

## APPENDIX A - ZONING

*Footnotes:*

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**Editor's note**— Printed herein is the Zoning Ordinance of the city, as adopted by the city council on Oct. 7, 2002. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

**Cross reference**— Any ordinance adopting or amending a comprehensive plan saved from repeal, § 1-12(a)(9); any ordinance pertaining to zoning, including, but limited to, the basic zoning ordinance and ordinances rezoning property saved from repeal, § 1-12(a)(15); buildings and building regulations, ch. 10; environment, ch. 22; floods, ch. 30; planning, ch. 46; streets, sidewalks and other public places, ch. 58; vegetation, ch. 70; waterways, ch. 74.

## CHAPTER 1. - PREAMBLE, SHORT TITLE, PURPOSE

## Section 1.01. - Preamble.

An Ordinance enacted pursuant to Act 207 of the Michigan Public Acts of 1921, as amended, providing for the establishment of Zoning Districts that encourage and regulate proper use of land and natural resources; providing for the location, height limitations, regulations, area, and bulk of buildings; providing for sanitary, safety, light and other protective measures; regulating the density of development; providing for the administration, enforcement and amendment of this Ordinance; providing for a Board of Appeals, including its powers and duties; and to provide penalties for the violations of this Ordinance.

## Section 1.02. - Short Title.

This Ordinance shall be known and may be cited as the City of North Muskegon Zoning Ordinance.

## Section 1.03. - Purpose.

A. This Ordinance has been established for the purpose of:

1. Promoting and protecting the public health, safety, and general welfare;
2. Protecting the character and the stability of open space, residential, and commercial areas within the incorporated City of North Muskegon and promoting the orderly and beneficial development of such areas;
3. Regulating the intensity of land uses and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light, privacy and air and to protect the public health;
4. Lessening and avoiding congestion on public highways and streets;
5. Promoting healthful surroundings for family life in the community;
6. Protecting the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, radioactivity, and other health and safety hazards;
- 7.

Preventing the undue concentration of buildings and structures so far as possible and to regulate their use and bulk in each Zoning District according to the relationship of the surrounding land;

8. Enhancing social character and economic stability in the City;
9. Enhancing the aesthetic desirability of the environment throughout the City; and
10. Conserving the expenditure of funds for public improvements and services to conform with the most advantageous land uses.

## CHAPTER 2. - DEFINITIONS

### Section 2.01. - Construction of Language.

For the purpose of this Ordinance, certain terms and words are defined in this Chapter. When not inconsistent with the context, words used in the present tense include the future, words used in the singular number include the plural number and words in the plural number include the singular number. The word "shall" is always mandatory and not merely discretionary. The word "may" is permissive. The word "person" includes individual, organization, partnership, trust, company, other association or corporation. The words "used" or "occupied" include the words "intended," "designed," or "arranged." The word "structure" includes the word "building" and the word "dwelling" includes the word "residence." The word "lot" includes the words "plot" and "parcel." Unless otherwise indicated, where the term "Section" is used, it shall mean a Section of this Ordinance.

### Section 2.02. - Definitions—A.

*Accessory Structure.* A structure customarily incidental and subordinate to the principal structure and located on the same lot as the principle building.

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

*Adult Care Facilities.* A facility for the care of adults, over eighteen (18) years of age, as licensed and regulated by the State under Michigan Public Act 218 of 1979, as amended, and governed by rules promulgated by the State Department of Consumer and Industry Services. The organizations shall be defined as follows:

- A. *Adult Foster Care Facilities.* A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, or a residential center for persons released from or assigned to a correctional facility.
- B. *Adult Foster Care Family Home.* A private home with the approved capacity to receive six (6) or fewer adults to be provided with foster care for twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks for compensation. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

C.

*Adult Foster Care Small Group Home.* A private home with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation. Licensee is not required to live in the home.

- D. *Adult Foster Care Large Group Home.* A private home with the approved capacity for thirteen (13) to twenty (20) adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation. Licensee is not required to live in the home.
- E. *Congregate Facility.* A private home with the approved capacity for more than twenty (20) adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation. Licensee is not required to live in the home.

*Adult Uses.* The term shall include adult bookstore, adult motion picture theater, adult motel, adult nightclub, and massage parlor. These terms and terms related to these definitions, as noted, shall have the following indicated meanings:

- A. *Adult Bookstore.* A commercial establishment that, as its principal business purpose, offers for sale or rental for any form of consideration any one or more of the items:
1. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproduction, slides, or other visual representations or media which depict or describe specified sexual activities or specified anatomical areas; or
  2. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- B. *Adult Motion Picture Theater.* A means of adult entertainment depicting, describing or portraying through a motion picture media form "Sexual Conduct" or "Specified Anatomical Areas" in a setting within an adult use that is generally characterized by one (1) of the following:
1. A coin or token-operated machine where someone may view a motion picture film, video, cassette, compact disc or other similar media form which depicts, describes, or portrays "Sexual Conduct" or "Specified Anatomical Areas."
  2. A booth, or other such constructed area, where an individual may, for the payment of a fee, view sexually explicit material depicting, describing or portraying "Sexual Conduct" or "Specified Anatomical Areas."
- C. *Adult Motel.* A hotel, motel or similar commercial establishment that:
1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has as a sign visible from the public right-of-way that advertises the availability of any of the above;
  2. Offers a sleeping room for rent for a period of time that is less than 12 hours; and/or
  - 3.

Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 12 hours.

- D. *Adult Merchandise Store or Adult Business.* A commercial establishment having a substantial or significant portion of its stock and trade in books, magazines, periodicals, photographs, videotapes, video cassettes, laser cassettes, films, electronic media or other visual representations which depict, describe, or portray "Sexual Conduct" or "Specified Anatomical Areas."
- E. *Adult Personal Service Business.* A business having, as its principal activity, a person while nude, or while displaying "Sexual Conduct" or "Specified Anatomical Areas." as defined herein, providing personal service for another person.
- F. *Adult Nightclub.* A nightclub, bar, cabaret, restaurant, or similar commercial establishment that regularly features:
  - 1. Persons who appear in the state of nudity;
  - 2. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
  - 3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
  - 4. Persons who engage in lewd, lascivious or erotic dancing or performances which are intended for the sexual interests or titillation of an audience or customers.
- G. *Massage Parlor.* Any place or establishment where massage is made available. "Massage Parlor" does not include:
  - 1. A duly licensed medical doctor, osteopath, chiropractor, nurse or physical therapist; or
  - 2. A person engaging in the practice of massage on his/her spouse or relative within the first degree of consanguinity in either of their residences; or
  - 3. A barber, manicurist, beautician or cosmetologist who is duly licensed under the laws of this state, or another state within the United States, or the federal government, and who practices within the established limits of his or her license, and who administers a massage in the normal course of his or her duties; provided, however that such barber, manicurist, beautician or cosmetologist shall perform a massage only upon the face, hands, feet, or neck of another person, and is performing the practice of massage for beautifying or cosmetic purposes only; or
  - 4. Myomassaologists who meet the following criteria:
    - a. Proof of graduation from a school of massage licensed by the State of Michigan or current licensure by another state with equivalent standards of 500 class hours of education from a state licensed school in the United States; and
    - b. Proof of current professional membership in the American Massage Therapy Association or other national massage therapy organization with comparable prerequisites for certification, including liability insurance.
- H. *Sexual Conduct.*
  - 1. Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
  - 2.

Sexual arousal or gratification using animals or violence, actual or simulated;

3. Masturbation, actual or simulated;
4. The fondling or any other erotic touching of human genitals, pubic region, buttocks, anus or female breast; or
5. Excretory functions as part of or in connection with any of activities set forth as 1., 2., 3., or 4 directly above.

I. *Specified Anatomical Areas.*

1. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola;
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Agriculture.* Any land or building used for pasturage, floriculture, dairying, horticulture, viticulture and livestock and poultry husbandry.

*Alley.* A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

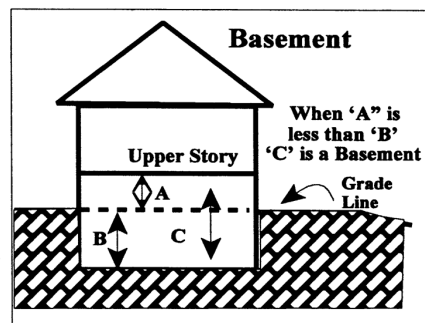
*Alterations.* Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls or partitions, columns, beams or girders; or any change which may be referred to in this Ordinance as "altered" or "reconstructed."

*Apartment.* A dwelling unit in a multiple dwelling as defined in this chapter.

Section 2.03. - Definitions—B.

*Basement.* That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A

basement shall not be counted as a story (See illustration).



BASEMENT

*Bed and Breakfast Establishment.* A house, or portion thereof, where short-term lodging rooms and meals are provided as a commercial operation.

*Berm.* A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual or audible screening purposes.

*Block.* The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of

the municipality.

*Body Shop.* Any building, premises, or land in which or upon which the primary use is the servicing, major repair, or painting of motor vehicles.

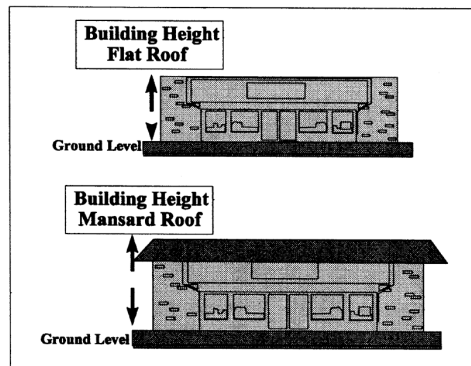
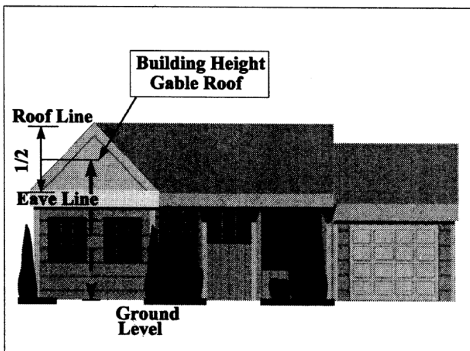
*Buffer Zone.* A strip of land of definite width and location required to separate certain Ordinances reserved for the planting of shrubs, trees, or grasses; berms; walls; or fencing to serve as a visual and noise barrier or an obscuring screen necessary to carry out the requirements of this Ordinance.

*Buildable Area.* The buildable space remaining on a lot after compliance with the minimum setback and open space requirements of this Ordinance.

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

*Building Code.* The code or codes governing the erection and maintenance of buildings as currently adopted by the City of North Muskegon.

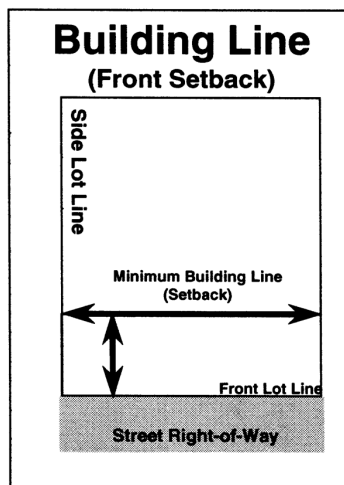
*Building Height.* The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs, and to the average height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain,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



BUILDING HEIGHT

*Building Line.* A line formed by the eaves of the building, or the most horizontal appendage of the building (except as otherwise permitted in this Ordinance) and for the purposes of this Ordinance, a minimum building line is the same as

the front setback.



BUILDING LINE

*Building Official, or Building Inspector.* The person designated by the City Council to administer the provisions of the adopted Building Codes for the City of North Muskegon.

*Building, Principal.* A building in which is conducted the principal or main use of the lot on which said building is located.

*Building Permits.* A building permit is the written authority as issued by the Building Inspector on behalf of the City permitting the construction, moving alteration or use of a building or structure in conformity with the provisions of the Ordinance and the City's Building Code.

## Section 2.04. - Definitions—C.

*City.* The City of North Muskegon.

*City Council, or Council.* The City Council of the City of North Muskegon.

*City And Village Zoning Act; Zoning Act.* Act 207 of the Michigan Public Acts of 1921, as amended.

