstrate that, and shall illustrate that the proposed PUD zoning is warranted by the better design and amenities incorporated in the proposal that would not be feasible under standard zoning classifications.

If a site is determined eligible for development as a PUD, then the petitioner shall still demonstrate that the project can meet the standards of section 2503.

(Ord. No. 604, 7-20-1987)

Sec. 2502. - Permitted principal uses.

- (a) All uses permitted in the B-3 General Business District of Petoskey Zoning Ordinance 451 shall be permitted for possible inclusion in a PUD. Accessory buildings and uses customarily incidental to any of the above permitted uses shall be permitted provided that they meet the conditions of section 2503(3)m.
- (b) Medical marihuana facilities shall be permitted in existing planned unit development districts provided that the development plan is amended. Medical marihuana facilities shall only be allowed to the extent permitted by and subject to the terms and conditions of the City of Petoskey's general ordinances regulating same and subject to the requirements of subsection (a) above, article XXXII, and the provisions of sections 1716 through 1718 of this ordinance.

(Ord. No. 604, 7-20-1987; Ord. No. 772, 10-7-2019)

Sec. 2503. - Regulations and standards for approval of a planned unit development.

1. *Ownership*. The petitioner shall submit written documentation that the entire parcel for which application is

made is under one ownership or the application shall be made with the written authorization of all property owners whose property is included in the proposed [PUD].

2. *Bonding requirements.* Upon obtaining all necessary approvals from the planning commission and city council, and prior to beginning any construction, the petitioner shall provide to the City of Petoskey proof of a performance bond or bonds. The performance bond or bonds shall be for one-half the value of the total project, or for 25 percent of the site work not including underground utilities, whichever value is greater.
3. *Establishment, amendment procedure.* A PUD zoning classification shall be established or amended pursuant to the procedures set forth in section 2504 of this article and pursuant to any additional procedures set forth in this section.
4. *Standards for approval.* In consideration and review for a decision regarding a preliminary planned unit development rezoning plan, the planning commission shall consider the following standards. Based upon the following standards and any other applicable site plan provisions and state, federal, and local codes, the planning commission may recommend denial or approval, and city council may deny or approve a final planned unit development rezoning site plan. Wherever terms such as compatibility, adequacy or other similar terms are used they shall be interpreted as determined by the planning commission based upon staff report, petitioner information and experience of commissioners.
 - a. *Land use type, mix, locations.* The proposed locations and mix of land uses within the PUD shall be compatible with surrounding land uses and zoning so as to have minimal adverse impacts on surrounding uses or potential uses, while also enhancing those nearby land uses. The land uses shall be appropriate for the physical characteristics of the site; such as soil conditions, topography, etc. Existing or planned public facilities such as streets, sanitary sewers, storm sewers, and similar facilities shall be adequate for the proposed land use mix.
 - b. *Setbacks, greenbelts, and buffers.* Exterior setbacks shall be provided for any type of use mix or physical development. Where proposed uses differ in type and density from neighboring uses outside the PUD, adequate greenbelts and landscaping buffers shall be provided. Greenbelts fronting on major streets shall be encouraged for commercial developments to reduce or mitigate visual impacts of such development.
 - c. *Internal land use arrangement.* Land uses within the PUD shall be arranged for compatibility with one another, and for adequate buffering between uses where such uses vary in type and density.
 - d. *Site utilities, easements, facilities.* Common properties and easements shall be provided such that streets, utilities and open spaces are accessible to occupants of the PUD site. Agreements and written provisions shall be provided to the city demonstrating that these facilities will be improved, operated and maintained in a manner consistent with other PUD approval standards and with site plan standards such that owners or occupants of the PUD property may continue to enjoy site facilities and amenities upon completion of the project and into the future.
 - e. *Traffic circulation.* Vehicular, pedestrian, and nonmotorized circulation allowing safe, convenient and well-defined circulation within the site and to the site shall be provided. Particular consideration will be given to plans using service drives or shared ingress and egress approaches that reduce the total number of accessways on the site.
 - f. *Off-street parking.* Off-street parking shall be provided sufficient to meet minimum requirements by land use type as required in Section 1704 of the Zoning Ordinance No. 451 of the City of Petoskey. Upon recommendation of the planning commission, the city council may require additional or reduced parking

where a particular use or use mix is expected to generate greater or lesser parking needs.

- g. *Public streets and facilities.* Any streets that are to be dedicated to the city upon completion of the project shall meet the minimum requirements of the Petoskey Subdivision Regulations. Utilities and streets proposed for dedication as city facilities shall meet construction requirements and specifications as established by the city.
- h. *Drainage plans.* A drainage plan shall be provided showing adequate underground drainage facilities and/or above-ground retention facilities for a fifty-year storm event performance standard.
- i. *Consolidated open space.* Consolidated open space shall be provided and commonly accessible for any planned unit development. In determination of the amount of such open space to be provided, the planning commission shall consider the natural features of the site, the estimated number of residents in the planned unit development, the estimated number of employees in the planned unit development, and other factors relevant to the need for open space.
- j. *Special features.* Natural, historical, scenic and architectural features of the property in the district shall be preserved, protected, created or enhanced whenever possible.
- k. *Building height, bulk and character.* The planning commission shall review and approve proposed height, bulk, and visual character of any and all structures and buildings for the PUD project. Height, bulk and character of structures may be reviewed with regard to scenic views, and in consideration of the relationship of proposed structures to existing or proposed structures on site, or within 300 feet off-site of the planned unit development property(s). Wherever a structure is proposed that will be greater than two stories or 30 feet, graphic illustrations of the visual impacts of such a structure from off-site locations shall be provided at accurate scale and dimension by the developer.
- l. *Dwelling unit density.* The planning commission shall review and approve final dwelling unit density for residential developments in the planned unit development. The density standards shall be based upon consideration of: existing or proposed density of surrounding residential properties; availability of planned open space on the PUD property; capacity of city utilities, streets and other such facilities; relationship to other planned nonresidential land uses on the site or in the vicinity of the PUD property; overall density standards for residential development in the City of Petoskey.
- m. *Accessory structures.* Accessory structures related to the proposed PUD land uses shall be permitted as provided in section 1703 of the Petoskey Zoning Ordinance and only in compliance with provisions of this article.
- n. *Signs.* All signs shall meet the provisions of the Petoskey Sign Ordinance No. 550 and shall meet the provisions of this article.

(Ord. No. 604, 7-20-1987; Ord. No. 704, § 1, 12-15-2008)

Sec. 2504. - Procedures for PUD rezoning designation.

1. *Preapplication review of a planned unit development project proposal.* A preapplication conference should be held with the project developers and the City of Petoskey staff to review the basic requirements of the zoning ordinance, to explain review procedures, and to review the preliminary plans, design features and ordinance standards. At this stage, the applicant is encouraged to obtain all pertinent design information regarding utilities,

roads and other physical improvements from the city. The developer is also encouraged to compile information from any and all other relevant agencies including information regarding sanitary sewers, water supply, storm sewers, electrical, gas and other utilities, roads, soil conditions, construction codes, etc.

2. *Requirements for PUD rezoning petition.* Establishment of an eligible area for a proposed planned unit development shall only be permissible by petitioning for a rezoning to (PUD) Planned Unit Development District. If a site meets the site eligibility criteria of section 2501 and if rezoning to PUD is approved in accordance with local and state provisions, then the site shall be considered a PUD zone. Any PUD rezoning request submitted to the City of Petoskey shall meet the following requirements:
 - a. A letter of request shall be submitted with a legal description of the property(s) proposed for rezoning. The letter of request shall identify the property owner, proposed developer and shall provide a description of the planned use and development for the site.
 - b. The letter of request and the necessary graphic and written documentation shall be filed 30 days prior to the date of a planning commission public hearing scheduled for consideration of PUD rezoning.
 - c. Twelve copies of the maps and other graphic or written documentation shall be provided to city staff. Such drawings shall meet requirements as to scale of maps and other technical site plan review provisions of the Petoskey Zoning Ordinance.
3. *Notification requirements and public hearing provisions for planned unit development rezoning.* A public notice of the public hearing for a proposed planned unit development rezoning shall be provided as required by State of Michigan Act 207 of the Public Acts of 1921, as amended. In addition, the notice shall meet the following requirements:
 - a. Notice shall be given 15 days prior to the public hearing in a local newspaper of general circulation.
 - b. Notice shall also be given 15 days prior to the public hearing to all property owners within 300 feet of the parcel(s) proposed for rezoning.
 - c. The notice shall contain the following information:
 - (1) A description of the property and property location.
 - (2) Indication of the time and place of the public hearing.
 - (3) The notice shall summarize the following information regarding the proposed PUD:
 - (a) Total land area devoted to residential, nonresidential (including commercial), and open space uses.
 - (b) For residential uses, the number of dwelling units and for commercial and other nonresidential uses, the total square footage of such uses.
 - (c) An indication of the natural or manmade special features which the developer proposes to preserve or enhance on the site.
4. *Consideration of a preliminary PUD rezoning plan.* Following the preapplication conference, the applicant shall file a request with the City of Petoskey seeking planning commission review of a preliminary PUD rezoning plan for the subject property. Approval of a preliminary plan shall not imply final approval of the planned unit development designation, or of the subsequent final PUD rezoning site plan. The preliminary review is a directional step to show levels of agreement or disagreement between the city and the developer under existing conditions and with the information available at the time of preliminary review.

Required information in a preliminary PUD rezoning plan. The preliminary PUD rezoning plan must contain sufficient information to: illustrate existing conditions, provide the rationale for the particular use arrangement selected, include the identification of special site features preserved or enhanced in the design, provide a topographic map showing existing contours at five-foot intervals, and provide pertinent density or other quantitative data to reflect the projected demands on community services.

Evidence should be given that at least a preliminary effort has been made to assure the project will comply with local, state and federal health requirements, drainage laws, environmental laws, and road construction standards. Local fire and police protection agencies should also be contacted in the preliminary phase.

Specific items to include on or with the plan include:

- a. Total number of acres in the project for which PUD designation is being sought;
 - b. The type, density and total number of residential units;
 - c. The type, scale and total square footage of nonresidential uses;
 - d. The acreage to be allotted to each use type, as well as acreage devoted to necessary accessory uses such as parking, etc., and the relative location of all uses and accessory uses;
 - e. Identification of any existing variances associated with the property;
 - f. The number of acres devoted to on-site open space and/or recreation uses; and
 - g. Any natural or manmade features or resources to be preserved, or to be removed, altered or demolished.
5. *Review for a preliminary PUD rezoning plan decision.* The planning commission, upon a thorough review of the preliminary PUD rezoning plan and all supporting documentation, shall act to approve, conditionally approve or reject the plan. Any conditional approval shall include a listing of conditions necessary to attain approval, and any rejection shall enumerate the reason for rejection. Approval of a preliminary plan shall establish:
- a. That the preliminary plan meets the site eligibility criteria of section 2501 of this ordinance;
 - b. A general land use arrangement including open space areas; and
 - c. Proposed residential land use area, dwelling unit density, and total number of dwelling units; and
 - d. Type, mix, and land use area of nonresidential land use activities including a description of categories of commercial land use; and
 - e. Minimum exterior building setbacks.

Approval of the preliminary PUD rezoning plan authorizes the applicant to proceed with preparation of a final project site plan for the rezoning request which, if approved, would then be submitted to the city council for final rezoning action. Approval of a preliminary plan shall not imply final approval of the PUD designation, or of the subsequent final PUD rezoning site plan. A revision of a preliminary plan or final plan that meets the conditions and criteria of subsection 7(c) shall be subject to legislative review in accordance with the procedures of that subsection.

6. *Consideration of a final PUD rezoning site plan.* Upon approval of a preliminary PUD rezoning plan, the applicant shall submit a final PUD rezoning plan within 90 days of the date of approval of the preliminary plan. The consideration and review of a final PUD rezoning site plan is the last step in the process of attaining designation of a property as a PUD. No planned unit development zoning designation can be granted until a final PUD rezoning site plan has been approved by the city council. The city council shall act upon the request based upon recommendations from the planning commission.

Required information in a final PUD rezoning site plan. The final PUD rezoning site plan shall be in basic accord with the approved preliminary plan. The final PUD rezoning site plan shall be detailed with respect to the following:

- a. A definitive use plan for the entire land area that is intended to be approved for planned unit development designation.
- b. All arrangements for design, construction, maintenance and operation of utility systems shall have been finalized, although working drawings need not be completed for this element.
- c. The planned unit development's ownership, management, and construction have been determined and documented, and where a project is to be phased, a plan for development continuity shall be presented.
- d. All common open space areas, greenbelts, and setback areas shall be documented on the plan, and no use of these areas other than those identified on the plan shall be permitted without a formal revision of the plan.
- e. On-site circulation routes for vehicles, pedestrians, bicycles, and the like shall be included as specific elements of the plan as well as the ingress and egress points from bordering public/private roads.
- f. A plot plan, to scale, that illustrates the following information:
 - (1) A topographic map or plan whenever excavation or extreme movement of dirt is involved, with final plan contours indicated;
 - (2) A stormwater and natural drainage plan illustrating planned direction of drainage as well as planned retention, channeling, or other surface control of drainage and showing any underground drainage facilities;
 - (3) A landscape plan showing existing landscape materials to be preserved on-site as well as planned new landscape materials to be added to the site;
 - (4) A utilities plan with an indication of any necessary easements and with sufficient detail to permit evaluation of engineering feasibility;
 - (5) A buildings plan with an indication of the location, size and use of all buildings (including accessory structures) with elevation drawings showing the architectural character and style of buildings;
 - (6) The location and area of all nonenclosed uses;
 - (7) Illustration of all and any right-of-ways, public streets, private streets, acceleration and deceleration lanes, service drives, driveways, parking areas and loading areas;
 - (8) A sign plan that illustrates the size, location and design of all signs;
 - (9) Other site plan review information requirements as required by the Petoskey Zoning Ordinance; and
 - (10) Any information which the city finds necessary to demonstrate that the plan meets the Regulation and standards for approval of a PUD as provided in section 2503.

Filing requirements. Filing requirements shall be the same as provided for the review of the preliminary plan (see section 2504(2) of this article).

Review of a final PUD rezoning site plan for decision. The planning commission, upon a thorough review of the final PUD rezoning site plan and all essential supporting documentation, shall act to recommend approval, conditional approval, or rejection of the final plan. Action to recommend approval of the final plan shall be based upon the planning commission finding that the plan is consistent with the approved preliminary plan and that the final plan meets the

Regulations and standards for approval of a planned unit development (section 2503 of this article) and that the plan meets all other requirements of this article and of any other applicable local, state and federal codes, ordinances, and regulations.

The planning commission shall recommend its approval, conditional approval, or rejection of the final plan to the Petoskey City Council. If the final plan is approved by city council, or whenever approved subject to the fulfillment of any conditions, the final PUD rezoning site plan confers the designation of Planned Unit Development District on the property encompassed by the plan.

With the approved final plan and Planned Unit Development District designation, the applicant may proceed with the preparation of construction plans as provided for in the ordinance, and may subsequently seek any other necessary permits for construction.

7. *Standards and procedures for major and minor revisions to a planned unit development.* Requests for changes or revisions to an approved planned unit development project may be initiated by the applicant. The city-designated city staff shall determine which of the three categories of plan revision applies to an applicant's request. In the event an applicant wishes to appeal such an interpretation, the request shall automatically be presented to the planning commission for review. Any request for revisions shall be assigned to one of the three categories of plan revision described based upon the standards described herein. Consideration of such revisions shall follow the procedures prescribed in this section as well as any procedures applicable from other sections of this chapter.

a. *Minor site plan revisions requiring review by the designated city staff.* Minor changes to a previously approved PUD site plan may be approved without the necessity of planning commission or city council action if it is determined that the proposed revision, as a minor alteration, does not alter the basic design or any specific conditions of the plan as approved by the planning commission and city council. The city shall record all such changes on the original PUD site plan. Minor alterations or revisions under this section shall be limited to:

- (1) Shifting or reorientation of a building from the previously approved location, providing such shifting does not exceed the square root of the total building length or width that is parallel to the direction of the shift.
- (2) Redistribution of the dwelling units among the proposed structures, provided building height is not increased, and the dwelling unit density is not increased.
- (3) Addition to, or alteration of, approved sidewalks provided that the full intent of pedestrian movement through and around the site is not inhibited.
- (4) Additions to, or changes in species of landscape materials, provided that such change does not reduce the minimum landscape requirements.
- (5) Relocation of refuse collection stations provided such stations are adequately screened as required during previous planning commission review.
- (6) Internal rearrangement of parking lots and driveway locations, provided such functional rearrangement does not reduce the total number of parking spaces required, does not constitute a relocation of the parking lot, does not inhibit good traffic flow or circulation, and the minimum landscape requirements are maintained.
- (7) Any decrease in building size or changes in bedroom counts per dwelling unit in no more than ten

percent of the total number of units.

- (8) Installation of recreational or maintenance facilities that do not require erection of a structure greater than 150 square feet in area.
 - (9) Revisions to a sign plan except freestanding signs (per Petoskey Sign Ordinance, Article VIII) and revisions to wall-mounted signs not exceeding ten (10) percent of the area shown in the PUD sign plan.
 - (10) Addition of accessory structures not exceeding 150 square feet in area.
- (b) *Major revisions requiring administrative review by the planning commission (site plan amendments).* Major changes to a previously approved PUD site plan may be approved only after review and with formal action by the planning commission. Major changes shall be any plan revisions that exceed the criteria of subsection 7(a) or revisions where the designated city staff determines that such revisions significantly alter the impact of the project upon community site plan standards as provided in section 1716 of the Petoskey Zoning Ordinance and/or the standards as provided in section 2504(6) of this article of the Petoskey Zoning Ordinance. Such revisions which also meet the criteria and standards of subsection 7(c) of this section shall also be subject to the review procedures set forth in that subsection.
- (c) *Major revisions requiring legislative review at a public hearing of the planning commission and requiring notification of property owners within 300 feet of the PUD project. (Zoning amendments).* Any major revisions to a PUD plan, hereby known as zoning amendments, which meet the criteria of this subsection 7(c) shall require planning commission review at a public hearing and shall require notification of all property owners within 300 feet of the parcel for which the zoning amendment is proposed.

A PUD zoning amendment shall be a revision to a planned unit development plan which:

- (1) Increases density of residential uses or increases the total number of residential units;
- (2) Increases the total square footage of floor area devoted to any type of nonresidential land uses;
- (3) Reduces the minimum exterior setbacks from surrounding property boundaries;
- (4) Alters the nonresidential land use mix for the site so as to add new land uses which are inconsistent with an approved preliminary PUD rezoning plan or an approved final PUD rezoning site plan.
- (5) Alters the general land use arrangement for the PUD project site.

The revision shall only be authorized upon recommendation of the planning commission and with the approval of the city council.

8. *Fees.* Fees for PUD project master plan review shall be set from time to time by the Petoskey City Council.

(Ord. No. 604, 7-20-1987)

ARTICLE XXVI. - B-3b BUSINESS INDUSTRIAL DISTRICT

Sec. 2600. - Intent.

The B-3b Business Industrial District is designed to permit a broad range of uses, including light industrial, commercial and residential activities. Performance standards are imposed to assure these uses are compatible and to maintain a quality image for the sites of such uses.

(Ord. No. 643, § 3, 11-15-1993)

Sec. 2601. - Principal uses permitted and principal uses permitted subject to special conditions.

In a B-3b Business Industrial District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this ordinance:

- (1) Any uses permitted in the I-1 Light Industrial District, provided that:
 - a. All uses shall be subject to the regulations of the B-3 Business Industrial District.
 - b. All uses shall also be subject to the conditions set forth in this district; and
 - c. The following principal uses shall not be permitted;
 1. Open storage facilities or yards;
 2. Railroad transfer and storage tracks;
 3. Commercial kennels;
 4. Auto engine and body repair;
 5. Lumber and planing mills;
 6. Trade or industrial schools specializing in auto mechanics, heavy equipment operation, engine repair and overhaul, and uses with similar industrial-type characteristics; and
 7. Other uses of a similar character to the above uses.
- (2) Principal uses permitted subject to special condition standards for review, section 1717.
 - a. Medical marihuana facilities.

(Ord. No. 643, § 3, 11-15-1993; Ord. No. 772, 10-7-2019; Ord. No. 783, § 2, 12-6-2021)

Editor's note— Ord. No. 772, adopted Oct. 7, 2019, changed the title of § 2601 from principal uses permitted to principal uses permitted and principal uses permitted subject to special conditions.

Sec. 2602. - Site development performance standards for all uses.

A use located in this district shall be subject to the following supplemental standards:

- (1) *General*.
 - (a) All site plans submitted for review of a proposed use in this district shall include an elevation drawing that shows proposed building facades as seen from the street. The site plan and elevation drawings shall label proposed exterior materials on walls and roofs of principal and accessory buildings and on other fences or walls on the site. Color samples or color photographs of proposed materials shall be provided.
 - (b) All business, service, or processing activities permitted in this district shall be conducted completely within enclosed buildings except customer, employee and freight vehicle parking, loading zones, and those open air uses specifically identified in this district as permitted subject to particular performance standards. Outdoor storage of equipment and materials such as topsoil, sand, gravel shall be limited to 30 percent of the rear yard and shall be screened.
 - (c) In cases [where] the planning commission determines unusual building size or mass, large site size, special conditions related to topography, high traffic uses, special natural or manmade features on-site or nearby, or similar unique conditions are present, the planning commission may require any of the following additional methods of illustrating the impacts of a proposed development:

1. Additional elevation drawings from points over than the public street or perspective drawings from critic recommended by the city.
 2. Cross sections, particularly when the planning commission is examining relative height of buildings or site topography in regard to impacts upon neighboring properties.
 3. Bird's eye views (axonometric) that present the overall size and mass of site structures and features. The oblique aerial view must accurately reflect ground control points as well as individual building and site features.
 4. A computer-generated image or a synthesized image video may be provided to show before and after illustration of a proposed development's scale and mass.
 5. A scale model that shows three-dimensional representation of building(s) and features.
 6. Use of weather balloons, flags, stakes, posts, or other vertical elements showing the corners, outline, height, and other physical aspects of a proposed development on the actual parcel to be impacted.
 7. Use of colored degradable spray paint to identify horizontal outlines of site features such as parking, landscape areas, driveways, curb cuts, building footprints, etc.
- (d) In cases [where] the planning commission determines unusual building size or mass, large site size, special conditions related to topography, high traffic uses, special natural or manmade features on-site or nearby, or similar unique conditions are present, the planning commission may increase or reduce requirements applying to this [article] in order to improve a site plan and its impact upon the property or its surroundings.