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

*Clinic.* A building or group of buildings where human patients are admitted for examination and treatment by more than one professional, such as a physician, dentist, or the like, except that human patients are not lodged overnight.

*Club.* An organization of persons for special purposes such as sports, arts, sciences, literature, politics, or the like, but not operated for profit.

*Commission.* See Planning Commission.

*Condominium Act.* Public Act 59 of 1978, of the State of Michigan, as amended.

*Condominium Project or Site Condominium Project.* A plan or project consisting of not less than two (2) condominium units established in conformance with the Condominium Act.

*Condominium Unit.* That portion of a condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreation, use as a time share unit or any other type of use.

*Convalescent or Nursing Home.* A structure with sleeping rooms, where persons are housed or lodged on a full time basis and are furnished with meals, nursing and medical care.

## Section 2.05. - Definitions—D.

*Day Care Facility.* A facility other than a private residence, licensed by the Michigan Department of Social Services, in which one (1) or more children are given care and supervision for periods of less than twenty-four (24) hours per day, and where a parent or legal guardian is not immediately available to the child. Day care facility includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. Day care facility does not include a Sunday school, a vacation Bible school, or a religious class that is conducted by a religious

organization where children are in attendance for not greater than four (4) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than four (4) hours, while persons responsible for the children are attending religious classes or services.

- A. *Day Care Home, Family.* A private residence in which the operator permanently resides as a member of the household, registered with the Michigan Department of Social Services, in which one (1) but less than seven (7) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day-care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
- B. *Day Care Home, Group.* A private residence in which the operator permanently resides as a member of the household, licensed by the Michigan Department of Social Services, in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day-care home includes a home that gives care to unrelated minor children for more than four (4) weeks during a calendar year.

*Density.* The number of dwelling units per lot area (see Lot Area).

*Density, Gross.* "Gross Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot.

*Density, Net.* "Net Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot, excluding any lot area owned by a governmental entity, used as a private street or occupied by a non-residential use.

*Development.* The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; and mining, excavation, landfilling or land disturbance, and any extension of an existing use of land.

*Driveway.* An improved public or private passageway providing vehicular ingress to, and vehicular egress from, a public or private road to or from a lot, parcel, or building on abutting grounds.

*District, Zoning or Zone District.* An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations.

*Drive-Through; Drive Through Facility.* A business establishment or use so developed that it provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

*Dwelling Unit.* A dwelling unit is any building or building portion having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in no case shall a motor home, trailer coach, automobile chassis, tent, or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions relative to dwellings.



*Dwelling, Multiple-Family.* A building, or a portion of a building, designed exclusively for occupancy by three (3) or more families living independently of each other.

*Dwelling, Single Family Attached.* A group of three (3) or more independently owned dwelling units which are joined to one another by a common party wall, but not a common floor-ceiling, each unit shall have its own outside entrance. For the purposes of this Ordinance, dwellings such as semi-detached, rowhouses, patio-houses and townhouses shall be deemed single family attached dwellings.

*Dwelling, Single Family Detached.* A building designed exclusively for and occupied exclusively by one (1) family.

*Dwelling, Two-Family.* A building designed exclusively for occupancy by two (2) families living independently of each other.

#### Section 2.06. - Definitions—E.

*Erected.* The word "erected" includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, etc.

*Essential Public Services.* The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission, distribution, collection, communication, supply or disposal systems, including towers, poles, street lighting, wires, mains, drains, sewers, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar equipment, but not including buildings and storage yards, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. This definition does not include Commercial Wireless Telecommunication Services.

*Excavation.* Any breaking of ground, except common household gardening, general farming and ground care.

#### Section 2.07. - Definitions—F.

##### *Family.*

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and attendants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature. Said definition shall not apply in instances of group care centers or state licensed residential facilities as established under P.A. 395 of 1976.
- C. Living arrangements which would otherwise comply with the description of a family shall not constitute a family if the said arrangements have occurred as a result of commercial or other advertising, or the offering of rooms for rent. Any financial arrangement, except a true sharing of the expenses of all the

facilities in the single household unit, shall be presumed to constitute renting a room or rooms and to have resulted from the offering of rooms for rent or commercial or other advertising. Where rooms have been rented, or persons live in the house in response to commercial advertising or the offering of rooms for rent, the living arrangement shall be presumed to constitute a rooming house and not a family. A person claiming the status of family shall have the burden of proof of each of the elements set forth in the relevant definitions of this ordinance.

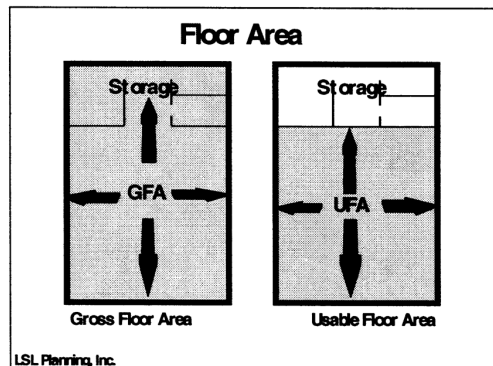
*Family, Day Care Home.* See Day Care Home, Family.

*Fence.* Any permanent fence, partition, structure or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit. An ornamental fence is less than three (3) feet in height and more than two (2) feet from any lot or property lines (normally used to set off planting areas).

*Filling.* The depositing or dumping of any matter into or onto the ground except for common household gardening and general maintenance.

*Floor Area, Gross (GFA).* The sum of the total horizontal areas of the several floors of all buildings on a lot, measured from the interior faces of exterior walls. The gross floor area of a building shall include the basement floor area when more than one-half ( $\frac{1}{2}$ ) of the basement height is above the established curb level, or finished lot grade, whichever is higher. Gross floor area shall not include attic space having headroom of seven and one-half ( $7\frac{1}{2}$ ) feet or less, or interior balconies or mezzanines. Areas of basements (except as provided above), breezeways, porches or attached

garages are not included.



FLOOR AREA

*Floor Area, Usable (UFA).* That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities or sanitary facilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.

*Floodplain.* The area adjoining a river, stream, water course, or lake subject to a one hundred (100) year recurrence-interval flood as delineated by the Flood Boundary and Floodway map prepared by the Federal Insurance Administration of the Federal Emergency Management Agency and on file with the City or the Michigan Department of Environmental Equality.

*Four-Plex Unit.* A one floor multi-family dwelling which consists of four attached dwellings as one building.

*Frontage.* See Lot Width.

( Ord. No. 544, § 1, 8-21-2017 )

## Section 2.08. - Definitions—G.

*Garage, Private.* An accessory building or portion of a principal building designed or used solely by the lot owners for the storage of vehicles, boats and similar items.

*Grade.* A ground elevation established for the purpose of controlling the number of stories and the height of any structure. The grade shall be determined by the level of the ground adjacent to the walls of any structure if the finished grade is level. If the ground is not level, the grade shall be determined by averaging the elevation-of the ground for each face of the structure.

*Greenbelt.* A strip of land of specified width and location reserved for the planting of shrubs, grasses, and/or trees to serve as an obscuring screen or buffer strip.

*Group Day Care Home.* See Day Care Home, Group.

## Section 2.09. - Definitions—H.

*Height.* See Building Height.

*Home Occupations.* Any use customarily conducted entirely within a dwelling and carried on by the inhabitants, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not involve any alteration of the structure or character change. A home occupation may also be known commonly as cottage industry, home based business, home marketing network, or home interactive distribution or marketing, but shall not be construed to include day care, state licensed residential care facilities or bed and breakfast establishments.

*Hotel/Motel.* A facility offering lodging accommodations for travelers on a daily rate to the general public and which may or may not provide additional services, such as restaurants, meeting rooms, or recreational facilities.

*Housing for the Elderly.* A building or group of buildings containing dwellings where the occupancy of dwellings is restricted to persons sixty (60) years of age or older, or couples residing together where either person is sixty (60) years of age or older. This does not include a development that contains a convalescent or nursing home as licensed under Act No. 139 of the Public Acts of 1956, as amended, being sections 331.651 to 331.660 of the Compiled Laws of 1948; or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended, being sections 330.61 and 330.62 of the Compiled Laws of 1948.

## Section 2.10. - Definitions—I.

*Inoperable Vehicle.* A vehicle which can no longer propel itself.

## Section 2.11. - Definitions—J.

*Junk.* Any worn out or discarded materials including, but not necessarily limited to, scrap metal, inoperable vehicles and parts, construction material, household wastes, including garbage and discarded appliances, and yard debris.

*Junkyard.* An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled. These materials include, but are not limited to: scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and includes any area of more than two

hundred (200) square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings.

#### Section 2.12. - Definitions—K.

*Kennel, Commercial.* Any lot or premises used for the commercial sale, boarding, or treatment of dogs, cats, or other domestic pets.

*Kennel, Private.* Any lot or premises used for the private maintenance of up to three (3) dogs, cats and/or other household pets, six months of age or older, not involving any commercial activities. Keeping more than the allowed number of animals shall be considered a commercial kennel regardless of ownership or species of the animals.

#### Section 2.13. - Definitions—L.

*Land Use.* A description of how land is occupied or utilized.

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

*Lot.* A parcel, vacant land, occupied land, or land intended to be occupied by a building and accessory buildings, or utilized for the principal accessory use(s) together with yards and open spaces required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of the Michigan Public Acts of 1978, as amended, designed and intended for separate ownership and use.

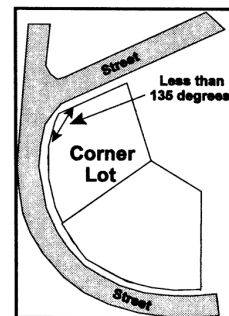
*Lot, Corner.* Any lot having at least two (2) contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its points of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than one hundred thirty-five (135) degrees.

*Lot, Flag.* A lot with access provided to the bulk of the lot by means of a narrow corridor fronting on a public street.

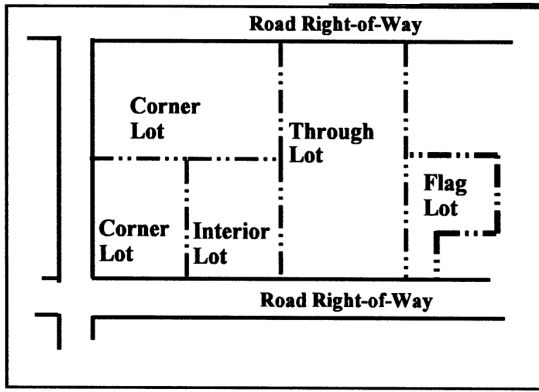
*Lot, Interior.* A lot other than a corner lot, flag lot, or through lot.

*Lot, Through.* Any interior lot having frontage on two (2) more or less parallel streets. In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and front setbacks shall be provided as

required. Also known as a Double Frontage lot.



CORNER LOT



THROUGH LOT

*Lot Area.* The total horizontal area within the lot lines.

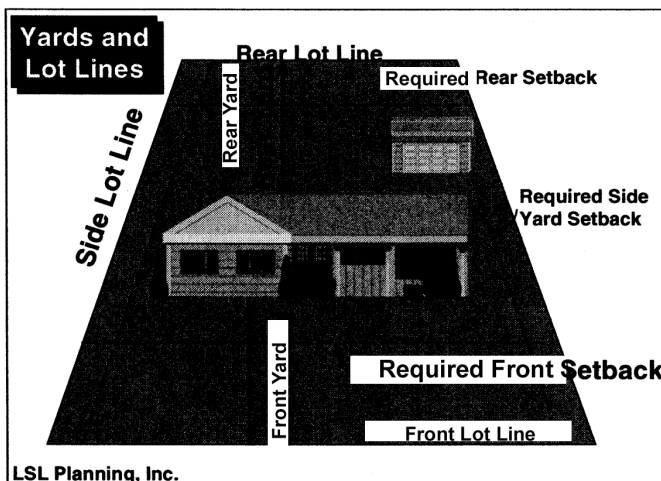
*Lot Coverage.* The part of the lot occupied by any building, including accessory buildings.

*Lot Depth.* The horizontal distance between the front street and rear lot lines, measured along the median between the side lot lines.

*Lot, Waterfront.* A Lot with frontage on a stream, river, or lake. For the purposes of this Ordinance, both the street side and the waterfront side of the lot shall be considered the front yard.

*Lot Lines.* The lines bounding a lot as defined below (see figure):

- A. *Front Lot Line.* In the case of an interior lot, it is the line separating the lot from the street right-of-way or easement. In the case of a corner or through lot, all lots fronting on streets shall be considered as frontage for setback purposes.
- B. *Rear Lot Line.* That lot line opposite and most distant from the front lot line. In the case of a lot which is pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line and wholly within the lot.
- 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 is an interior side lot line.



YARDS AND LOT LINES

*Lot of Record.* A parcel of land, the dimensions of which are shown on a document or map on file with the Muskegon County Register of Deeds or in common use by municipal or county officials, which actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder.

*Lot Width.* The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines.

#### Section 2.14. - Definitions—M.

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

*Manufactured Home.* A manufactured home is a structure transportable in one (1) or more sections and which is built on a permanent frame and designed to be used as a dwelling, with or without permanent foundation, when connected to required utilities and including plumbing, heating and electrical stems contained in the structure.

*Manufactured Home Park.* A parcel or tract of land under the control of a person upon which three (3) or more manufactured homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

*Master Deed.* The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium plan for the project.

*Map.* See Zoning Map.

*Marquee.* A roof-like structure of a permanent nature projecting from the wall of a building.

*Master Plan.* The Master Plan under current adoption by the City of North Muskegon and shall include any amendments or updates.

#### Section 2.15. - Definitions—N.

*Nonconforming Building or Structure.* A building or structure (or portion of), the size, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present requirements of the Ordinance in which it is located.

*Nonconforming Lot.* A lot, the area, dimensions, or location of which was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present lot requirements of the Ordinance in which it is located.

*Nonconforming Use.* A use or activity that was lawful prior to the adoption or amendment of the Zoning Ordinance, but that fails by reason of such adoption or amendment to conform to the present use regulations of the Ordinance in which it is located.

*Nursing Home.* A nursing care facility licensed as a "nursing home" by the State Department of Public Health under article 17 of the public health code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.20101 et seq., as amended). A "nursing home" as defined by this section shall include extended care facility and convalescent home.

#### Section 2.16. - Definitions—O.

*Offset.* The distance between the centerline of driveways or streets across the street from one another.

*Off-Street Parking Lot.* A facility providing parking spaces, along with adequate drives, maneuvering areas, and aisles, for the parking of more than three (3) vehicles.

*Open Air Business.* Retail sales establishments operated substantially in the open air, including:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sales, repair or rental services.
- B. Outdoor display area and sale of garages, motor homes, recreation vehicles, manufactured homes, snowmobiles, swimming pools and similar activities, but not including farm implements or commercial construction equipment.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment, but not including lumberyards.
- D. Miniature golf, golf driving range, children's amusement park or similar recreation uses.

*Open Space, Required.* The yard space of a lot which is established by and between the street, or the lot lines and required setback line and which shall be open, unoccupied and unobstructed by any structure or any part of, except as otherwise provided in this Ordinance.

#### Section 2.17. - Definitions—P.

*Parcel.* A lot described by metes and bounds or described in a recorded plat.

*Parking Space.* A marked area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

*Planned Unit Development (PUD).* A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements. The PUD may contain a single type of use or a mix of uses if provided for by the underlying zone district.

*Planning Commission, or Commission.* The City of North Muskegon Planning Commission as duly created under Act 285 of the Public Acts of 1931, as amended.

*Plat.* A map of a subdivision of land.

*Principal Use.* The main use to which the premises are devoted and the principal purpose for which the premises exist.

*Private Road.* Any road or thoroughfare for vehicular traffic which is privately owned and maintained and which provides the principal means of access to abutting properties. A private road shall meet the design and construction standards of the City of North Muskegon.

*Property Line.* See Lot Line.

*Public Open Space.* Any primarily undeveloped land, intended for passive recreational pursuits, within the jurisdiction and control of a governmental agency.

*Public Park.* Any undeveloped park, natural area, or parcel used for passive recreational purposes and any developed park; playground; beach; outdoor; swimming pool; and, other such facilities intended for active recreational pursuits, within the jurisdiction and control of a governmental agency.

*Public Street.* A public thoroughfare which affords the principal means of access to abutting property.

*Public Utility.* A person, firm, or corporation, municipal department, board or commission duly authorized to furnish to the public under federal, state or municipal regulations, gas, steam, electricity, sewage disposal, communication (excluding wireless communications), transportation, or water; provided this definition shall not include any person, firm, or corporation engaged in radio or television broadcasting.

Section 2.18. - Definitions—Q.

Reserved for future use.

Section 2.19. - Definitions—R.

*Recreation Area, Private.* All lands and structures which are owned and operated by private individuals, a business or corporation and provide for outdoor recreation activities.

*Recreational Vehicle or Equipment.* Vehicles or equipment used primarily for recreational purposes. For the purpose of this Ordinance, recreational vehicle shall mean:

- A. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle such as a motor home or camper;
- B. Boats and trailers designed to transport boats;
- C. Snowmobiles and trailers designed to transport snowmobiles;
- D. Off-road vehicles and trailers designed to transport off-road vehicles;
- E. Pop-up tent and camper trailers;
- F. Other similar vehicles deemed by the Zoning Administrator to be a recreational vehicle. This term shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

*Remuneration.* Consideration charged, whether or not received, for the occupancy of space in a dwelling unit valued in money, whether to be received in money, goods, labor or otherwise.

*Right-of-Way.* The land owned by a unit of government or public agency or authority within which is located a street, alley or other thoroughfare or an easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

( Ord. No. 544, § 2, 8-21-2017. )

Section 2.20. - Definitions—S.

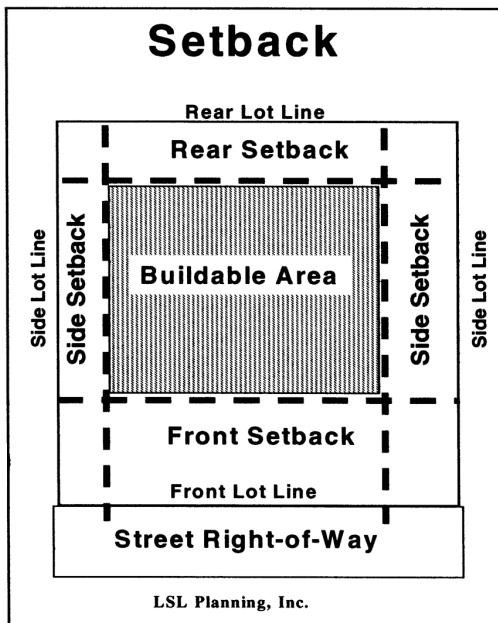
*Satellite Dish Antenna.* An apparatus capable of transmitting to or receiving communications from an orbiting satellite.



**Screen.** A structure such as a fence, wall, landscape screen, or combination of same, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

**Setback.** The minimum required horizontal distance measured from the front, side, or rear lot line, as the case may be, on a lot or parcel required by this Ordinance for the District in which it is located.

- A. **Setback, Front.** The minimum required horizontal distance measured from the front lot line on a lot or parcel required by this Ordinance for the District in which it is located.
- B. **Setback, Rear.** The minimum required horizontal distance measured from the rear lot line on a lot or parcel required by this Ordinance for the District in which it is located.
- C. **Setback, Side.** The minimum required horizontal distance measured from the side lot lines on a lot or parcel required by this Ordinance for the District in which it is located.



## SETBACK

**Shopping Center.** Is a group of commercial establishments (3 or more), planned and developed as a unit, utilizing shared access points off of a major street and common off-street parking located on the property.

**Shoreline.** The edge of a body of water measured at the ordinary high water mark.

**Short-term Rental.** A commercial use which is subordinate to the residential use of a dwelling unit, in which a tenant is allowed to lease the dwelling unit or a portion of the dwelling unit for periods of less than one calendar month in return for remuneration. If a tenant leases a dwelling unit for a period of at least one calendar month, this is not a short-term rental, but instead is a residential use.

**Sign.** A device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of any business, establishment, person, entity, product, service or activity, or to communicate information of any kind to the public. (See also Sign Chapter of this Ordinance)

**Site Plan.** A scaled drawing(s) illustrating existing and proposed conditions and containing the elements required in this Ordinance as applicable to the proposed development to ensure compliance with this Ordinance.

*Solid Fuel Heating Appliance.* A freestanding outdoor furnace which shall mean any device, apparatus or structure that:

- (1) Is designed, intended or used to provide heat and/or hot water to any residence or structure; and
- (2) Operates by burning wood or other solid fuel such as, but not limited to, coal, paper, rubbish, or agricultural products; and
- (3) Is not located within the residence or structure for which it is providing heat and/or hot water.

*Special Land Use.* A use of land not permitted by right, but, which is permitted within a particular Ordinance after demonstration of compliance with specific special land use standards. A special land use requires that a special use permit be obtained.

*Special Use Permit.* A permit issued by the Planning Commission to a person or persons who demonstrated compliance with specific special land use standards and received approval from the Planning Commission for a special land use.

*State Licensed Residential Facility (6 or Fewer Persons).* A structure constructed for residential purposes that is licensed by the State pursuant to the adult foster care facility licensing act (Act No. 218 of the Public Acts of Michigan of 1979; MCL 400.701 et seq., as amended) or the child care organizations act (Act No. 116 of the Public Acts of Michigan of 1973; MCL 722.111 et seq., as amended), which provides resident services or care for six (6) or fewer persons under twenty-four (24) hour supervision for persons in need of that supervision or care. A "state licensed residential facility (six or less persons)" as defined by this section shall not include an establishment commonly described as an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

*Story.* That part of a building included between the surface of any floor above the average grade or ground at the foundation and the surface of the next floor, or if there is no floor above, then the ceiling next above.

*Street, Arterial.* A public or private thoroughfare which affords the principal means of access to abutting property.

*Structure.* Anything constructed or erected, the use of which requires location on the ground or attachment to something on the ground; provided play structures, light fixtures, and flag poles shall not be considered structures for setback purposes.

*Subdivision.* The partitioning or splitting of a parcel or tract of land in accordance with the requirements of Public Act 288 of 1967, as amended, the State of Michigan Land Division Act and this Ordinance.

*Substantial Improvement.* Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either, before improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or the Michigan Register of Historic Places.

(Ord. No. 509, 1-16-2006; Ord. No. 544, § 3, 8-21-2017)

## Section 2.21. - Definitions—T.

*Temporary Building, Structure or Use.* A building, structure, or use authorized for a specific period of time according to the provisions of this Ordinance.

*Tent.* Shall mean a shelter of canvas, plastic, or the like supported by poles and fastened by cords or pegs driven into the ground and shall not include those types of tents used solely for children's recreational purposes.

*Transient.* Any person, other than a family member, who exercises occupancy or is entitled to occupancy of a dwelling unit for a period of thirty (30) consecutive days or less; counting portions of calendar days as full days.

( Ord. No. 544, § 4, 8-21-2017. )

## Section 2.22. - Definitions—U.

*UFA, Useable Floor Area.* See Floor Area, Useable.

## Section 2.23. - Definitions—V.

*Variance.* A relaxation of modification of the requirements of this Ordinance as authorized by the Board of Zoning Appeals under the provisions of this Ordinance and Act 207 of the Public Acts of 1921, including any amendments thereto.

*Vehicle Service Station.* Building and premises where the primary use is the supply and dispensing at retail of vehicle fuels, lubricants, batteries, tires, and other similar motor vehicle accessories and including the customary space and facilities for the installation of such commodities, including storage, minor repair, and servicing but not including vehicle repair as defined in this Ordinance.

*Vehicle Repair.* Any major activity involving the general repair, rebuilding, or reconditioning of vehicles, engines, or trailers; collision services such as body, frame or fender straightening and repair; overall painting and rust proofing; and refinishing or steam cleaning.

*Vehicle Wash.* A building or building portion, with the primary purpose of washing vehicles.

## Section 2.24. - Definitions—W.

*Wall.* The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.

*Waste Dumpster.* A container used for the temporary storage of rubbish and/or materials to be recycled pending collection, having capacity of at least one (1) cubic yard.