If the planning commission chooses to reduce or increase requirements, it shall identify the unique conditions found at the site; indicate the benefit to the public health, safety or welfare of modifying such requirements; prescribe the modified requirements; and it may offer relevant conditions where needed to mitigate any impacts of the modified requirements.

(2) *Buildings.*

- (a) In review of building facades and features, the planning commission shall consider:
1. Exterior materials should be of a finished appearance and textural quality suitable to the desired image for this entryway to town. The commission may limit the amount of or prohibit the use of corrugated metal, concrete block, sheet metal and colored plastic or fiberglass. The commission may consider such factors as whether the building is an accessory structure, the adequacy of the setback and screening, and any impact upon street view and view from nearby residential buildings.
 2. The color of exterior materials and finishes should be compatible with the natural and Victorian scenic character of Petoskey.
 3. The scale, bulk, shape, exterior materials, and color of buildings shall be evaluated for their compatibility with the site size and shape and with surrounding buildings and structures.
- (b) Buildings shall be situated to fit the existing site rather than imposed on the landscape in a manner that requires significant alteration of site grades. This restriction may be waived by the planning commission where significant alteration of grades would result in preservation and protection of a scenic view or other significant natural or manmade resource, or would result in an improved site layout and function without adversely impacting significant resources.
- (c) Accessory structures shall be designed to blend with the principal building(s) on the site as to color,

exterior materials, size and shape.

- (d) The planning commission may require screening of appropriate size and type where needed to obstruct visibility of accessory structures from the street or from adjacent properties.

(3) *Open space and site landscaping.*

- (a) All areas on a property not used for buildings or for pedestrian or vehicular traffic circulation shall be either left in a natural state or be landscaped.
- (b) No parcel shall have less than 15 percent of the total site area devoted to natural or landscaped open space.
- (c) Along street frontage of the parcel, larger scale trees shall be planted at a minimum of one tree per 50 feet of street frontage and, where possible, near buildings with long facades or multistory structures.
- (d) Plantings of shrubs and flowers shall highlight vehicular and pedestrian access points, such as driveway ingress, building entry doorways, etc. Such vegetation should be clustered for adequate scale and visual interest.
- (e) Existing vegetation that is healthy and suitable for landscaping objectives shall remain undisturbed. Existing trees that are five inches in diameter or greater should be retained to the extent possible. The planning commission may permit greater or less disturbance of said material where it determines proposed mitigating new landscaping and an improved site layout warrants such a waiver of standards.

(4) *Parking, circulation and loading.*

- (a) Loading zones and freight truck storage shall be in the rear yard only and shall be screened so as not to be visible from the road or from neighboring properties. Where an existing use already has a loading zone in the side yard and it is not feasible to relocate the zone with proposed improvements, then the planning commission may permit continuation of the loading zone in the side yard subject to provision of appropriate screening.
- (b) Parking shall be in the side or rear yards only. In cases where an existing use is proposed for expansion, the planning commission may determine it is not feasible to relocate all parking to the side or rear yards. The commission may then approve the front yard parking but shall reduce said front yard parking as much as feasible and shall require screening of the parking.
- (c) Parking, driveways, and other circulation features shall be designed to follow the dominant topographic contour lines of the site to reduce long views down parking aisles and to allow drainage to function naturally.
- (d) Parking lot interior landscaping shall consist of a minimum of seven percent of the total parking area, and a ratio of one canopy tree per eight parking spaces. Landscaping islands shall be a minimum of 80 square feet in area, and a minimum of eight feet in width.
- (e) Parking areas and driveways shall have a minimum of eight feet of landscaped area separating the pavement edge from any property line, except where two or more adjacent properties have a written agreement or easement for a shared driveway access.
- (f) Parking areas in side yards shall be screened from the street frontage with evergreen plant materials, berming, a screening wall, or a combination that has a minimum height of 42 inches above the surface grade of the parking lot.

Screening devices meeting this height requirement may also be required by the planning commission where a parking lot is judged to be near enough to an adjacent property or properties that the lot must be screened to mitigate impacts of noise, light, and visibility upon the neighbor(s).

- (g) Screening walls shall be durable, weather-resistant materials compatible with building finishes on the site. Physical relief in the surface and facade of any wall or fence should be provided with landscaping bands or clusters to soften the appearance of the fence or wall.
 - (h) Sidewalks shall be included to provide safe access to buildings on the site and to permit safe pedestrian movement along the street frontage of the property.
- (5) *Screening and buffering.* Three types of screening or buffering techniques shall be required in this district, depending upon the type of existing uses adjacent to a proposed use. The screening types are described in subsection (b). The required screening shall be provided from the rear property line to the front edge of the principal building on the site. The planning commission may specify certain landscape materials to mitigate the impacts of noise and light.
- (a) *Table of screening requirements.*

Proposed Use, Required to Provide Screening	Existing Use Impacted			
	Industrial	Commercial	Residential	Vacant
Industrial	Broken	Semi-opaque	Opaque	Opaque
Commercial	Broken	Broken	Opaque	Opaque
Residential	Opaque	Opaque	Semi-opaque*	Semi-opaque

*Where a proposed multifamily residential use is adjacent to a single-family use, opaque screening shall be required.

- (b) *[Screening techniques.]* The three basic types of screening techniques required are described below:
1. *Opaque.* A screen that is opaque from the ground to a height of at least six feet, with intermittent visual obstructions from the opaque portion to a height of at least 20 feet. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation.

The opaque portion of the screen must be opaque in all seasons of the year. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The portion of intermittent visual obstructions may contain deciduous plants.

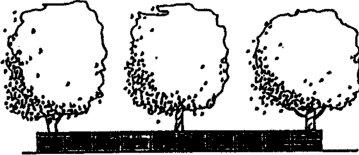
Optional Opaque Screens

Illustration

Description



Small trees planted 30 feet on center



6 feet high evergreen screening shrubbery planted four feet on center



Large trees planted 40 feet on center

6 feet high redwood fence

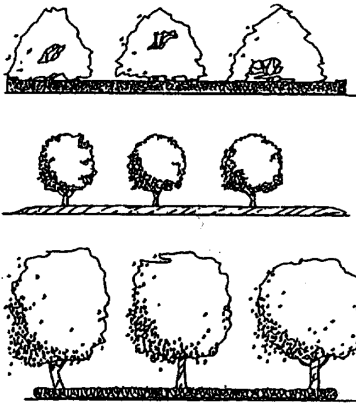
Tall evergreen trees, stagger planted, with branches, touching the ground

2. *Semi-opaque.* A screen that is opaque from the ground to a height of three feet, with intermittent visual obstruction from above the opaque portion to a height of at least 20 feet. The semi-opaque screen is intended to partially block the separation of spaces. The semi-opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. At maturity, the portion of intermittent visual obstructions should not contain any completely unobstructed openings more than ten feet wide. The zone of intermittent visual obstruction may contain deciduous plants.

Optional Semi-Opaque Screens

Illustration

Description



Small trees planted 30 feet on center

3 feet high stone wall

Small trees planted 20 to 30 feet on center on top of a berm

3 feet high seeded earth berm.

Large trees planted 40 feet on center

3 feet high evergreen hedge shrubbery planted 3 feet on center

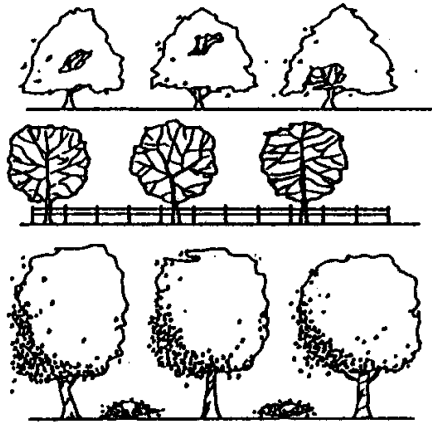
- 3. *Broken*. A screen composed of intermittent visual obstructions from the ground to a height of at least 20 feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.

Compliance of planted vegetative screens or natural vegetation will be judged on the basis of the average mature height and density of foliage of the subject species, or field observation of existing vegetation. The screen may contain deciduous plants.

Optional Broken Screens

Illustration

Description



Small trees planted 30 feet on center

Small trees planted 30 feet on center

Split rail fence

Large trees planted 40 feet on center

Assorted shrubbery

(c) *General requirements for screening and buffering techniques.*

1. Planting screens required by this ordinance shall consist of plants in a healthy condition at least 30 inches high when planted.
2. Required trees shall be in a healthy condition and, at the time of planting, shall be at least four feet high for evergreen trees and ornamental trees, and eight feet high for deciduous trees.
3. The following lists of recommended trees and shrubs indicate plantings which will meet the screening and shading requirements of subsection 5 of this section. The lists are not comprehensive and are intended to suggest the types of flora that would be appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria general suitability for the climate and soil conditions of this area; ease of maintenance; tolerance of city conditions; and availability from area nurseries. When selecting new plantings for a particular site, a developer should first consider the types of plants which are thriving on or near the site. However, if an introduced species has proven highly effective for screening in this area, it too may be a proper selection. Any substitute materials shall match the size and density characteristics of the materials listed here.

- A. *Small trees for broken and semi-opaque screening.*
1. River birch.
 2. American hornbeam.
 3. Russian olive.
 4. Thornless hawthorne—winter king.
 5. Crabapples—Adams, Professor Springer, Donald Wyman, Royalty, Zumi, Sargeants, Selkirk.
- B. *Large trees for opaque screening and large shrubs for opaque and semi-opaque evergreen screening.*
1. American Cedar.
 2. Spruce—Colorado, Fraser, Norway, White.
 3. Concolor, Douglas.
 4. Pine—White, Austrian.
 5. Hemlock—Eastern.
- C. *Large trees for broken screening.*
1. Maple—Norways: Straight Norway, Cleveland, Crimson King, Deborah, Emerald Lustre, Royal Red, Superform.
 2. Red maples—Red Sunset, Autumn Blaze.
 3. Sugar maples—Green Mountain, Legacy.
 4. Locust—Skyline, Sunburst.
 5. Ash—Patmore, Summit.
 6. Ginko (male only).
 7. Oak—Red, Pin, Scarlet.
 8. Linden—Glenleven, Greenspire.
- D. *Small shrubs for opaque and semi-opaque screening.*
1. Azaleas—Exbury.
 2. Rhododendrons—PJM, Northern Lights, Roseum, Nova, Zembra.
 3. Junipers—Seagreen, Buffalo, Old Gold, Mt. Batten.
 4. Yews—Hicksi, Densi, Andersons, Cuspidate.
 5. Holly—Blue Boy, Blue Girl, China Boy, China Girl, Blue Stallion, Blue Prince, Blue Princess.
- E. *Assorted shrubs for broken screens.*
1. Barberry-Red.
 2. Privet—Golden.
 3. Forsythia Border.
 4. Witch Hazel—Common, Vernal.
 5. Junipers (for natural areas).
 6. Honeysuckle.
 7. Mockorange—Minnesota Snowflake, Miniature Snowflake, Frosty Morn, Snowgoose.

8. Viburnum—Dentatum, Juddi, Carlesi, Burkwoodi, Lentago, Lantana, Trilobum, European Cranber
9. Bayberry—Northern.

- (6) *Noise*. The intensity level of sounds measured at the property line bordering the adjacent land use shall not exceed the following decibel levels as measured with an A-weighted filter to account for variations in frequency.