*Wireless Communications Tower, Commercial.* A structure designed and constructed to support one (1) or more antennas used for licensed telecommunications services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services marketed to the general public.

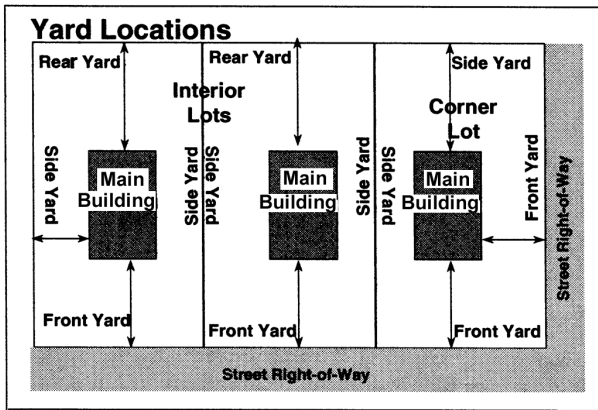
## Section 2.25. - Definitions—X.

Reserved for future use.

Section 2.26. - Definitions—Y.

*Yards.* The open spaces on the same lot with a main building that are unoccupied and unobstructed from the ground upward except as otherwise defined and provided in this Ordinance.

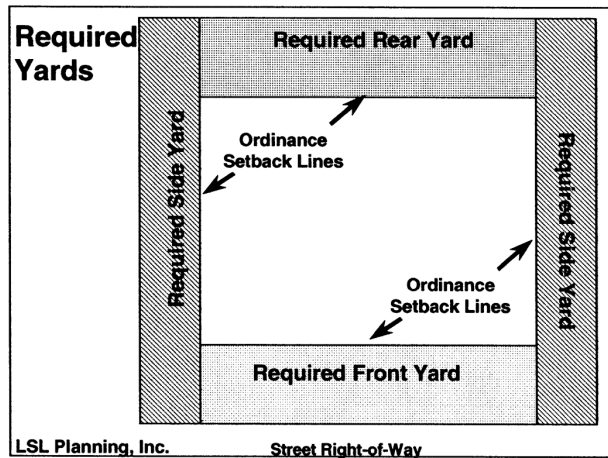
- A. *Front Yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the building line of the main building.
- B. *Rear Yard.* An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the building line 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 building line of the main building.



YARD LOCATIONS

*Yard, Required.* The required yard shall be that set forth as the minimum yard setback requirement for each district

measured from the respective lot line.



REQUIRED YARDS

Section 2.27. - Definitions—Z.

*Zoning.* The dividing of the City into districts of a number and shape considered best suited to carry out the purposes of the Zoning Act and the creation of uniform regulations throughout each individual district. Such districts are referred to as Zoning Districts in this Ordinance.

*Zoning Act.* The zoning act is Michigan Act 207 of 1921, including any amendments thereto, provided, however, the powers and duties of the Zoning Commission have been transferred to the Planning Commission of the City of North Muskegon under the provisions of Michigan Act 285 of the Public Acts of 1931, including any amendments.

*Zoning Administrator.* An individual appointed by the City Manager of the City of North Muskegon delegated to administer the City Zoning Ordinance.

*Zoning Board of Appeals.* The City of North Muskegon Zoning Board of Appeals created under Act 207 of the Public Acts of 1921, as amended.

*Zoning District.* A portion of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

*Zoning Map.* The Official Zoning Map of the City of North Muskegon, approved by the City of North Muskegon City Council, upon which the zone districts and zone district boundaries as specified by this Ordinance are depicted, including pertinent associated information. The Official Zoning Map shall be considered a part of this Ordinance.

## CHAPTER 3. - GENERAL PROVISIONS

### Section 3.01. - Access, Required.

Any lot created shall have frontage upon a public or private street equal to that required by the zone district in which it is located.

### Section 3.02. - Accessory Buildings, Structures and Uses.

For purposes of this Section, an accessory building is considered detached from the main building unless it is an integral part of the main building or is attached by a fully enclosed breezeway of not more than ten (10) feet in length. All accessory buildings shall be subject to the following regulations, as applicable:

- A. Accessory buildings shall not be built in any front yard, or required side yard unless otherwise provided in this Section. In corner lots, both sides abutting the street right-of-way shall be considered front yards. This Subsection, however, shall not apply to carports or rows of garages found within multiple family housing developments.
- B. No detached accessory building shall be closer than ten (10) feet to any main building.
- C. The eave line of a detached accessory building shall not be closer than five (5) feet to any side or rear lot line, unless otherwise provided in this Section.
- D. In the R-1 and R-2 zone districts, the eave line of a detached accessory building shall not be closer than three (3) feet to any side or rear lot line, unless otherwise provided in this Section.
- E. No accessory building shall be used in any part for residential dwelling.

- F. Any accessory building with an area greater than one hundred twenty (120) square feet shall be permanently constructed on a concrete foundation and shall conform to all applicable building and other similar codes for such a structure. The architectural character of all such accessory buildings shall be compatible with, and similar to, the main building with respect to materials, scale, design, and aesthetic quality as determined by the Zoning Administrator.
- G. No accessory building shall be permitted on any lot that does not contain a main building.
- H. No accessory building shall occupy any portion of a required green belt or buffer.
- I. The maximum height of a detached accessory building shall be determined as follows:
  - 1. The maximum height of the exterior side walls, measured from the finished floor to the top of the wall plate shall not exceed nine (9) feet.
  - 2. The height of the exterior side walls may be increased to a maximum of twelve (12) feet, if the accessory building is set back an additional two (2) feet from the side and rear lot lines for each additional one (1) foot in height of the exterior side walls.
- J. No more than two (2) detached accessory buildings shall be permitted on any lot less than two (2) acres in area. If, however, the main building has an attached garage, then not more than one (1) detached accessory building shall be permitted. The total floor area permitted for all detached accessory buildings on a lot shall not exceed that amount outlined in subsection K., below.
- K. The total floor area of all detached accessory buildings on any lot shall be limited as follows:
  - 1. Lots less than two (2) acres in area: eight hundred sixty-four (864) square feet if the main building does not have an attached garage; five hundred seventy-six (576) square feet in area if the main building has an attached garage for one (1) motor vehicle; and three hundred thirty-six (336) square feet in area if the main building has an attached garage for two (2) or more motor vehicles.
  - 2. On any size lot: the maximum floor area for detached accessory buildings shall not exceed twenty-five (25) percent of the rear yard, despite the permitted sizes in subsection K.1. [above].
- L. Any accessory building larger than six hundred twenty-five (625) square feet shall meet the minimum side yard setback, and one-half ( $\frac{1}{2}$ ) the rear yard setback requirements for a main building in the Zoning District in which the lot is located.
- M. All accessory buildings in nonresidential zone districts, if on a lot abutting a residential zone district shall meet the setback requirements applicable to the main building in such nonresidential zone district.
- N. Due to the nuisance smoke and concerns regarding the public safety and welfare of residents living in relatively close proximity to one another, outdoor solid fuel heating appliances are prohibited in all zoning districts in the City of North Muskegon.

(Ord. No. 509, 1-16-2006)

### Section 3.03. - Area or Space, Required.

- A. No lot, adjacent lots in common ownership, required yard, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or adjacent lots in common ownership or a required yard, parking area or other open space shall not be divided or reduced

in dimensions or area to increase its noncompliance with the minimum requirements of this Ordinance. Lots or yards created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.

- B. Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages, substantially attached to a dwelling unit or other main building, such as by a wall or roof, shall be deemed a part of such main building, for the purpose of determining compliance with the provisions of this Ordinance concerning required yards.

Section 3.04. - Building Height Exceptions.

The building height restrictions of all Zoning Districts shall be subject to the following exceptions: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, flag poles, water tanks, public monuments, church spires, and penthouses or roof structures housing necessary mechanical appurtenances, subject to Section 3.19, Mechanical Appurtenances.

Section 3.05. - Building Grades.

The finished surface of the ground areas outside the walls of any building constructed or altered shall be so designed that surface waters shall flow away from the building walls in such a direction and collection that inconvenience or damage to adjacent properties shall not occur.

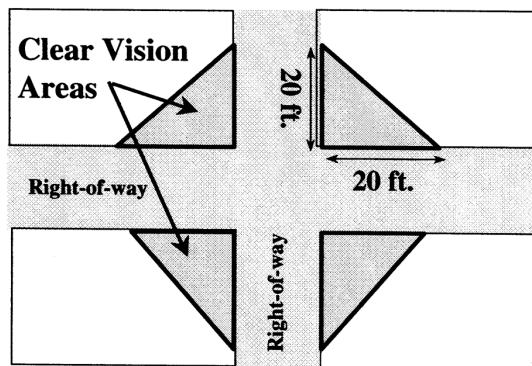
Section 3.06. - Buildings, Moving.

No existing building or other structure within or outside North Muskegon shall be moved upon any parcel or lot within the City unless the building design and construction are compatible with the general architectural character of other structures in the immediate area of the proposed site; the building and all materials are in conformity with the Building Code of North Muskegon; and the building or structure can be upon the parcel and conform to other requirements of the respective Zoning District. A moving permit shall be issued by the City upon evidence of compliance to the Zoning Ordinance requirements.

Section 3.07. - Clear Vision.

In any Zoning District on any corner lot, no fence, structure or planting more than thirty (30) inches in height shall be built or maintained within an area formed by the street property lines and a line connecting them at points twenty (20)

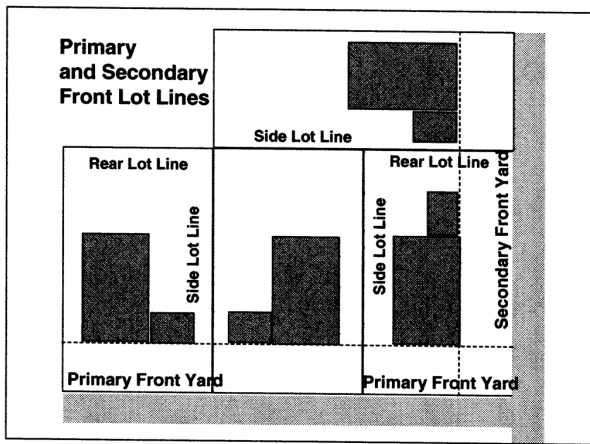
feet from the intersection of the street lines.



CLEAR VISION AREAS

## Section 3.08. - Corner Lots.

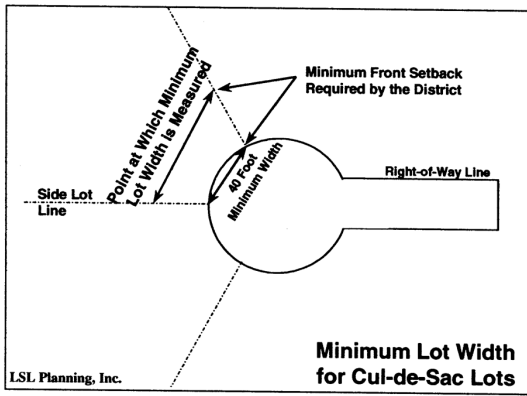
- A. A corner lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be the shorter of the two lot lines. Where the lot lines are of equal length, and/or the principal front lot line is not evident, then the Zoning Administrator shall determine the principal front lot line.
- B. General Provisions.
1. The required front setback shall be met on both the principal and secondary streets; if where the lot contains an existing main building, the front setback from the secondary street may be reduced by ten (10) feet.
  2. The remaining setbacks shall be a rear and a side setback. The rear setback shall be measured from the rear lot line, which for a corner lot, shall be the lot line opposite the principal front lot line.
  3. The width of a corner lot shall be determined by the entire length of that front lot line that is opposite the rear lot line.

FRONT LOT LINES

## Section 3.09. - Cul-De-Sac Lots.

- A. The cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
- B. A lot on a cul-de-sac shall have frontage that is not less than 80 percent (80) of the minimum lot frontage required for the Zoning District in which it is located.
- C. The minimum lot width shall be measured at a line drawn between the two (2) points at the intersection of a line extending along the side lot lines equal to the distance of the required front setback.





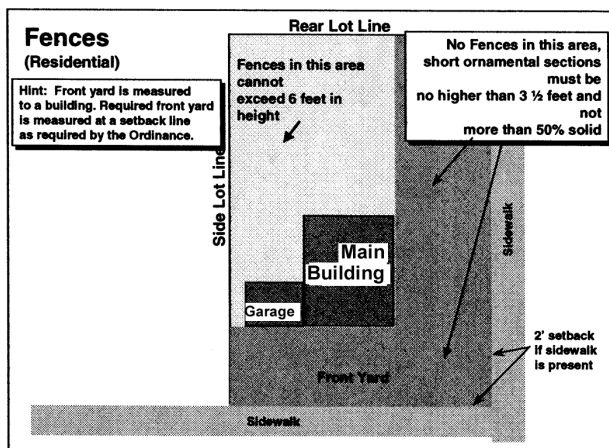
CUL-DE-SAC LOTS

Section 3.10. - Essential Public Services.

The erection, construction, alteration or maintenance of essential public services shall be permitted in any Zoning District; it being the intention of it to exempt such erection, construction, alteration or maintenance from the application of this Ordinance. All mechanical equipment and outdoor storage shall be effectively screened.

Section 3.11. - Fences.

- A. Fences in Residential Districts shall not exceed six (6) feet in height, measured from the surface to the uppermost portion of the fence.
- B. Fences shall not be built in any front yard. Exceptions include short length ornamental sections not exceeding a total front yard length of sixteen feet or exceeding three and one-half (3½) feet in height. These short fence sections shall be of a type that is not more than fifty (50) percent solid and shall not be within any clear vision area, per section 3.07.
- C. Fences in Residential Districts or enclosing residential uses shall not contain barbed wire or be electrified, unless used for Essential Public Services.
- D. In Residential Districts, the finished side of the fence shall face the abutting property.
- E. Fences shall not be built within any public right-of-way in any district.
- F. Fences shall not be built within two (2) feet from a sidewalk, where the sidewalk is within the public right-of-way in any district.



FENCES

### Section 3.12. - Governmental Improvements.

The provisions of this Ordinance shall be applicable to the City itself and all other governmental agencies and units, federal, state or local.

### Section 3.13. - Home Occupations.

- A. Home occupations shall be approved by the Zoning Administrator, who may issue an approval upon receipt of an application.
- B. No persons other than members of the immediate family residing on the premises shall be engaged in such occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty (20) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation, other than one (1) sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the main building.
- E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of the home occupation shall be met off the street and other than in the required front yard.
- F. No equipment or process shall be used in the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses beyond the boundaries of the property on which the home occupation is conducted. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or cause fluctuation in line voltage off the premises.

### Section 3.14. - Irregularly Shaped Parcels.

An irregularly shaped parcel is a parcel connected to another parcel, by a narrow piece of property, to create a barbell-like shaped parcel. No parcel shall be split to create an irregularly shaped parcel that would permit the area requirements for a lot to be met by adding a parcel to the rear or the side of the parcel.

### Section 3.15. - Illegal Dwellings.

The use of any portion of a garage or accessory building for dwelling purposes in any Zoning District is prohibited. Basements shall not be used for sleeping purposes, unless adequate ingress and egress is provided per the requirements of the City building code and other applicable regulations. Never, shall any living space in a basement be counted toward the required floor area requirement for the district in which it is located.

### Sec. 3.16. - Reserved.

**Editor's note**— Ord. No. 517, § 1, adopted Apr. 21, 2008, repealed Appendix A, Chapter 3, § 3.16, in its entirety. Prior to amendment, § 3.16 pertained to Keeping of Animals and derived from a Zoning Ordinance adopted Oct. 7, 2002.

### Section 3.17. - Lake Frontage Lots (or waterbody), Requirements.

Residential Waterfront Lots. Due to the unique characteristics of waterfront lots, some deviation from the Ordinance standards shall be permitted for lots having frontage on a body of water. Water front lots shall be considered as having both front yards for both the street side of the lot and the waterfront side of the lot. Front yard setbacks shall be provided as required. These are as follows:

#### A. Detached Garage Location.

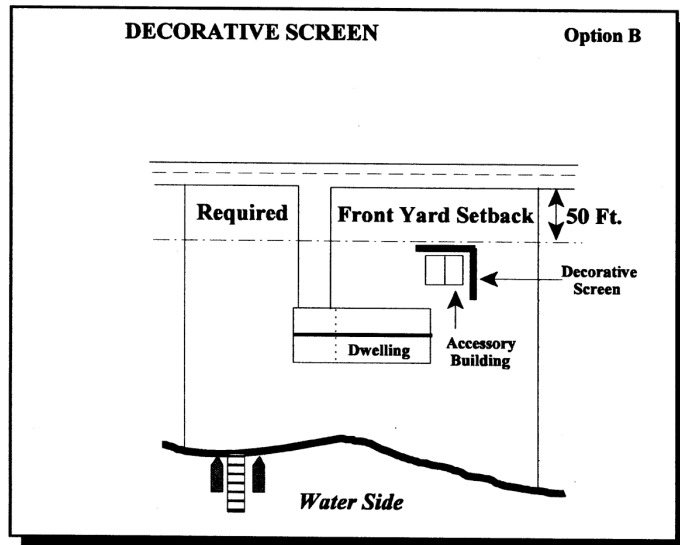
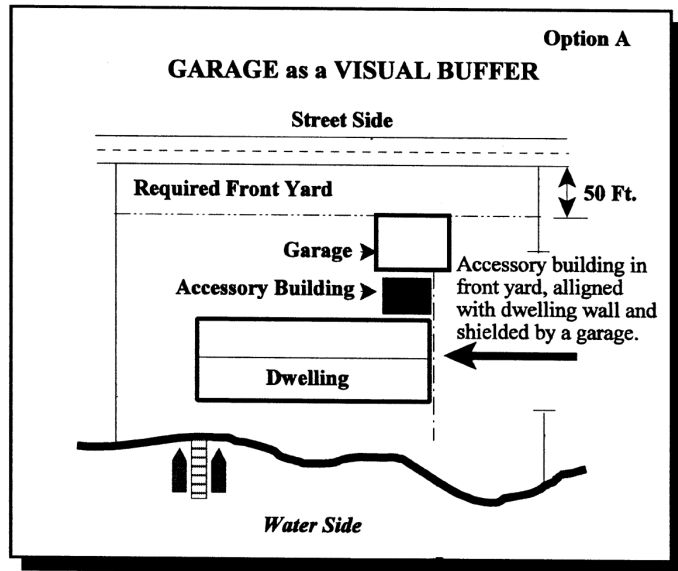
1. Street side. A detached garage may be placed in the nonrequired front yard, between the dwelling and street, if there is sufficient room permitting and if one is not on the waterfront side. All detached garages in the nonrequired front yard shall maintain a ten (10) foot separation from the dwelling and a ten (10) foot side yard setback. The garage must have architectural styles to match the principal use.
2. Waterfront side. A detached garage may be placed in the nonrequired front yard, between the dwelling and the waterfront, if there is sufficient room permitting and if one is not on the street side. All detached garages in the nonrequired front yard shall maintain a ten (10) foot separation from the dwelling.

#### B. Other Accessory Buildings.

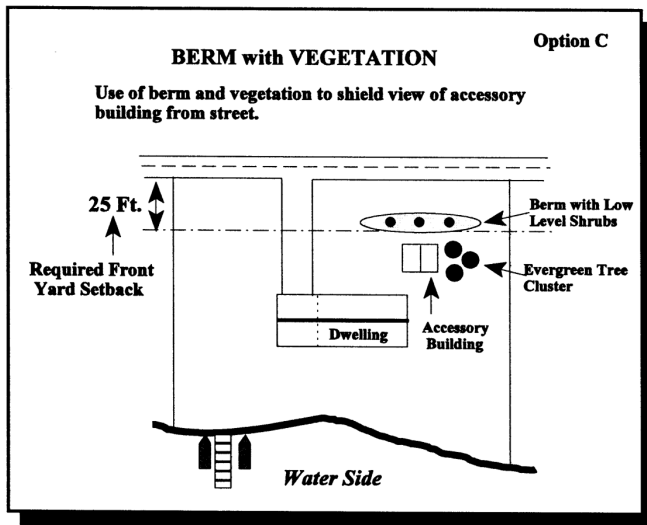
1. Street side. One (1) accessory (storage) building (not including the detached garage) may be placed in a nonrequired side yard or nonrequired front yard if at least fifty (50) feet from the front yard (street) right-of-way line (unless one is present on the waterfront side). Accessory buildings so positioned shall be screened to reduce the open views of said buildings from off-site, with particular attention given to screening that mitigates open views from properties whose front yards face the street side front yards of waterfront parcels. All accessory buildings in the nonrequired front yard shall maintain a ten (10) foot separation from the dwelling and a ten (10) foot side yard setback. The accessory building(s) must have architectural styles to match the principal use.
2. Waterfront side. One (1) accessory (storage) building (not including the garage) may be placed in a nonrequired side yard or nonrequired front yard if at least twenty-five (25) feet from the front yard (street) right-of-way line (unless one is present on the street side). All accessory buildings in the nonrequired front yard shall maintain a ten (10) foot separation from the dwelling.

C. A decorative screen shall be used to shield view of accessory buildings from the street. Screens may comprise wood and/or masonry material and/or vegetation. Wood and/or masonry structure must not exceed 6 feet in height.

D. The following illustrations depict options associated with placement of accessory buildings in the street side front yard of a waterfront lot. In each case, open views of accessory buildings have been partially shielded through use of a permitted garage, screening, and/or landscaping. The Zoning Administrator shall be authorized to review and approve alternative screening designs, provided, said designs comply with the intent of this section:



OPTIONS A & B



OPTION C

Proximity to Lot Line and Water Exclusion—Accessory buildings shall be at least twenty-five (25) feet from any lot line that is also the water's edge of a lake, river, or bayou; provided, however, a boat house not taller than fourteen (14) feet and not greater than two hundred and fifty (250) square feet built partially or totally over the water, and placed at least ten (10) feet from an adjoining lot line, shall be permitted following Site Plan Review and approval by the Planning Commission.

Section 3.18. - Main Building or Use.

No more than one main building or use may be on a parcel, except groups of related industrial or commercial buildings, or multiple family dwellings contained within a single, integrated complex, sharing parking and access.

Section 3.19. - Mechanical Appurtenances.

- A. Except in the General Commercial District, mechanical appurtenances, such as blowers, ventilating fans and air-conditioning units, shall be placed not closer than twelve (12) feet to any lot line.
- B. Any mechanical appurtenances, including elevator housings, stairways, tanks, heating, ventilation and air conditioning equipment, and other similar apparatus, on the roof of any building shall comply with the following standards:
  1. Such apparatus shall be enclosed in a screening structure having walls constructed of material compatible in appearance with the main building to which it is attached.
  2. The apparatus and enclosure shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall not occupy greater than fifteen (15) percent of the total area of the roof of the building on which it is placed.

Section 3.20. - Permitted Front Setback Reductions.

- A. If the established front yards for main buildings within two hundred (200) feet of the side lot line of and in the same Zoning District as a subject lot are less than the subject lot's Zoning District's required front yard, then the required front yard for the subject lot shall be the average front yard of the main buildings on the same side of the street, subject to subsections 1. and 2., below:

1. The front yard reduction permitted in subsection A., above shall only be permitted if there are two (2) or more lots occupied by main buildings within the area described for computing the average front yard.
2. In no case shall the front yard setback resulting from the application of these provisions, be less than fifteen (15) feet.

#### Section 3.21. - Permitted Rear Setback Reductions.

When a lot of record in any single-family residential district has a depth of less than 120 feet before the effective date of this Ordinance, the rear setback area of the lot may be reduced one-quarter of the distance of the lot depth less than 120 feet except that no rear setback area shall be reduced to a depth less than 20 feet and except further that if a rear lot line abuts an existing or proposed street, the Zoning Administrator may establish the required minimum rear setback, based on the average procedure set forth in this Chapter under Permitted Front Setback Reductions.