Table of Permitted Sound Levels

Proposed Regulated Use	Adjacent Use	
Commercial and Industrial	Commercial and Industrial	Residential or Vacant
7:00 a.m.—7:00 p.m.	60 dB(A)	50 dB(A)
7:00 p.m.—7:00 a.m.	55 dB(A)	45 dB(A)

- (7) *Impact noises*. Intermittent noises that do not operate more than one minute in any one-hour period are permissible up to a level of 10 dB(A) in excess of the figures in subsection (1) only during the time from 7:00 a.m. to 7:00 p.m. when uses adjacent to an industrial use are either commercial or residential. (The impact noise shall be measured using the fast response of the sound level meter.)
- (8) *Vibration*. Regulated uses may not generate ground-transmitted vibration measured at all property lines of the subject parcel exceeding a displacement of:

Table of Maximum Ground-Transmitted Vibration

Proposed Regulated Use	Adjacent Use		Residential or Vacant
	Industrial	Commercial	
Industrial and commercial	0.1 of 1 inch	.03 of 1 inch	.02 of 1 inch

- (9) *Temporary or incidental activities*. Noise and vibration impacts resulting from temporary or incidental activity such as construction or moving of materials or equipment on-site that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements in subsections (6), (7), and (8).
- (10) *Electrical disturbance or interference*. No use may create any electrical disturbance that adversely affects any operations or equipment of adjacent or nearby property owners.

- (11) *Odor.* Any industrial or commercial use judged by the planning commission to be a use generating significant odors that may adversely impact adjacent residential or commercial uses may be required to:
- (a) Establish a vegetative screening buffer of the opaque or semi-opaque variety to absorb the odors and to reduce airborne transmission of said odors, or
 - (b) Establish greater setbacks in order to buffer adjacent less intensive uses, or
 - (c) Seek a larger site where a proposed site does not provide adequate room to meet requirements of subsection (a), subsection (b), or (a) and (b).
 - (d) Provide interior scrubbers or filters or both.

(Ord. No. 643, § 3, 11-15-1993)

Sec. 2603. - Site development performance standards specific to particular uses.

The following performance standards shall apply to the use categories or specific uses as outlined below:

- (1) A proposed change of use to be located on a corner lot (see ordinance definition) meeting any of the following conditions shall be considered a special condition use and shall be reviewed in accordance with all requirements for such a use:
 - (a) A use where additional required off-street parking exceeds 20 percent of the parking already provided on the site.
 - (b) A use where the total area of the principal building(s) on the site is to be expanded by greater than 20 percent of the total size of existing principal building(s).
 - (c) A use including a drive-through operation or having stacking space.
- (2) Service stations shall be required to meet the following standards:
 - (a) A service station having its fuel pumps and canopy in other than the side or rear yard setback shall provided a fifteen-foot landscaped front yard with a berm, a fence, a wall, or vegetation at the interior edge providing screening of the pump islands drives to a height of 42 inches.
 - (b) Incidental repair services for vehicles, as defined in section 903(4) of this ordinance, may be provided within two or less service bays located in the side or rear yard. Vehicles stored for service may only be located in a side or rear yard and shall be screened from view. Such stored vehicles shall be stored only as required in section 21-111 of the Petoskey Code of Ordinances.
- (3) *Open air retail merchandise display:* Commercial retail operations with open air display of lawn and garden furniture of equipment, nursery stock and landscaping products, outdoor sporting goods, recreational vehicles, automobiles and trucks, boats and similar such products shall be permitted subject to:
 - (a) The layout and arrangement of the outdoor display shall be presented to the planning commission for review and approval during site plan review. The planning commission shall consider such factors as the amount of front yard proposed to be utilized for display and the arrangement of the display to assure that it is aesthetically pleasing to the street view and its impact upon the value of adjacent properties. The commission may require introduction of landscaping islands, walkways or other amenities necessary to improve appearance of such a use.
 - (b) When the display abuts an adjacent property, a semi-opaque screening barrier shall be provided.
 - (c) Repair and service facilities for such uses shall only be accessory and shall have service bays or doors in

the side or rear yard only.

- (4) Multifamily residential development shall, in addition to any required setbacks, provide common open space for residents on the site in a location safely accessible and protected from vehicular hazards. The open space shall be provided at a ratio of 150 square feet of open space for each bedroom in the residential development, with a minimum of 500 square feet of open space for any such development. The open space shall be left in a natural state or provided with landscaping and may be provided with recreational facilities for play, picnics or games.
- (5) Auto washes shall be required to meet the following standards:
- (a) The car wash stalls or structures shall be set back at least 50 feet from the front property line.
 - (b) There shall be a minimum front yard green lawn area of ten feet with landscaping materials meeting the landscaping requirements of this ordinance.

(Ord. No. 643, § 3, 11-15-1993)

Sec. 2604. - Area and bulk requirements.

See Article XVI, Schedule of Regulations, limiting the height and bulk of buildings, the minimum size of lot permitted by land use, maximum density permitted and providing minimum yard setback requirements.

(Ord. No. 643, § 3, 11-15-1993)

ARTICLE XXVII. - PARK RESERVE DISTRICT

Sec. 2701. - Intent.

The Park Reserve District is designed to enhance already existing open space in the Central Business District and adjacent zones and to permit and provide for significant open space in all portions of the city as a district zoning classification.

(Ord. No. 660, § 1(2701), 10-20-1997)

Sec. 2702. - Principal uses permitted.

In a Park Reserve District no uses shall be permitted except the following:

- a. General recreational activities, including by way of illustration and not limitation, picnicking, bicycling, jogging, walking, hiking, in-line and roller skating, skate-boarding, ball fields and playgrounds subject to all regulations imposed by other ordinances of the city for specific park areas and other city property.
- b. Tourist trains, trolleys and horse-drawn vehicles subject to all regulations imposed by other ordinances of the city for specific park areas and other city property.
- c. Publicly owned marinas, libraries, parks, parkways and recreational facilities.
- d. Accessory buildings structures, and uses customarily incident to any of the above-permitted uses.

(Ord. No. 660, § 2(2702), 10-20-1997)

ARTICLE XXVIII. - SEXUALLY ORIENTED BUSINESSES

[Sec. 2800.0.] - Intent.

- (a) *Purpose.* It is the purpose of this article to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.
- (b) *Findings and rationale.* Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the city planning commission and City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Daytona Grand, Inc. v. City of Daytona Beach*, 2007 LEXIS 15361 (11th Cir. 2007); and

Deja Vu of Nashville, Inc. v. Metropolitan Gov't of Nashville and Davidson County, 2006 WL 2882969 (6th Cir. 2006); *Sensations, Inc. v. City of Grand Rapids*, No. 1:06-cv-300, R. 73, Opinion (W.D. Mich. Oct. 23, 2006); *729, Inc. v. Kenton County*, 2006 WL 2842884 (E.D. Ky. 2006); *Deja Vu of Cincinnati, L.L.C. v. Union Township Bd. Of Trustees*, 411 F.3d 777 (6th Cir. 2005) (*en banc*); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *City of Chicago v. Pooh Bah Enterprises, Inc.*, 2006 WL 2827608 (Ill. 2006); *Sensations, Inc. v. City of Grand Rapids*, 2006 WL 2504388 (W.D. Mich. 2006); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, 2006 WL 2873027 (7th Cir. 2006); *181 South, Inc. v. Fischer*, 454 F.3d 228 (3rd Cir. 2006); *Bronco's Entertainment, Ltd. v. Charter Twp. of Van Buren*, 421 F.3d 440 (6th Cir. 2005); *Charter Twp. of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003); *Jott, Inc. v. Clinton Twp.*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353 (1995); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Kentucky Restaurant Concepts, Inc. v. City of Louisville*, 209 F. Supp. 2d 672 (W.D. Ky. 2002); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ky. Ct. App. 2001); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Ctr. for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. Metro Gov't*, Case No. 04-CI-01967 (Jefferson Circuit Court, Summary Judgment Order, Dec. 14, 2004); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 28 Fed. Appx. 438 (6th Cir. Jan. 24, 2002); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *Lady J. Lingerie, Inc. v. City*

of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *In re Tennessee Public Indecency Statute*, 172 F.3d 873 (6th Cir. Jan. 13 1999)(table); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota),

The city council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the city has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the city's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the city's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the city. The city finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

(Ord. No. 702, § 1(Intent), 8-18-2008)

Sec. 2800. - Definitions.

For purposes of this article, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

1. "*Adult bookstore or adult video store*" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."

A "principal business activity" exists where the commercial establishment:

- (a) Has a substantial portion of its displayed merchandise which consists of said items, or
- (b) Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- (c) Has a substantial portion of the retail value of its displayed merchandise which consists of said items, or

- (d) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or
 - (e) Maintains a substantial section of its interior business space for the sale or rental or said items; or
 - (f) Maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas."
2. "*Adult cabaret*" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.
 3. "*Adult motion picture theater*" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.
 4. "*Characterized by*" means describing the essential character or quality of an item. As applied in this article, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.
 5. "*City*" means City of Petoskey, Michigan.
 6. "*Employ, employee, and employment*" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
 7. "*Establish or establishment*" shall mean and include any of the following:
 - (a) The opening or commencement of any sexually oriented business as a new business;
 - (b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
 - (c) The addition of any sexually oriented business to any other existing sexually oriented business.
 8. "*Influential interest*" means any of the following:
 - (1) The actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business,
 - (2) Ownership of a financial interest of 30 percent or more of a business or of any class of voting securities of a business, or
 - (3) Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.
 9. "*Nudity or a state of nudity*" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
 10. "*Operate or cause to operate*" shall mean to cause to function or to put or keep in a state of doing business.

"Operator" means any person on the premises of a sexually oriented business who operates the business or is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an owner, part owner, or licensee of the business.

11. "*Person*" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.
12. "*Premises*" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.
13. "*Regularly*" means and refers to the consistent and repeated doing of the act so modified.
14. "*Semi-nude or state of semi-nudity*" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
15. "*Sexual device*" means any three dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
16. "*Sexual device shop*" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.
17. "*Sexual encounter center*" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.
18. "*Sexually oriented business*" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motion picture theater," a "sexual device shop," or a "sexual encounter center."
19. "*Specified anatomical areas*" means and includes:
 - (a) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
 - (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
20. "*Specified criminal activity*" means any of the following specified offenses, as amended from time to time, for which less than eight years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
 - (a) Criminal sexual conduct (MCL 750.520a—750.520g), child sexually abusive activity (MCL 750.145c), computer crimes against children (MCL 750.145d(1)(a));

- (b) Prostitution-related offenses (MCL 750.448—750.449a);
 - (c) Offenses related to obscenity (MCL 752.365) and material harmful to minors (MCL 750.142—750.143);
 - (d) Indecent exposure (MCL 750.335a);
 - (e) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses;
 - (f) Any offense in another jurisdiction that, had the predicate act(s) been committed in Michigan, would have constituted any of the foregoing offenses.
21. "*Specified sexual activity*" means any of the following:
- (a) Intercourse, oral copulation, masturbation or sodomy; or
 - (b) Excretory functions as a part of or in connection with any of the activities described in (a) above.
22. "*Substantial*" means at least 30 percent of the item(s) so modified.
23. "*Viewing room*" shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

(Ord. No. 702, § 1(2800), 8-18-2008)

Sec. 2801. - Location of sexually oriented businesses.

- (a) Sexually oriented businesses shall not be required to obtain a special conditional use permit.
- (b) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in the City of Petoskey in any zoning district other than the B3, B-3B, I1 and I2 zoning districts.
- (c) No sexually oriented business may be established, operated, or maintained within any PUD district that includes residential uses.
- (d) No sexually oriented business may be established, operated, or maintained within 500 feet of a residential zoning district with residential or public park uses per article III, section 300.
- (e) No sexually oriented business may be established, operated, or maintained within 500 feet of a part of any PUD district which is planned residential.
- (f) No sexually oriented business may be established, operated, or maintained within 1,000 feet from any recognized house of worship, public library, or public or private educational facilities serving persons age 17 or younger; nor shall any sexually oriented business be established, operated, or maintained within 500 feet of any state licensed day care facility.
- (g) No sexually oriented business may be established, operated, or maintained within 1,000 feet of a parcel occupied by any other sexually oriented business.
- (h) For the purpose of this section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or zoning district identified in subsections (e), (f), (g), and (h) above.
- (i) No sexually oriented business may be established, operated, or maintained in the City of Petoskey if a person with an influential interest in the business has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this article.
- (j) No sexually oriented business may be established, operated, or maintained in the City of Petoskey if a person with an influential interest in the business has, in the previous five years, had an influential interest in another

sexually oriented business that (at a time during which the applicant had the influential interest in the other sexually oriented business) was declared by a court of law to be a nuisance.

(Ord. No. 702, § 1(2801), 8-18-2008)

Sec. 2802. - Unlawful activities; scienter required; penalty; equitable remedies.

- (a) Nothing contained in this article is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or municipal ordinance. It is unlawful and a violation of this article for an operator to knowingly or intentionally violate the provisions of this article or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this article. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.
- (b) No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.
- (c) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remain at least six feet from all patrons and on a fixed stage at least 18 inches from the floor in a room of at least 600 square feet.
- (d) A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disk, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements: The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- (e) Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this section shall be given 180 days from the effective date of this ordinance to comply with the stage and building requirements of this section. During said 180 days, any employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six feet from all patrons.
- (f) No employee who regularly appears within view of patrons in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.
- (g) No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 12:00 midnight and 6:00 a.m. on any day.
- (h) No person shall knowingly or intentionally sell, use, or consume alcoholic beverages on the premises of a

sexually oriented business.

- (i) No person shall knowingly allow a person under the age of 18 years on the premises of a sexually oriented business.
- (j) **Scienter.** This section does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this section. Notwithstanding anything to the contrary, for the purposes of this section, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this section only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.
- (k) **Sanctions; equitable remedies.** Any person, business, or entity violating or refusing to comply with any provisions of this section shall be responsible for a municipal civil infraction. The sanction for a violation of this section which is a municipal civil infraction shall be a civil fine in the amount provided in Ordinance Number 674, as amended by the city council from time to time, which is adopted by reference, plus costs, damages, expenses, and other sanctions as authorized under chapter 87 of 1961 PA 236, as amended. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises, building, dwelling, or other structure in which a sexually oriented business, as defined in this article, is repeatedly operated or maintained in violation of the provisions of this article shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the City of Petoskey in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation. Notwithstanding the foregoing, the city may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this article.

(Ord. No. 702, § 1(2802), 8-18-2008)

State Law reference— Authority to make violation municipal civil infraction, MCL 125.3407.

Sec. 2803. - Severability.

This article and each section and provision of said article hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said article, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this article be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this article.

(Ord. No. 702, § 1(2803), 8-18-2008)

ARTICLE XXIX. - TRANSITIONAL BUSINESS DISTRICT (B2-A)

Sec. 2900. - Intent.

The intent of the Transitional Business District is to complement the historic urban core of the Central Business District, while providing a transition area to adjacent neighborhoods. The district has a less intensive development pattern than the Central Business District, but with a similar mix of uses to maintain and promote a pedestrian-friendly environment.

(Ord. No. 742, § 1, 5-5-2014)

Sec. 2901. - Principal uses permitted.

In the B2-A Transitional Business District, no building or land shall be used except in compliance with the uses identified in Table 2901.1. Sexually-oriented businesses as defined in section 2800 of the zoning ordinance are specifically prohibited in the Transitional Business District.

TABLE 2901.1 Transitional Business District (B-2A) Permitted and Special Condition Uses

Commercial	
Bakery, confectionary production	P
Banks	P
Brewpub, microbrewery, winery	P
Daycare center	P
Food service with or without alcohol service	P
General retail	P
Health/fitness facility	P
Open-air business	SCU
Personal service	P
Professional or medical office	P
Public assembly	P
Studio-art, dance, music, photography, etc.	P
Civic	
Education—Primary, secondary, college	SCU

Government offices	SCU
Library, public park	P
Museum	P
Residential	
Multifamily housing	P
Single family residence	P
Two family residence	P
Lodging	
Bed and breakfast	P (L)
Hotel	P (L)

P = Permitted

P (L) = Permitted subject to licensing provisions

SCU = Special condition use

TABLE 2901.2

Building Placement		
Setback (Distance from Property Line)	Minimum	Maximum
Front	0 feet	Average of buildings on adjacent lots or 15 feet, whichever is less
Side	5 feet	NR
Rear	0 feet	NR
Building height		3 stories, 37 feet

(Ord. No. 742, § 1, 5-5-2014; Ord. No. 759, § 5, 2-19-2018; Ord. No. 783, § 4, 12-6-2021)

Sec. 2902. - Principal uses permitted subject to special conditions.

The uses noted as SCU in Table 2901.1 shall be permitted, subject to the conditions hereinafter imposed, for each use and subject further to the review and approval of the planning commission pursuant to sections 1717 and 1718 of the zoning ordinance.

Open air business accessory to a permitted use. Open air operations shall be screened from adjacent residential uses and parkland as approved by the commission.

(Ord. No. 742, § 1, 5-5-2014)

Sec. 2903. - Site development performance standards for all uses.

Any use or change of use, except to a single or two-family residence, located in the B-2A District shall be required to submit a site plan subject to section 1716. In particular, site plans shall be subject to the following standards:

1. General:

- (a) The site plan and elevation drawings shall label proposed exterior materials on walls and roofs of principal and accessory buildings, fences, or walls on the site.
- (b) Site development shall consider building placement in relation to public streets as well as the Park Reserve District (Downtown Greenway Corridor), where applicable.
- (c) All business, service, or processing activities permitted in this district shall be conducted completely within enclosed buildings except customer, employee and freight vehicle parking, loading zones, and those open air uses specifically identified in this district as permitted subject to particular performance standards.

2. Buildings:

- (a) In review of building facades and features, the Planning Commission shall consider:
 1. Exterior appearance shall take into account, and be compatible with, surrounding structures, considering proportions, materials, and fenestration, seeking to achieve some relationship with existing architectural character. A written description of how the surrounding structures have been considered shall be provided with the submittal.
 2. To reduce the mass of a building, any street or park fronting wall longer than 25 feet shall be articulated through changes in material, windows, wall plane, or wall height.
- (b) Detached accessory structures shall be designed to blend with the principal building(s) on the site as to exterior materials, size and shape.
- (c) Detached garages and accessory structures shall be accessed from an alley where one exists and is useable. Where an alley does not exist, a detached accessory building shall be placed to the rear or side of principal structures and shall not protrude into a front yard.
- (d) An attached garage shall not protrude in front of the principal structure wall plane.

3. Site Requirements:

- (a) Parking shall only be permitted as accessory to an immediately adjacent principal use.

- (b) Parking lot development is only allowed in the rear or side yards and screened with a hedge or finished wall three feet and no more than four feet in height from view of any public street, alley, parkland or adjacent re property.
- (c) Parking spaces shall be set back a minimum of three feet from the property line.
- (d) Off-street parking requirements in the B2-A District are no less than 75 percent of the requirements of Table 1704(h).

(Ord. No. 742, § 1, 5-5-2014; Ord. No. 777, § 2, 5-18-2020)

ARTICLE XXX. - B-2B MIXED USE CORRIDOR

Sec. 3000. - Intent.

The intent of the Mixed Use Corridor is to provide a transition between the historic urban core of the Central Business District and the historic commercial district along the Emmet Street corridor. The district allows a wide mix of uses to maintain and promote a neighborhood that can meet the daily needs of its residents in walking proximity.

(Ord. No. 744, § 1, 5-19-2014)

Sec. 3001. - Principal uses permitted.

In the B-2B Mixed Use Corridor District, no building or land shall be used except in compliance with the uses identified in Table 3001.1. Sexually-oriented businesses as defined in section 2800 of the zoning ordinance are specifically prohibited in the Mixed Use Corridor District.

TABLE 3001.1 Mixed Use Corridor (B-2B) Permitted and Special Condition Uses

Commercial	
Bakery, confectionary production	P
Banks	P
Brewpub, microbrewery, winery	P
Daycare center	P
Drive-through facilities	SCU
Food service with or without alcohol service	P
General retail	P
Health/fitness facility	P

Open-air business	P
Personal service	P
Professional or medical office	P
Public assembly	P
Studio-art, dance, music, photography, etc.	P
Warehouse and wholesale establishments	SCU
Civic	
Education—Primary, secondary, college	SCU
Museum	P
Library, public park	P
Post office or other government offices	P
Residential	
Multifamily housing	P
Single family residence	P
Two family residence	P
Lodging	
Bed and breakfast	P (L)
Hotel	P (L)

P = Permitted

P (L) = Permitted subject to licensing provisions

SCU = Special condition use

TABLE 3001.2

Building Placement		
Setback (Distance from Property Line)	Minimum	Maximum
Front and corner front	5 feet	Average of buildings on adjacent lots or 15 feet, whichever is less
Side	5 feet	NR
Rear	5 feet	NR
Building height		3 stories, 37 feet

(Ord. No. 744, § 1, 5-19-2014; Ord. No. 759, § 6, 2-19-2018; Ord. No. 783, § 5, 12-6-2021)

Sec. 3002. - Principal uses permitted subject to special conditions.

The uses noted as SCU in Table 3001.1 shall be permitted, subject to the conditions hereinafter imposed, for each use and subject further to the review and approval of the planning commission pursuant to sections 1717 and 1718 of the zoning ordinance.

1. Open air business accessory to a permitted use. Open air operations shall be screened from adjacent residential uses and parkland as approved by the commission.
2. Warehouse and wholesale establishments, subject to the following conditions:
 - a. Goods shall also be available for retail purchase on the premise and located along the street frontage;
 - b. The warehouse or wholesale establishment shall be located within 300 feet of a collector street (as designated in the Petoskey Master Plan) or railroad right-of-way.
 - c. A screening wall of a height, material and location to be determined by the planning commission may be required where the use abuts an existing residential use or parkland.