#### Section 3.22. - Projections into Yards.

- A. Certain architectural features, such as cornices, bay windows (or windows without foundations), gutters, chimneys, pilasters and similar features may project no further than four (4) feet into a required front, rear, or side yard.
- B. An open, unenclosed porch, deck, balcony or window awning may project no further than ten (10) feet into a required front yard, no further than fifteen (15) feet into a required rear yard, and shall not project into a required side yard. Never shall a porch, deck, balcony or awning be placed closer than five (5) feet to any front or rear lot line, except the General Commercial District where the porch, deck, balcony or awning may extend to the lot line.
- C. Any enclosed porch, terrace, deck, or balcony shall meet the minimum setback requirements of the main building or accessory building to which it is attached.

#### Section 3.23 - Regulations Applicable to Single-family Dwellings Outside Manufactured Home Parks.

Any single-family dwelling on a lot, whether constructed and built or a manufactured home, shall be permitted only if it complies with all of the following requirements:

- A. If the dwelling unit is a manufactured home, the manufactured home must either be new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended, or any similar successor or replacement standards that may be promulgated, or used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced above, and found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
- B. The dwelling unit shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes that are or may be adopted by the City, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where

such standards or regulations for construction are different from those imposed by City codes, then and in such event such federal or state standard or regulation shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.

- C. The dwelling unit shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yard and maximum building height requirements of the Zoning District in which it is located.
- D. If the dwelling unit is a manufactured home, the manufactured home shall be installed with the wheels removed.
- E. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of such materials and type as required by the building code for on-site constructed single-family dwellings. If the dwelling unit is a manufactured home, its foundation shall fully enclose the chassis, undercarriage and towing mechanism.
- F. If the dwelling unit is a manufactured home, it shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for manufactured home parks.
- G. The dwelling unit shall have a minimum core living area of at least twenty (20) feet by thirty (30) feet.
- H. Storage area shall be provided within a building, with an area not less than one hundred twenty (120) square feet. This storage area may consist of a basement, closet area, attic or attached garage in a main building, or in a detached accessory building that meets all other applicable provisions of Section 3.02 [herein].
- I. Permanently attached steps or porch areas at least three (3) feet in width shall be provided where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade.
- J. The exterior finish of the dwelling unit shall not cause reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.
- K. The dwelling unit shall have no less than two (2) exterior doors, with one being in either the rear or the side of the dwelling unit.

#### Section 3.24. - Seasonal Uses.

- A. The Zoning Administrator, upon receiving an application, may issue a permit for the temporary sale of merchandise in any Nonresidential District, related to a seasonal or periodic event. Such seasonal uses shall include the sale of Christmas trees, fireworks, and similar activities, but shall not include roadside stands (exempt under the Farm Act if associated with a farm operation).
- B. In considering a request for a temporary permit, the Zoning Administrator must determine that the operation of such a use is seasonal in nature and will not be established as a permanent use. The Zoning Administrator will also determine:
  - 1. That the use does not have an unreasonable detrimental effect upon adjacent properties;

2. That the use does not impact the nature of the surrounding neighborhood;
  3. That access to the area will not constitute a traffic hazard due to ingress or egress;
  4. That adequate off-street parking and lighting are available to fit the use; and
  5. That the use is not in the right-of-way.
- C. Each permit shall be valid for not more than ninety (90) days and may be renewed by the Zoning Administrator for up to one (1) additional thirty (30) day period, provided the season or event to which the use relates is continued. The granting of the temporary use shall be issued in writing, stipulating all conditions as to time, nature of the temporary use permitted and arrangements for removing the use at the end of the temporary permit. Before granting a temporary permit the administrator may seek the review and recommendation of the Planning Commission.

### Section 3.25. - Site Condominiums.

A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended. Site condominiums shall be processed according to the following procedure:

A. *Preliminary Review and Approval Stage.*

1. *Planning Commission Review.* An application and site plan for preliminary review and approval shall be submitted to the Planning Commission for review and recommendation based on compliance with the Site Plan Review Standards of Chapter 16. The Planning Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the request. In making a recommendation, the Planning Commission shall give the City Council a statement supporting the reasons for said recommendation.
2. *City Council Review.* After receipt and review of a recommendation from the Planning Commission, the City Council shall review the application and site plan pursuant to the site plan review standards of Chapter 16. The City Council may, at their discretion, conduct a public hearing on the proposed site condominium project for purpose of receiving public comment. The City Council may approve, approve with conditions, or deny the site condominium request based on a finding of compliance with the provisions of this section, Chapter 16, and other applicable regulations.

B. *Final Review and Approval Stage.* A final application and site plan shall be submitted to the City Council incorporating all conditions placed on the preliminary plan. The City Council shall review the plan for conformity with the approved preliminary plan and conditions, if any, attached thereto. The final application and site plan shall be approved based on a finding that all requirements attached to the preliminary plan have been complied with.

C. *Additional Information for Preliminary and Final Review.* Besides the information required by Chapter 16, the following information shall also be included for preliminary and final review and approval:

1. A condominium subdivision plan as required by Section 66 of the Condominium Act.
2. Documented proof of review by other applicable agencies including the Muskegon County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation, and the Michigan Department of Natural Resources/Environmental Quality.



- D. *Zoning Compliance.* A site condominium subdivision shall meet the minimum requirements of the district in which it is located, including minimum lot size, minimum setbacks, and minimum floor area.
- E. *Design and Construction Consistency.* All streets and roads proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this Ordinance, the North Muskegon City Code, and the Subdivision Control Ordinance (Ordinance No. 87), and the comparable requirements of the Muskegon County Road Commission, if applicable.
- F. *Underground Placement of Utilities.* All utilities, including power lines and communication lines, shall be placed below ground. All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
1. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.
  2. The developer shall dedicate to the City of North Muskegon all easements for utilities. Water, sewer and electrical easements may be placed within streets, subject to the approval of the City Engineer and the standards of the City of North Muskegon.
- G. *Master Deed.* The City Clerk shall be furnished with a copy of the recorded master deed. The master deed must ensure that the City of North Muskegon will not be responsible for maintenance or liability of the nondedicated portions of the site condominium and that all private roads will be properly maintained, that snow removal will be provided and that there is adequate access and turnaround capacity for emergency vehicles. Responsibility for the maintenance of stormwater retention areas, drainage easements, drainage structures, lawn cutting, and other general maintenance of common areas must be clearly stated.
- H. *As-Built Drawings.* As construction is completed, the North Muskegon City Clerk shall be furnished with two (2) copies of all "as-built" drawings for review by the City Engineer for compliance with all City Ordinances.

#### Section 3.26. - Storage of Recreational Vehicle/Equipment and Trailers.

Recreational vehicles/equipment and trailers may only be parked as an accessory use for lots on which a principal use or building is located and such parking shall not be within the front yard or nearer than three (3) feet to a side or rear lot line, except as noted below.

- A. *Definitions.* For purposes of this section, the following definitions shall apply:
1. Recreation vehicles/equipment includes, but is not limited to, motor homes, truck campers, pop-up campers, travel trailers, tear-drop trailers, toy haulers, 5th wheels, boats and boat trailers, personal watercrafts and watercraft trailers, bicycles, motorcycles, minibikes, scooters, go-carts, campers, mobile homes, camping vehicles, camping trailers, all-terrain vehicles, snowmobiles and snowmobile trailers, golf carts or vehicles other than automobiles or vehicles used primarily for general personal transportation use.
  - 2.

Trailers are all vehicles, including but not limited to cars, trucks and vans, with or without motive power, designed for carrying property and/or persons. Trailers include utility trailers, commercial trailers and tool trailers or cribs. Tool trailers are exempt from the restrictions outlined in this ordinance if a proper permit has been issued.

B. Lot Locations:

1. Interior Lot: Recreational vehicles/equipment and trailers shall not be within the front yard.
2. Corner Lot: Recreational vehicles/equipment and trailers shall not be in the primary front yard (as determined by the building administrator) or not more than one (1) recreational vehicle or one (1) Trailer in the required front setback of the secondary front yard or yards (for a corner lot with three streets.)
3. Through Lot: Recreational vehicles/equipment and trailers shall not be in the principal front yard (notice: front yard versus front setback) as determined by the zoning administrator, or the secondary front yard's required rear setback.
4. Lake Lot: Recreational vehicles/equipment and trailers shall not be in the required front setback (despite lot type, i.e., - corner, through, etc.). Recreational vehicles/equipment and trailers may be located only as provided in Section 3.17, B, 1; Section 3.17 C and D for Accessory Building, excepting the architectural style requirement in Section 3.17, B, 1; and Section 3.26 B.

C. From November 1 through April 14 and June 1 through September 14, Recreational vehicles/equipment may be parked within any yard for cleaning, loading, or unloading purposes for not more than seventy-two (72) hours within any five (5) calendar day period if no public sidewalk is blocked or visual obstruction created. From April 15 through May 31 and from September 15 through October 31, Recreational vehicles/equipment may be parked within any yard for the purposes of moving, cleaning and transfer for a period not to exceed a total of 14 days if no public sidewalk is blocked or visual obstruction is created. At no time shall Trailers be parked on an unpaved surface within a lot.

D. No more than three (3) recreational vehicles/equipment or trailers shall be stored on a lot.

E. The commercial lease of space for storage or parking of recreational vehicles/equipment or trailers for compensation shall not be permitted in a Residential District.

(Ord. No. 525, 5-17-2010)

**Editor's note**— Ord. No. 525, adopted May 17, 2010, renamed Section 3.26 from "Storage of Recreation Vehicle/Equipment" to "Storage of Recreation Vehicle/Equipment and Trailers".

Section 3.27. - Storage and Repair of Vehicles.

- A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential Zoning District shall be conducted entirely within the interior of a building.
- B. Inoperable or unlicensed vehicles and vehicle parts shall be stored inside a building.
- C. It shall be unlawful for the owner, tenant or lessee of any lot in any residential Zoning District to permit the open storage or parking outside a building of semi-tractor trucks and/or semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction being conducted on such lot.

Section 3.28. - Swimming Pools.

- A. Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains twenty-four (24) inches or more of water in depth at any point, shall ensure that such device is made inaccessible to small children by means of a fence or enclosure surrounding the device or due to the height of the side walls, which means shall be approved by the Zoning Administrator. Such side walls, fence or enclosure, including the gates, shall not be less than four (4) feet or greater than (6) feet above grade. All gates shall be self-latching with latches placed no less than four (4) feet above grade or otherwise made inaccessible from the outside to small children.
- B. Swimming pools, spas, hot tubs and similar devices shall not be less than eight (8) feet from any lot line.
- C. Swimming pools, spas, hot tubs and similar devices shall not be in any front yard.
- D. No pool, spa, hot tub, or similar device regulated by this section shall be constructed, installed, enlarged, or altered until a permit has been obtained from the Zoning Administrator.

#### Section 3.29. - Temporary Buildings and Structures.

- A. Construction buildings and structures, including trailers, incidental to construction work on a lot, may be placed on such lot, subject to the following restrictions:
  - 1. Construction buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities, related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.
  - 2. No construction building or structure shall be used as a dwelling unit.
  - 3. A permit shall be issued by the Zoning Administrator before installation of a construction building or structure.
  - 4. Construction buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the Zoning Administrator for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot.
- B. Sales offices or model homes may be placed on a lot subject to the following conditions:
  - 1. A permit shall be issued by the Zoning Administrator before installation or construction. Such permit shall specify the location of the office and shall be valid for up to one (1) year. A temporary permit may be renewed by the Zoning Administrator for up to two (2) successive one (1) year periods or less, at the same location if such office is still incidental and necessary.
  - 2. Only transactions related to the development in which the structure is located shall be conducted within the structure. General offices for real estate, construction, development or other related businesses associated with the project shall not be permitted.

#### Section 3.30. - Through Lots, Requirements.

A through lot shall have two front lot lines: a principal front lot line and a secondary front lot line. The principal front lot line shall be determined by the Zoning Administrator. However, front yard setbacks shall apply to each. See "Storage of Recreational Vehicles/Equipment" for additional regulations.

### Section 3.31. - Timely Completion of Construction Required.

Following the initiation of the construction, erection, reconstruction, modification, expansion or enlargement of any building or other structure authorized under the provisions of this Ordinance, completion of the work shall be diligently pursued and completed in a timely manner.