(Ord. No. 744, § 1, 5-19-2014)

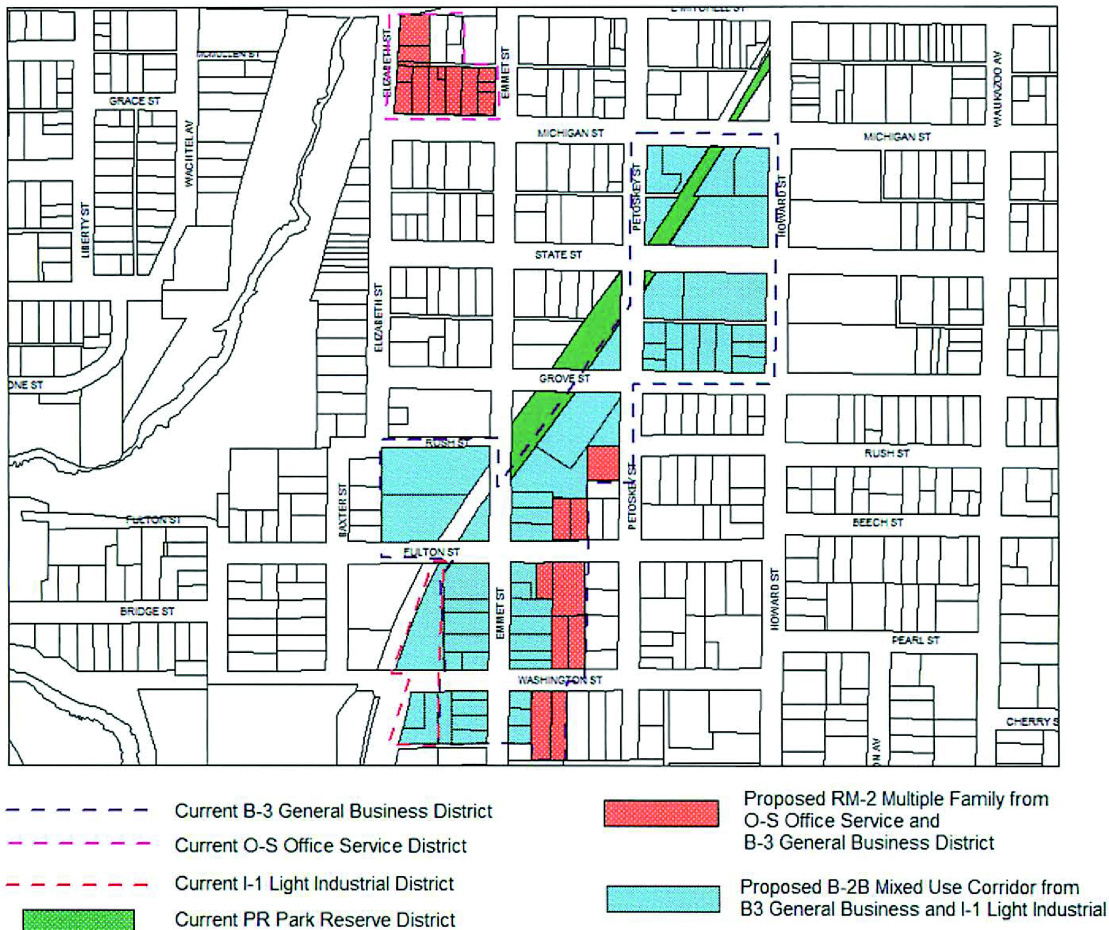
Sec. 3003. - Site development performance standards for all uses.

Any use or change of use, except to a single or two-family residence, located in the B-2B District shall be required to submit a site plan subject to section 1716. In particular, site plans shall be subject to the following standards:

1. General:
 - (a) The site plan and elevation drawings shall label proposed exterior materials on walls and roofs of principal and accessory buildings, fences, or walls on the site.
 - (b) Site development shall consider building placement to enhance use of the Park Reserve District, (Downtown Greenway Corridor), where applicable.

- (c) All business, service, or processing activities permitted in this district shall be conducted completely within e buildings except customer, employee and freight vehicle parking, loading zones, and those open air uses sp identified in this district as permitted subject to particular performance standards.
2. Buildings:
- (a) In review of building facades and features, the planning commission shall consider:
1. Exterior appearance shall take into account, and be compatible with, surrounding structures, considering proportions, materials, and fenestration, seeking to achieve some relationship with existing architectural character. A written description of how the sur- rounding structures have been considered shall be provided with the submittal.
 2. To reduce the mass of a building, any street or park fronting wall longer than 25 feet shall be articulated through changes in material, windows, wall plane, or wall height.
- (b) Accessory structures shall be designed to blend with the principal building(s) on the site as to exterior materials, size and shape.
- (c) Detached garages and accessory structures shall be accessed from an alley where one exists and is useable. Where an alley does not exist, location of the detached accessory building shall be reviewed by the Planning Commission. An attached garage shall not protrude in front of the wall plane of the principal structure.
3. Site requirements:
- (a) Parking shall only be permitted as accessory to an immediately adjacent principal use.
- (b) Off-street parking requirements in the B2-B are no less than 75 percent and no more than 90 percent of the requirements of Table 1704(6).
- (c) Parking lot development is only allowed in the rear or side yards and screened with a hedge or finished wall of at least three feet and no more than four feet in height from view of any public street, alley, parkland or adjacent residential property.
- (d) Parking spaces shall be set back a minimum of three feet from the property line.

Proposed Amendments to the Office Service, General Business, and Light Industrial Districts and Creation of Mixed Use Corridor District



(Ord. No. 744, § 1, 5-19-2014)

ARTICLE XXXI. - H - HOSPITAL DISTRICTS

Sec. 3100. - Intent.

The H-1 and H-2 Hospital Districts are for the purpose of accommodating medical centers, hospitals and all their normally related functions and to ensure they are properly sited in relation to each other and pursuant to an approved plan for that district. The H-1 District is a lower intensity, primarily outpatient services medical district, while the H-2 District includes all hospital related activities in a functionally integrated manner.

Any development or construction in these districts requires consistency with a current Master Site and Facilities Plan approved by the Planning Commission. The Master Site and Facilities Plan shall indicate current uses and anticipated uses for a minimum of the next 20 years. This plan shall show adjacent properties sufficiently to identify surrounding uses and potential impacts on them by the applicant's plan and shall conform to the requirements of the Section 3106.

(Ord. No. 758, § 1, 10-16-2017)

Sec. 3101. - Master site and facilities plan standards.

A master site and facilities plan shall conform to the following site development standards:

- (1) Every principal building or groups of buildings shall be so arranged as to permit emergency access.

- (2) Every development shall have legal access to a public or private street.
- (3) The plan shall provide vehicular and pedestrian circulation systems that reflect and extend the existing street pattern, pedestrian and bicycle ways in the area.
- (4) A pedestrian circulation system shall be provided which is physically separated and insulated from the vehicular circulation system.
- (5) All parking areas shall be located in a manner which will reduce the visual impact of such parking areas from adjacent public streets.
- (6) Where the opportunity exists, developments shall use shared drives and interconnect with adjacent properties to reduce travel distance and curb cuts and create alternative access routes.

(Ord. No. 758, § 1, 10-16-2017)

Sec. 3102. - H-1 and H-2 Districts permitted uses.

In the H-1 and H-2 Hospital Districts, no building or land shall be used except for one or more of the following specified uses unless otherwise provided in this article.

	H-1 District	H-2 District
Alternative energy sources building—Mounted	SCU	SCU
Assisted living facilities	P	P
Boarding houses	P	P
Dwellings, multiple family	P	P
Day care facilities	P	P
Hospitality houses	P	P
Hospice houses	P	P
Hospitals	NA	P
Landing areas for air ambulance	NA	SCU
Medical, dental, optical clinics	P	P
Outpatient care centers (including treatment for mental health and development disabilities)	P	P
Pharmacy without drive-through	SCU	P

Pharmacy with drive-through	NA	SCU
Residential care and treatment facilities	NA	P
Urgent care centers	P	P

P = Permitted use

SCU = Special Condition Use (Regulated by section 1717)

NA = Not Allowed

(Ord. No. 758, § 1, 10-16-2017)

Sec. 3103. - District standards.

	H-1 District	H-2 District
Height (maximum)	35 feet from adjacent public street grade	The maximum building height shall not exceed elevation 710 feet with the following exceptions: 1. Structures adjacent to Connable Avenue have a maximum height of 35 feet, with an additional one foot of height allowed for each two feet of setback over 25 feet, not to exceed elevation 710. 2. Structures adjacent to West Lake Street have a maximum height of 35 feet.
Front setback (minimum)	25 feet	25 feet
Side setback (minimum)	25 feet	25 feet
Rear setback (minimum)	35 feet	25 feet

Surface parking (maximum)	1,155 spaces
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(Ord. No. 758, § 1, 10-16-2017)

Sec. 3104. - Additional requirements.

- (a) All roof-mounted equipment, including satellite dishes and other communication equipment, shall be hidden from view by a parapet, screen, or similar architectural feature. The equipment shall not be visible from recreation trails or from public sidewalks adjacent to the site. Screening shall incorporate exterior building materials similar or complementary to those of the main building.
- (b) No material, equipment, or goods of any kind shall be stored on the roof of any building or outside unless otherwise allowed by ordinance.

(Ord. No. 758, § 1, 10-16-2017)

Sec. 3105. - Procedure for all master site and facilities plans.

- (a) *Pre-application conference.* Before submitting a master site and facilities plan, an applicant shall meet with the city planner to review the proposed plan, this Code, and the city master plan.
- (b) *Application.* An applicant shall submit a master site and facilities plan for consideration not less than 21 calendar days before the date on which such plan shall be introduced to the planning commission. The plan shall be submitted to the city planner for review according to the standards and requirements of this Code.
- (c) *Official review.* The city planner shall circulate the master site and facilities plan to the department of public works and the department of public safety to provide comment to the planning commission.
- (d) *Referral.* After staff review and determination that the submittal requirements for the master site and facilities plan have been met, it shall be referred to the planning commission for review with a recommendation to approve, deny or modify the plan and said recommendation shall also be forwarded to the applicant
- (e) *Notification; action.* The planning commission shall make no decision regarding a master site and facilities plan until a public hearing is scheduled and notification of said hearing is provided as required by the Michigan Zoning Enabling Act, MCL 125.3103. The planning commission shall review the master site and facilities plan according to the standards and requirements of this article.
- (f) *Compliance.* After approval of a master site and facilities plan, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the master site and facilities plan, as approved by the city. No zoning permit or building permit shall be issued without an approved master site and facilities plan and approved site plan in accordance with the provisions of this article.
- (g) *Amendments standards and procedures.* Requests for changes or revisions to an approved master site and facilities plan may be initiated by the applicant. The city planner shall determine which category of plan revision applies to the request. In the event an applicant wishes to appeal such an interpretation, the request shall automatically be presented to the planning commission for review.
 - (1) *Minor change.* A slight modification to a master site and facilities plan involving the siting of buildings, the adjustment or extension of utilities, walkways, traffic ways and parking areas and similar modifications may

be approved by the city planner.

- (2) *Major change.* A change or amendment to a master site and facilities plan, involving a significant change in the number and location of access points to public streets, alleys and parking areas, a major relocation or re-siting of buildings, a significant increase in the building footprint or height of a building, a significant reduction in open space and similar major changes shall require the approval of the planning commission.

(Ord. No. 758, § 1, 10-16-2017)

Sec. 3106. - Master site and facilities plan submittal requirements.

(a) The plan shall be drawn to scale, rendered on a minimum sheet size of 11 inches by 17 inches and include the following:

- (1) The property owner and applicant/preparer name and address;
- (2) A legal description of the property;
- (3) The plan scale, date, north arrow and vicinity map;
- (4) The zoning classifications of the surrounding properties;
- (5) The lot lines, yard designations and setbacks;
- (6) Existing and proposed private and public street names with right-of-way and pavement width indicated;
- (7) Natural features such as topographic features, boundaries of regulated wetlands, 100-year flood plain elevations and water features such as lakes, rivers, creeks, springs, etc.;
- (8) Location of existing and proposed building envelopes and their sizes in three dimensions (length, width and height);
- (9) The percentage of property allocated for buildings, parking areas/structures, and open space;
- (10) A general circulation plan for pedestrians and motorists;
- (11) A general parking plan, taking into account parking requirements established in section 1704;
- (12) A preliminary storm water management plan.