### Section 3.32. - Water and Sanitary Sewer Service.

No permit shall be issued for the construction of a building or structure that is to have drinking water and/or sanitary facilities found therein which is to be on a lot that is not served by both adequate public water and sewer facilities.

### Section 3.33. - Wireless Communication Towers.

- A. Commercial wireless communication towers may be considered either a principal or accessory use, as a Special Land Use only on public property. This includes mounting onto a publicly or privately owned tower or publicly elevated storage tank or tower. All commercial wireless communication towers enacted after this Ordinance must provide collocation.
- B. Commercial wireless communication towers require a municipal franchise agreement. Tower lease areas shall be maintained in a neat and orderly manner and shall be completely fenced. Effective landscaping and screening shall be used around fenced areas. Wireless communication equipment shall be stored inside secured shelters and shall use natural materials and neutral colors for the exterior. Leased areas shall be appropriately lit.
- C. A privately owned, noncommercial tower may be built as an accessory use in any district, provided the tower does not exceed seventy (70) feet in height, and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas. These towers shall not have support wires extending horizontally from the tower more than ten (10) feet in any direction and shall be safely maintained. Support wires and towers may not be built or placed closer than ten (10) feet to any side or rear lot line. Support wires and towers are prohibited from being in the front yard. Towers must be built, mounted and safely maintained.

### Section 3.34. - Withholding or Conditioning of Approval.

The Planning Commission or City Council may withhold granting of approval of any use, site plan, or other approval required by this Ordinance pending approvals that may be required by county, state or federal agencies or departments, or may approve subject to obtaining such approvals.

### Section 3.35. - Indoor Firearms Shooting Ranges.

Indoor firearms shooting ranges may be constructed as either a principal or accessory use in any Zoning District as a Special Land Use when approved by the Planning Commission in accordance with the requirements of [Chapter 17](#). No such shooting range shall operate without a valid license obtained pursuant to [Chapter 35](#) of the City's Code of Ordinances.

(Ord. No. 529, 3-21-2011)

## CHAPTER 4. - DISTRICTS

## Section 4.01. - Zone Districts.

For the purposes of this Ordinance, the City of North Muskegon is hereby divided into the following Zone Districts:

Zoning Ordinance Chapter	Zoning District Name	District Symbol
5	Low Density Residential	R-1
6	Medium Density Residential	R-2
7	High Density Residential	R-3
8	Manufactured Home Park	MHP
9	Residential—Professional Office	RPO
10	Office Service	OS
11	Neighborhood Service Commercial	NC
12	Central Business District	CBD
13	General Commercial	GC
14	Light Industrial	LI

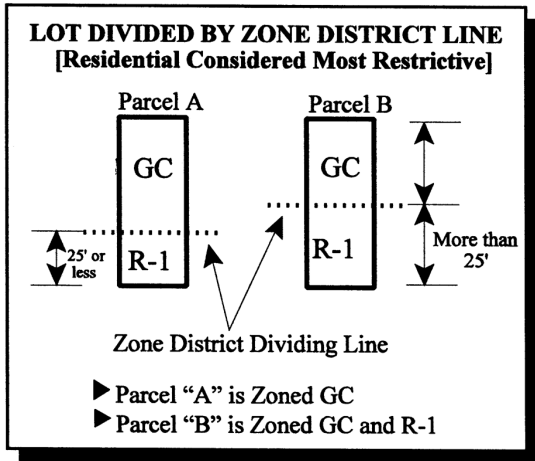
## Section 4.02. - Zone District Map.

- A. *Boundaries.* The boundaries of the districts identified in this Chapter are hereby established as shown on a map entitled "The Zoning Map of the City of North Muskegon, Michigan" which accompanies this Ordinance and is made a part of this Ordinance. Except where referenced on said map to a street line, water body, or other designated line by dimensions shown on said map, the district boundary lines follow lot lines or the center lines of streets or alleys or railroad rights-of-way as they existed at the time of adoption of this Ordinance.

- B. *Boundary Interpretation.* Matters of interpretation concerning the exact location of district boundary lines shall be determined by the Zoning Administrator.

Section 4.03. - Lot Divided by Zone District Boundary Line.

Where a district boundary line, as established in this Ordinance or as shown on the Zoning Map, divides a lot or lots in common ownership and of record at the time of enactment of this Ordinance the least restrictive use shall be considered as extending to the entire lot, if the more restrictive portion of such lot is entirely within twenty-five (25) feet or less of said dividing district boundary line. The use so extended shall be deemed to be conforming. If the more restrictive portion of the lot is not entirely within twenty-five (25) feet of said dividing district boundary line, the various portions of the lot shall be zoned according to the underlying zone district classifications.



LOT DIVIDED BY ZONE DISTRICT LINE

Section 4.04. - Zoning of Annexed Areas.

- A. Whenever any area is annexed into the City of North Muskegon, one of the following rules shall apply:
  1. Land zoned previous to annexation shall be a district of the class to which it most nearly conforms under this Ordinance. The Planning Commission shall recommend the classification to the City Council, who shall determine by resolution the zoning classification into which the property will be placed.
  2. Land not zoned prior to annexation shall be automatically classified as a PUD in a district of the class to which it most nearly conforms under the Ordinance. This shall be determined by the Planning Commission and shall remain in effect until a Zoning Map for the area has been adopted by the City Council. The Planning Commission shall recommend appropriate zoning districts for such area within three (3) months after City Council has referred the matter to the Commission.

Section 4.05. - Zoning of Vacated Areas.

Whenever all or part of a street, alley or other public way is vacated, it shall automatically become a part of the zoning district to which it attaches. If a vacated area is bordered by two (2) different zoning districts, the area is divided along a line half way between them according to the adjacent zone, unless the City Council shall otherwise designate.

Section 4.06. - Zone Districts and District Standards.

Zone districts and district standards are enumerated and described in Chapters 5 through 14.

## CHAPTER 5. - R-1 ZONE DISTRICT LOW DENSITY RESIDENTIAL.

### Section 5.01. - Statement of Purpose.

The R-1 District has been established to provide locations oriented to residential development of a single-family detached character with homes placed in neighborhood settings. Housing density is relatively low and the range of non-residential uses very limited. It is the primary goal of the R-1 District to support and protect single family homes and the residential neighborhoods within which said homes exist or are likely to be constructed.

### Section 5.02. - Principal Permitted Uses.

Land and/or buildings in the R-1 District may be used for the following purposes by right:

- A. Dwellings, single family detached.
- B. Day care, family home.
- C. State licensed residential facility.
- D. Home occupations.
- E. Accessory buildings, structures and uses customarily incidental to a permitted or special land use.

### Section 5.03. - Special Land Uses.

Land and/or buildings in the R-1 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17:

- A. Churches, synagogues, temples, and other similar places of religious worship.
- B. Public and private schools, including nursery schools.
- C. Public and private parks.
- D. Day care, group home.
- E. Nursing or convalescent home.
- F. Planned unit developments.
- G. Cemeteries.
- H. Municipal and public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.

### Section 5.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15.0, "Schedule of District Standards".

## CHAPTER 6. - R-2 ZONE DISTRICT MEDIUM DENSITY RESIDENTIAL

#### Section 6.01. - Statement of Purpose.

The R-2 District recognizes the importance of accommodating a variety of housing types consistent with the needs and demands of the residents. These include two-family housing units and residential facilities oriented to populations with special needs. Certain non-residential uses are also permitted. Due to the variety of potential uses and impact on surrounding development, many of the R-2 Zone District uses are subject to special review and approval.

#### Section 6.02. - Principal Permitted Uses.

Land and/or buildings in the R-2 District may be used for the following purposes by right:

- A. Dwellings, single family detached.
- B. Dwellings, two-family (duplexes).
- C. Day care, family home.
- D. State licensed residential facility.
- E. Home occupations.
- F. Accessory buildings, structures or uses customarily incidental to a permitted or special land use.

#### Section 6.03. - Special Land Uses.

Land and/or buildings in the R-2 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17:

- A. Public and private schools, including nursery schools.
- B. Churches, synagogues, temples, and similar places of religious worship.
- C. Public and private parks.
- D. Bed and breakfast establishments.
- E. Nursing or convalescent homes.
- F. Cemeteries.
- G. Municipal and public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.
- H. Planned unit developments.
- I. Day care, group home.
- J. Short-term rentals limited to twenty-five (25) percent of the leasehold units, regardless of whether leased or not, or habitable space, whichever is less, located on the property and so long as they comply with City Ordinance Section 14-31, et seq. and MCL sec. 141.861.

( Ord. No. 544, § 5, 8-21-2017 )

#### Section 6.04. - Area, Height, Bulk and Placement Requirements.



Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15.0, "Schedule of District Standards."

## CHAPTER 7. - R-3 ZONE DISTRICT HIGH DENSITY RESIDENTIAL

### Section 7.01. - Statement of Purpose.

The R-3 District recognizes the broadest range of housing types and housing density. In addition to single family, the district offers opportunity to place duplexes, apartments, mobile home and manufactured housing parks, and other compatible uses in high quality settings. To ensure compatibility among potential R-3 and surrounding district uses and to ensure that existing public facilities and services are adequate to handle high density development needs, many of the R-3 uses have been classified as Special Land Uses.

### Section 7.02. - Principal Permitted Uses.

Land and/or buildings in the R-3 District may be used for the following purposes by right:

- A. Dwellings, single family detached.
- B. Dwellings, two to four (multiple) family.
- C. Day care, family home.
- D. State licensed residential facility.
- E. Home occupations.
- F. Accessory buildings, structures or uses customarily incidental to a permitted or special land use.

### Section 7.03. - Special Land Uses.

Land and/or buildings in the R-3 District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17:

- A. Day care, group home.
- B. Churches, synagogues, temples, and similar places of religious worship.
- C. Public and private parks.
- D. Bed and breakfast establishments.
- E. Nursing or convalescent homes.
- F. Dwellings, multiple-family possessing in excess of four (4) family dwelling units.
- G. Municipal and public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.
- H. Planned unit developments.
- I. Cemeteries.
- J. Public or private hospitals and schools.
- K.

Short-term rentals limited to twenty-five (25) percent of the leasehold units, regardless of whether leased or not, or habitable space, whichever is less, located on the property and so long as they comply with City Ordinance Chapter 14, Article II, et seq. and MCL sec. 141.861.

( Ord. No. 544, § 6, 8-21-2017 )

#### Section 7.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15.0, "Schedule of District Standards."

### CHAPTER 8. - MHP ZONE DISTRICT MANUFACTURED HOME PARK

#### Section 8.01. - Statement of Purpose.

- A. For the preservation of the interests of various types of residential developments which should be permitted in every community and for the protection of the residents of any manufactured home park development, these regulations are considered to be minimum standards to be applied to all manufactured home park developments in the City of North Muskegon.
- B. All manufactured home parks shall comply with the applicable requirements of Act 419, P.A. 1976, as amended, provided further that said developments meet the standards and conditions and all other provisions as herein established.

#### Section 8.02. - Principal Permitted Uses.

Land and/or buildings in the MHP District may be used for the following purposes by right:

- 1) Manufactured home park.

#### Section 8.03. - Application Procedures.

Application for approval of a manufactured home park shall not be considered by the City until an application for a rezoning has been approved by the City of North Muskegon in accordance with the provisions of this Ordinance. Such application shall be accompanied by a site plan conforming with the provisions and requirements of Chapter 17 of this Ordinance.

#### Section 8.04. - Standards and Regulations.

All manufactured home parks shall be designed and developed in accordance with the following standards and regulations.

- A. Minimum site size for a manufactured home park shall be twenty (20) acres.
- B. Minimum number of manufactured home spaces shall be forty (40). Required streets and utilities shall be completed for at least twenty-five (25) manufactured home spaces along with related improvements before first occupancy.
- C. Each manufactured home park shall have direct access only to a major street or State highway.

D. No access to the site shall be located closer than two hundred (200) feet from any public street intersection. Minimum street widths within the manufactured home park shall be in accordance with the following schedule:

Parking	Direction	Minimum Street Width
No on-street parking	one (1) way	13 feet
	two (2) way	21 feet
Parallel parking one side	one (1) way	21 feet
	two (2) way	31 feet
Parallel parking both sides	one (1) way	34 feet
	two (2) way	40 feet

E. No manufactured home or other building or structure for residential purposes shall be in excess of two and one-half (2½ stories) stories, or in excess of a maximum height of thirty five (35) feet.