(Ord. No. 758, § 1, 10-16-2017)

Sec. 3107. - Site plan approval.

Once a master site and facilities plan has been approved, no building shall be constructed without first obtaining site plan approval subject to section 1716 of the zoning ordinance. Those uses identified as special condition uses in section 3102 shall also provide the information required in sections 1717 and 1718.

(Ord. No. 758, § 1, 10-16-2017)

Sec. 3108. - Site development standards.

In addition to requirements of sections 1716, 1717, and 1718, the following site development performance standards shall apply:

- (a) *Buildings.* In review of building facades and features, the planning commission shall consider:
- (1) Exterior materials should be of a finished appearance and textural quality suitable to the desired image for this entryway to town. The commission may limit the amount of or prohibit the use of corrugated

metal, concrete block, sheet metal and colored plastic or fiberglass. The commission may consider such factors as whether the building is an accessory structure, the adequacy of the setback and screening, and any impact upon street view and view from nearby residential buildings.

- (2) The scale, bulk, shape, exterior materials, and color of buildings shall be evaluated for their compatibility with the site size and shape and with surrounding buildings and structures.
 - (3) Buildings shall be situated to fit the existing site rather than imposed on the landscape in a manner that requires significant alteration of site grades. This restriction may be waived by the planning commission where significant alteration of grades would result in preservation and protection of a scenic view or other significant natural or manmade resource, or would result in an improved site layout and function without adversely impacting significant resources.
 - (4) Street fronting walls shall have no less than 30 percent fenestration.
- (b) *Open space and site landscaping.*
- (1) All areas on a property not used for buildings or for pedestrian or vehicular traffic circulation shall be either left in a natural state or be landscaped.
 - (2) No parcel shall have less than 15 percent of the total site area devoted to natural or landscaped open space.
 - (3) Along street frontage of the parcel, larger scale trees shall be planted at a minimum of one tree per 50 feet of street frontage and, where possible, near buildings with long facades or multistory structures.
 - (4) Plantings of shrubs and flowers shall highlight vehicular and pedestrian access points, such as driveway ingress, building entry doorways, etc. Such vegetation should be clustered for adequate scale and visual interest.
 - (5) Existing vegetation that is healthy and suitable for landscaping objectives shall remain undisturbed. Existing trees that are five inches in diameter or greater should be retained to the extent possible. The planning commission may permit greater or less disturbance of said material where it determines proposed new landscaping and an improved site layout warrants such a waiver of standards.
 - (6) Landscaping shall be irrigated and maintained.
- (c) *Parking, circulation and loading.*
- (1) Loading zones and freight truck storage shall be in the rear yard only and shall be screened so as not to be visible from the road or from neighboring properties. Where an existing use already has a loading zone in the side yard and it is not feasible to relocate the zone with proposed improvements, then the planning commission may permit continuation of the loading zone in the side yard subject to provision of appropriate screening.
 - (2) Surface parking shall be in the side or rear yards only. In cases where an existing use is proposed for expansion, the planning commission may determine it is not feasible to relocate all parking to the side or rear yards. The commission may then approve the front yard parking but shall reduce said front yard parking as much as feasible and shall require screening of the parking.
 - (3) Surface parking, driveways, and other circulation features shall be designed to follow the dominant topographic contour lines of the site to reduce long views down parking aisles and to allow drainage to function naturally.
 - (4) Parking lot interior landscaping shall consist of a minimum of seven percent of the total parking area, and

a ratio of one canopy tree per eight parking spaces. Landscaping islands shall be a minimum of 80 square feet in area, and a minimum of eight feet in width.

- (5) Parking areas and driveways shall have a minimum of eight feet of landscaped area separating the pavement edge from any property line, except where two or more adjacent properties have a written agreement or easement for a shared driveway access.
- (6) Parking areas in side yards shall be screened from the street frontage with evergreen plant materials, berms, a screening wall, or a combination that has a minimum height of 42 inches above the surface grade of the parking lot. Screening devices meeting this height requirement may also be required by the planning commission where a parking lot is judged to be near enough to an adjacent property or properties that the lot must be screened to mitigate impacts of noise, light, and visibility upon the neighbor(s).
- (7) Screening walls shall be durable, weather-resistant materials compatible with building finishes on the site. Physical relief in the surface and facade of any wall or fence should be provided with landscaping bands or clusters to soften the appearance of the fence or wall. The finished side of the wall or fence shall face the adjoining property or public right-of-way.
- (8) Sidewalks shall be included to provide safe access to buildings on the site and to permit safe pedestrian movement along the street frontage of the property.
- (9) Parking structures, public or private, subject to the following standards:
 - a. Parking structures shall be designed to have horizontal versus stepped or sloping levels at areas of public view. All ramping shall be concealed from public view.
 - b. Openings shall not exceed 60 percent of the total wall surface. Openings shall be vertical or square.
 - c. A roof top treatment is required to terminate the deck and give proper architectural finish to the structure. Cornices, overhangs, corbels, and other devices may be employed.
- (d) *Perimeter screening.* When a permitted use in the H-1 and H-2 District abuts residential or park uses, complete visual screening shall be provided if there is no existing buffer. Such screening shall be a minimum of six feet in height and may include a masonry wall, fence, landscaped berm, or evergreen landscaping. In the case of a wall or fence, the finished side shall face the adjoining property or public right-of-way. Any landscaping shall provide a complete visual buffer when planted.

(Ord. No. 758, § 1, 10-16-2017)

ARTICLE XXXII. - MEDICAL MARIHUANA FACILITIES

Sec. 3200. - Intent.

It is the purpose of this article to regulate medical marihuana facilities so as to protect the public health, safety, and welfare of the residents and patients of the city and to establish reasonable and uniform regulations for their operation. It is further the intent of this article to implement the provisions of the Michigan Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq., with respect to local zoning and land use, and to permit the sale and distribution of medical marihuana consistent with applicable state statutes.

The provisions of this article have neither the purpose nor effect of granting immunity from any criminal prosecution under federal law or granting immunity from criminal or civil prosecution, penalty or sanction for the cultivation, manufacture, possession, use, sale, distribution or transport of marihuana in any form, that is not in strict compliance with all applicable laws and rules promulgated by the State of Michigan and the City of Petoskey regarding medical marihuana. This article does not provide any rights or privileges with regard to marihuana under the Michigan Regulation and Taxation of Marihuana Act, MCL § 333.27102.

(Ord. No. 772, 10-7-2019)

Sec. 3201. - General provisions.

Medical marihuana facilities as defined by this article shall be subject to the following general regulations:

- (a) Any uses or activities found by the State of Michigan or a court with jurisdiction to be unconstitutional or otherwise not permitted by state law are prohibited in the city. In the event that a court with jurisdiction declares some or all of this section invalid, the city may suspend the acceptance of applications for licensing pending the resolutions of the legal issue in question.
- (b) An operator of a medical marihuana facility shall at all times have a valid medical marihuana facility permit issued by the city pursuant to chapter 8, article IX of this Code, as amended, and a state operating license as issued by LARA pursuant to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq.
- (c) A property owner or operator of a medical marihuana facility shall not have vested rights or nonconforming use rights that would serve as a basis for failing to comply with this article or any applicable amendment thereto.
- (d) Discontinuation of a state medical marihuana facility license shall be also considered a discontinuance of a medical marihuana facility, at which time any permit granted by the city pursuant to this article would be considered ineffective.

(Ord. No. 772, 10-7-2019)

Sec. 3202. - Site development performance standards for all uses.

- (a) Only one medical marihuana facility per parcel or lot.
- (b) A separation distance of 500 feet is required from any other medical marihuana facility or marihuana establishment.
- (c) A medical marihuana facility is not permitted within 1,000 feet of any private or public elementary or secondary school (K-12).
- (d) The distances described in this section shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in this section above to the nearest portion of the building or unit in which the medical marihuana facility is located.
- (e) The separation distances contained in this section are applicable to marihuana facilities and establishments located in adjacent governmental jurisdictions.
- (f) A medical marihuana facility is not permitted on the same property or parcel or within the same building where any of the following are located: A package liquor store, a convenience store that sells alcoholic beverages or a fueling station that sells alcoholic beverages.

(Ord. No. 772, 10-7-2019)

ARTICLE XXXIII. - C-COLLEGE DISTRICT

Sec. 3300. - Intent.

The College District is established to accommodate the unique development requirements of a large educational institution comprised of multiple buildings and a variety of related and complementary uses within an integrated campus setting. Through the creation of this specialized zoning district, the city recognizes the valuable contribution that higher education makes to the social and economic vitality of the community. Nevertheless, it is incumbent on the city to ensure that existing and future development within the district remains compatible with surrounding land uses and contributes in a positive way to the desired character of the broader community.

Any development or construction in this district requires consistency with a current master site and facilities plan approved by the planning commission. This plan shall include current and anticipated uses for a minimum of 15 years, indicate adjacent property uses sufficiently to identify potential impacts created by the plan, and shall conform to the requirements of section 3305.

(Ord. No. 782, § 1, 8-2-2021)

Sec. 3301. - District permitted uses.

In the C-College District, no building or land shall be used except for one or more of the following specified uses unless otherwise provided elsewhere in this article.

Use	C District
Administrative, business, and faculty offices	P
Classrooms and lecture halls	P
Laboratories and research facilities	P
Public assembly	P
Libraries	P
Athletic facilities	P
Natural areas and parks	P
Dormitories	P
Multiple family dwellings	P

Alternative energy sources building-mounted	P
Food service	P
Child care facilities	P
Retail consistent with educational mission	P
Medical clinic	P
Accessory uses customarily incident to any of the above permitted uses	P
Outdoor performance facility/amphitheater	P*
Temporary driver certification course	P*
Heating and electrical generating plant	P*

;not; P=Permitted

*Use is permitted, subject to additional requirements specified in [section 3303](#).

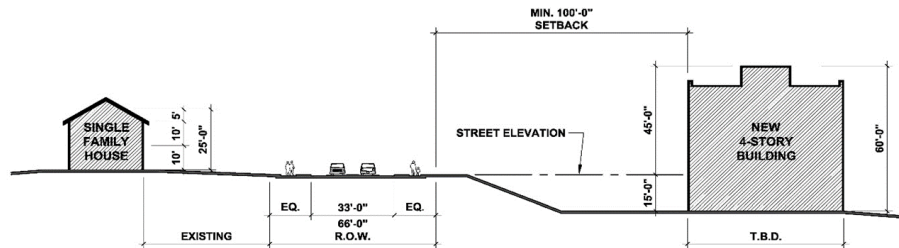
(Ord. No. [782](#), § 1, 8-2-2021)

Sec. 3302. - District standards.

	C District
Maximum height	35 feet
Maximum height dormitory	60 feet with no more than 45 feet above adjacent section of Howard or Atkins Street grades (see Figure 3302.1 below)
Setbacks from property line abutting or across street from a residential district Buildings 35 feet or less Buildings over 35 feet	60 feet 100 feet
Surface parking (maximum)	1,097

Signs

Must be approved by the planning commission through a master sign plan pursuant to the requirements of section 3303(6).



**PROFILE SECTION SHOWING
MAX 45' HT. ABOVE ROAD ELEV.**
SCALE: 3/32" = 1'-0"

(Ord. No. 782, § 1, 8-2-2021)

Sec. 3303. - Additional requirements.

- (1) All roof-mounted equipment, including satellite dishes and other communication equipment, HVAC, and solar panels shall be screened by a parapet or similar architectural feature. Screening shall incorporate exterior building materials similar or complementary to those of the building on which the equipment is located.
- (2) Outdoor storage or loading areas shall be screened in accordance with the requirements of section 2602(5), as follows:
 - (a) Any storage or loading area facing or visible to a residential zoning district shall meet the requirements for an opaque screen.
 - (b) Any storage or loading area located on the interior of the campus or not facing or visible to a residential zoning district shall meet the requirements for a semi-opaque screen.
- (3) Outdoor performance facility/amphitheater.
 - (a) All parts of an outdoor performance venue, including stage and seating areas, shall be at least 500 feet from any residential district and 100 feet from any public street.
 - (b) Lighting shall be oriented toward the interior of the campus and shall not be directed outward toward any residential district or public street and shall not be illuminated when not in use.
 - (c) Amplified sound shall be permitted; provided, sound levels at the district boundaries shall not exceed 60 dB(A) or ambient levels, whichever is greater.
 - (d) Events, including practices, shall not commence before 10:00 a.m. and must conclude no later than 10:00 p.m.
- (4) Temporary driver certification course.
 - (a) The driver certification course shall be limited to parking lots within the campus.
 - (b) The certification course shall not be located within 300 feet of any residence.

- (c) Use of the course shall not commence before 9:00 a.m. and must conclude by 5:00 p.m. No activity shall be per weekends or holidays.
- (5) Heating and electrical generating plant.
 - (a) The facility shall be an accessory use for the sole purpose of serving buildings and uses within the college campus.
 - (b) Facilities shall not use coal to generate power.
 - (c) All power generating equipment, not including solar panels, shall be located within a building which shall be designed and built to prevent objectionable noise impacts upon surrounding property.
 - (d) The building housing generating equipment shall be at least 500 feet from any residential zoning district.
- (6) Master sign plan requirements. A master sign plan shall include an inventory of all existing exterior signs with photos or illustrations of each sign type and also include information on the number, size, location, and illumination method of all exterior signs in the C-College District. This includes entrance, directional/wayfinding, kiosks, parking lot, and exterior building signs. In addition proposed new exterior signs shall be illustrated and include the number, size, location, illumination method, materials and landscaping for freestanding signs.

(Ord. No. 782, § 1, 8-2-2021)

Sec. 3304. - Procedure for all master site and facilities plans.

- (1) *Pre-application conference.* Before submitting a master site and facilities plan (MSFP), an applicant shall meet with the city planner to review the proposed plan, this city zoning ordinance, and the city master plan. A preliminary presentation to the planning commission may also be desirable prior to formally submitting an application.
- (2) *Application.* An application for approval of a MSFP and, if applicable, a rezoning shall be submitted to the city planner not less than 21 calendar days before the date on which such plan is to be introduced to the planning commission.
- (3) *Official review.* The city planner shall circulate the MSFP to the departments of public works and public safety to provide comment to the planning commission.
- (4) *Referral.* After staff review and determination that the submittal requirements for the MSFP have been met, the application shall be referred to the planning commission for review, along with the formal rezoning request to the College District, if applicable.
- (5) *Public hearing and review.* The planning commission shall conduct a public hearing, notification of which shall be as required by the Michigan Zoning Enabling Act, MCL 125.3103.
- (6) *Actions.* If the planning commission determines that the MSFP satisfies the standards of section 3306, the plan shall be approved. In addition, if a rezoning request has been submitted, the planning commission shall make a recommendation to the city council regarding rezoning the property to the College District in accordance with the procedural requirements of the Michigan Zoning Enabling Act.
- (7) *Plan compliance.* After approval of a MSFP, the land to which it pertains shall be developed and used only as authorized and described in that plan. Following approval of the MSFP, no zoning permit or building permit shall be issued for building additions that are not consistent with the approved MSFP. New buildings or additions that

increase a building size more than 30 percent shall be reviewed by the planning commission pursuant to section 3307. Additions less than 30 percent may be administratively approved if required standards in section 3307 are met.

- (8) *Amendment standards and procedures.* It is recognized that the MSFP is a long-range vision and changes or adjustments to an approved plan may be initiated by the applicant. The city planner shall determine which category of plan revision applies to the request. In the event an applicant wishes to appeal a determination that a proposed change is a major change, the board of zoning appeals shall hear that appeal.
- (a) *Minor change.* A modification from the MSFP involving the adjustment in orientation or precise location of a building; modification or extension of utilities; location of walkways, roads, or parking areas; a reconfiguration of a designated open space area that does not alter the general size or function of that area; the change of building use from one permitted use to another; phasing or timing of a planned improvement; modification of landscaping or screening that remains consistent with the ordinance intent; and similar alterations may be approved by the city planner.
- (b) *Major change.* A deviation from or amendment to a MSFP involving an increase in the number of access points to perimeter public streets; a new building; the relocation of a building to a different site; an increase in a building footprint by more than 30 percent; and significant reduction in any designated open space area shall require approval by the planning commission.

(Ord. No. 782, § 1, 8-2-2021)

Sec. 3305. - Master site facilities plan content.

The MSFP shall be drawn to scale and include the following:

- (1) The property owner and applicant/preparer name and address;
- (2) An analysis of existing site conditions;
- (3) An assessment of current facilities;
- (4) Future enrollment projections;
- (5) Existing and proposed private and public streets and access points to the existing public street network;
- (6) Natural features such as topography, boundaries of regulated wetlands, 100-year flood plain elevations, and water features such as lakes, rivers, creeks, springs, etc.;
- (7) Location of existing and proposed buildings and their sizes, including three dimensional representations;
- (8) A general storm water management plan;
- (9) A general circulation plan for pedestrians, cyclists and motorists;
- (10) A general parking plan, taking into account parking requirements established in section 1704; and
- (11) Strategic goals for plan implementation in five-year increments.

(Ord. No. 782, § 1, 8-2-2021)

Sec. 3306. - Master site facilities plan review standards.

The planning commission shall review the MSFP and rezoning request according to the following standards:

- (1) Existing or planned public facilities such as streets, sanitary sewers, storm sewers, and similar facilities shall be adequate for the proposed development.

- (2) Perimeter setbacks shall be provided for physical development.
- (3) Height, bulk, and character of structures shall be considered with regard to scenic views and the relationship of proposed structures to existing structures within 300 feet of the College District.
- (4) Vehicular, pedestrian, and non-motorized circulation allowing safe, convenient and well-defined circulation within the site and to the site shall be provided.
- (5) Off-street parking is designed to reduce light pollution and storm water runoff.
- (6) Natural, historical, scenic, open space and architectural features of the property in the district shall be preserved, protected, created or enhanced whenever possible.

(Ord. No. 782, § 1, 8-2-2021)

Sec. 3307. - Site plan approval.

Once a MSFP has been approved, no new building shall be constructed without first obtaining site plan approval subject to section 1716 of the zoning ordinance and the following development standards. Those uses identified as special condition uses in section 3301 will also be required to meet the standards of sections 1717 and 1718.

- (1) *Buildings.* In reviewing building facades and features, the following shall be considered:
 - (a) Exterior materials should be of a finished appearance and quality construction. The use of corrugated metal, concrete block, sheet metal, and colored plastic or fiberglass shall be limited. Such factors as whether the building is an accessory structure, the adequacy of the setback and screening, and any impact upon street view and view from nearby residential buildings shall be considered in evaluating building materials.
 - (b) To the extent practical, buildings shall be situated to fit the existing site rather than imposed on the landscape in a manner that requires significant alteration of site grades. However, this standard may be waived where it is demonstrated that significant alteration of grades would:
 - i. Result in preservation and protection of a scenic view or other significant natural or manmade resource; or
 - ii. Result in an improved site layout and function without adversely impacting significant resources.
 - (c) Building walls facing a perimeter street shall have no less than 30 percent fenestration.
- (2) *Open space and site landscaping.*
 - (a) All areas of the site not occupied by buildings, parking, streets, pathways, plazas, or similar developed features shall be landscaped in character with the adjoining campus or retained in a natural state.
 - (b) In conjunction with any new building or building addition, foundation plantings consisting of a combination of shrubs, ground cover, and flower beds shall be installed. Plantings of shrubs, flowers, and trees shall also be used to highlight driveway ingress points and building entrances. Such vegetation should be clustered for adequate scale and visual interest.
 - (c) Existing vegetation that is healthy and suitable for landscaping objectives shall remain undisturbed. Existing trees five inches in diameter or greater should be retained to the extent possible. These requirements may be waived or modified where it is determined that proposed new landscaping and/or an improved site layout warrants a modification.
 - (d) Landscaping shall be irrigated and maintained.

(3) *Parking, circulation, and loading.*

- (a) New loading/unloading areas shall not face or be visible from any residential district and, shall be screened so as not to be visible from any neighboring residential properties. Where existing loading areas do not meet this requirement, they may remain; provided any addition or exterior renovation to the building served by such loading area should incorporate a screen wall and/or evergreen landscaping at the loading area to buffer the view from adjoining perimeter streets and neighboring residential property.
- (b) Surface parking, driveways, and other circulation features shall be designed to follow the natural topographic contour lines of the site to reduce long views down parking aisles and to allow drainage to function naturally.
- (c) New parking areas shall only be accessed from an interior circulation system within the campus.
- (d) New or expanded parking lots located within 40 feet of a perimeter public street right-of-way shall be effectively screened by a wall, shrubs, berms, and/or evergreen trees along any side facing that street, unless due to topography, existing vegetation, or other feature the parking area is not visible from the street. No element used for such screening shall be less than 42 inches high. Screening devices meeting this height requirement may also be required where a new or expanded parking lot is determined to be near enough to an adjacent property or properties that the lot must be screened to mitigate impacts of noise, light, and visibility upon the neighbor(s).
- (e) If used, screening walls shall be constructed of durable, weather-resistant materials compatible with building finishes on the site. Visual relief should be added with landscaping bands or clusters to soften the appearance of the wall. The finished side of the screen shall face outward toward the adjoining property or a perimeter street.
- (f) Parking lot interior landscaping shall consist of a minimum of seven percent of the total parking area, and a ratio of one canopy tree per eight parking spaces. Landscaping island shall be a minimum of 80 square feet in area, and a minimum of eight feet in width.
- (g) Parking areas and driveway shall have a minimum of eight feet of landscaped area separating the pavement edge from any property line, except where two or more adjacent properties have a written agreement or easement for a shared driveway access.
- (h) Sidewalks shall be installed to interconnect buildings and parking areas and to permit safe pedestrian movement along the perimeter public street frontage.
- (i) Parking structures shall be permitted, subject to the following standards:
 - i. The design of all above-grade parking structures shall relate to the context of the area. Exterior walls of parking structures shall be designed with materials, colors, and architectural treatment in a manner that provides visual compatibility with adjacent buildings and environment.
 - ii. Freestanding parking structures shall have no blank walls and shall be designed to limit the visibility of interior ramps and prevent outside glare from interior lighting.

(4) *Perimeter screening.*

- (a) Any new building or addition located within 80 feet of a perimeter public street shall provide a visual foreground to soften and minimize its visual impact on surrounding properties. Such screening shall consist of a combination of deciduous and evergreen trees. Berms, walls, and/or fences may be included

as part of the screen to add variety and interest or where topographic conditions would make their use more effective. In the case of a wall or fence, the finished side shall face outward toward the adjoining property or a perimeter street.

- (b) All new buildings and additions shall be designed in context and scale to be compatible with existing campus facilities and the surrounding uses. Consideration shall be given to building materials, height, and articulation of walls.

(Ord. No. 782, § 1, 8-2-2021)