F. Each manufactured home lot, exclusive of streets, shall have a minimum size of five thousand (5,000) square feet and a minimum width of forty (40) feet, as measured at the minimum building setback line. No more than one (1) manufactured home shall be parked on any one (1) lot, and no manufactured home shall be occupied by more than one (1) family.

G. All manufactured homes placed on the perimeter of the manufactured home park shall be placed parallel to the manufactured home park roadway from which access to the manufactured home site is gained.

H. The minimum setback between any part of any manufactured home and/or structure permanently or temporarily attached thereto (excluding hitch), or used in conjunction therewith, including, but not by way of limitation, storage sheds, cabanas, and porches shall be:

1. Ten (10) feet from the inside of the sidewalk;
2. Fourteen (14) feet from the rear lot line;
3. Sixteen (16) feet from the side lot line on the entry side; and
4. Ten (10) feet from the side yard on the non-entry side, except that a manufactured home may be placed on the side lot line, provided there is minimum of fifteen (15) feet of open space between said lot line and any other structure or manufactured home, including but not by way of limitation storage sheds, cabanas or porches.

I. Each lot shall front on sidewalks at least four (4) feet in width and parallel to the manufactured home

park street. The sidewalk shall be setback from the street edge at least eighteen (18) inches.

- J. Each lot shall provide a minimum of two (2) off street parking spaces, each of which shall have a paved area of not less than one hundred and eighty (180) square feet (9 feet by 20 feet).
- K. The front, back and side yards of every lot shall be suitably landscaped and properly maintained with lawn area, and there shall be one (1) shade tree, at least ten (10) feet in height provided for each lot.
- L. The manufactured home park shall provide a buffer zone in accordance with the requirements of Chapter 18.
- M. Any buildings associated with the manufactured home park shall have minimum setback from any public street of fifty (50) feet, which shall be properly landscaped with grassed area and maintained by the owner and operator of the manufactured home park.
- N. All streets within the manufactured home park shall be of bituminous aggregate or similar surface meeting AASHTO public street construction specifications, and provided with proper curbing.
- O. The manufactured home park shall contain one (1) or more open space areas intended primarily for the use of park residents on a minimum ratio of two hundred and fifty (250) square feet for every manufactured home lot provided that buffer zone areas shall not be included as part of such requirement.
- P. The manufactured home park shall provide one (1) or more storm shelters of size and capacity so as to accommodate all the residents of the park.
- Q. All street intersections and designated pedestrian crosswalks shall be illuminated by not less than .25 foot candles. All roads, parking bays and pedestrian walkways shall be illuminated by not less than .5 foot candles.
- R. All manufactured homes on the perimeter shall provide at least a 5/12 roof pitch.

#### Section 8.05. - Utility Standards.

The following utility standards shall apply to all manufactured home parks.

- A. All utilities shall be underground.
- B. All lots shall be provided with a public water and sanitary sewer service approved by the City of North Muskegon and other applicable agencies. All manufactured homes shall be connected thereto and all expenses of installation and connection shall be borne by the owner or operator of the manufactured home park, and no costs shall be applied or taxed against owners of any adjacent property or along any main extended from the manufactured home park to the present public sanitary sewer system, unless such adjacent owners shall install a sewer connection to such main.
- C. The manufactured home park shall provide sufficient storm sewer facilities, independent of sanitary sewers, to prevent flooding of either streets or lots within the park in accordance with the requirements of the City of North Muskegon. All storm drainage and surface drainage facilities flowing from the park to adjacent areas shall be approved by the City of North Muskegon.

#### Section 8.06. - Manufactured Home Standards.

- A. Every manufactured home shall be supported on a permanent concrete pad or foundation for at least the width and length of the manufactured home, and four (4) inches thick; and all areas between the trailer and ground shall be enclosed by a fire resistant skirt.
- B. In the event the soil or topographic conditions of the proposed manufactured home park are such that other foundations or support are appropriate, and the developer provides to the Building Inspector a report by a certified engineer that piers are equal to or superior to the specifications as set forth in Subsection 8.06 A., such foundations may be approved by the Building Inspector, provided such construction includes provisions for proper drainage and covering ground under each manufactured home.
- C. Every manufactured home shall be at least twelve (12) feet in width and have a minimum of six hundred (600) square feet of living area exclusive of porches and cabanas.

#### Section 8.07. - Inspection and Permits.

The Building Inspector or such other person designated by the City Council shall have the right to inspect the manufactured home park to determine whether or not the park owners or operators, or any owners or person occupying manufactured homes within the park are in violation of this ordinance, or any other state ordinance or state or governmental regulations covering manufactured home parks affecting the health, safety and welfare of inhabitants, under the following conditions:

- A. The Building Inspector has reasonable cause to believe that the owner or operator, or a resident or owner of a manufactured home in the park is in violation of any part of this or any other municipal ordinance.
- B. That notice of the specific violation has been sent to the owner or operator of the manufactured home park at their last known address, and to the owner or resident of the manufactured home at their last known address as shown on the occupancy permit for said manufactured home, and that the City has not received satisfactory proof or indication that the purported violation is not a violation, or that the purported violation has been corrected within fifteen (15) days from the date of mailing said notice.

#### Section 8.08. - Manufactured Home Sales.

- A. No person desiring to rent a dwelling unit site shall be required, as a condition to such rental, to purchase a manufactured home from the owner or operator of the park, as long as the manufactured home intended to be located on such rented site conforms in size, style, shape, price, etc. as may be required by any reasonable rules and regulations governing the operation of the manufactured home park.
- B. Nothing contained in this Ordinance shall be deemed as prohibiting the sale of a manufactured home lot by the individual owner or his agent, or those home occupations as permitted in the Zoning Ordinance provided such sales and occupations are permitted by the park regulations; and provided further that a commercial manufactured home sales lot shall not be permitted in conjunction with any manufactured home park.

### CHAPTER 9. - RPO DISTRICT RESIDENTIAL PROFESSIONAL OFFICE

#### Section 9.01. - Statement of Purpose.

The RPO district is intended to permit the integration of office or personal service type uses in a residential setting. This District was specifically designed for application to the Lake Avenue corridor extending eastward from Center Street, to Straley Street (extended), where existing residential development is experiencing redevelopment pressures. Among the purposes of the RPO District is the accommodation of a variety of housing types at a moderate density of development, as well as various office uses performing administrative, professional and personal services. The District will serve as a transition zone between the activity of the Lake Avenue thoroughfare and its non-residential uses, and interior residential areas to the north. In order to minimize incompatibility with existing residential development, and to promote a unified, and positive physical image for this critical entry point to the City, all office development shall possess the appearance of a residential facade and character.

#### Section 9.02. - Principal Permitted Uses.

Land and/or buildings in the RPO District may be used for the following purposes by right:

- A. All uses permitted by right in the R-2, Medium Density Residential District.
- B. All uses permitted by right in the OS, Office Service District.

#### Section 9.03. - Special Land Uses.

Land and/or buildings in the RPO District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17:

- A. Special Land Uses as provided for in the R-2 and OS Districts.

#### Section 9.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15.0, "Schedule of District Standards."

### CHAPTER 10. - OS DISTRICT OFFICE SERVICE

#### Section 10.01. - Statement of Purpose.

This District is intended to provide a low intensity office district. Uses within this District will typically generate lower volumes of traffic and may be used as a transition area between residential districts and more intensive districts. These uses will generally be limited in overall size of building and parking area and will present an appearance of a low intensity use, including such features as limited signs, attractive landscaping, and concealed parking areas.

#### Section 10.02. - Principal Permitted Uses.

- A. Land and/or buildings in the OS District may be used for the following purposes by right:

1. Office buildings for any of the following occupations:
  - a. Executive, municipal, administrative, professional, designers, accounting, drafting, and other similar professional activities.
  - b. Medical, optical, dental, pharmaceutical and veterinary offices and clinics, providing services on an outpatient basis.
2. Financial institutions, and other similar uses, excluding those with drive-through facilities.
3. Day care, family and group homes.
4. Mortuaries and funeral homes. Such uses may include a residential dwelling for one (1) family, subject to the minimum floor area requirements of the R-2 District.
5. Nursing or convalescent homes and substance abuse treatment centers.
6. Lodges and private clubs.
7. Public and private parks.
8. Public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.

#### Section 10.03. - Special Land Uses.

- A. Land and/or buildings in the OS District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17:
  1. Personal service establishments conducting services on the premises, such as barber, beauty shops, shoe repair, tailoring and dry cleaning, fitness centers, travel agencies, and other similar uses.
  2. Hospitals, including associated offices and related uses, such as pharmacies, clinics, and other similar uses integral to such use.
  3. Planned unit developments.
  4. Financial institutions, and other similar uses with drive-through facilities.
  5. Public and private schools.
  6. Churches, synagogues, temples, and similar places of religious worship.

#### Section 10.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15, "Schedule of District Standards."

### CHAPTER 11. - NC DISTRICT NEIGHBORHOOD SERVICE COMMERCIAL

#### Section 11.01. - Statement of Purpose.

- A. This District is intended to provide goods and services to residents of neighborhoods near this District. The uses will generally be less intense and more compatible with residential uses than those found in the General Commercial District. These uses will generally be limited in overall size of building and parking area

and will present an appearance of a low intensity use, including such features as limited signs, reduced lighting levels, attractive landscaping, and screened parking areas. This district is intended to promote beneficial pedestrian elements and encourages consolidation of uses. Such consolidation is designed to avoid strip commercial development.

- B. The City Master Plan identifies that the Neighborhood Service zone located on the south side of Lake Street west of the causeway and the NS zone on Ruddiman between 1st and 2nd Streets should not be expanded into any of the residential areas of the city.

#### Section 11.02. - Permitted Uses.

Land and/or buildings in the NC District may be used for the following purposes by right:

- A. Office buildings for any of the following occupations:
1. Executive, administrative, professional, designers, accounting, drafting, and other similar professional activities.
  2. Medical, optical, dental, pharmaceutical and veterinary offices and clinics, providing services on an outpatient basis.
- B. Financial institutions, and other similar uses, including those with drive-through facilities.
- C. Day care, family and group homes.
- D. Nursing or convalescent homes and substance abuse treatment centers.
- E. Restaurants, excluding those with drive through facilities.
- F. Coin operated laundries.
- G. Retail businesses not exceeding ten thousand (10,000) square feet gross floor area conducting business entirely within an enclosed building.
- H. Public and private parks.
- I. Personal service establishments conducting services on the premises, such as barber and beauty shops, shoe repair, tailoring and dry cleaning, photo shops, real estate and insurance agencies, drug and gift stores, fitness centers, travel agencies, and other similar uses.
  - J. Municipal and public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.
- K. Accessory buildings, structures or uses customarily incidental to a permitted or special land use.

#### Section 11.03. - Special Land Uses.

Land and/or buildings in the NC District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17.

- A. Open air businesses.
- B. Recreation centers and entertainment facilities, such as bowling alleys, skating rinks, and other similar uses.
- C. Retail businesses exceeding ten thousand (10,000) square feet gross floor area conducting business entirely within an enclosed building.
- D.



Bed and breakfast inns.

- E. Public and private schools.
- F. Churches, synagogues, temples, and similar places of religious worship.
- G. Mortuaries and funeral homes. Such uses may include a residential dwelling for one (1) family, subject to the minimum floor area requirements of the R-2 District.
- H. Short-term rentals so long as they comply with City Ordinance Chapter 14, Article II, et seq. and MCL sec. 141.861.

( Ord. No. 544, § 7, 8-21-2017 )

Section 11.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15, "Schedule of District Standards."

CHAPTER 12. - CBD DISTRICT CENTRAL BUSINESS DISTRICT—COMMERCIAL

Section 12.01. - Statement of Purpose.

- A. The Central Business District is intended to promote the consolidation of commercial activities in the Four Corners Area by providing for a variety of retail, office, restaurant and entertainment activities within the district. The purpose of this district is to encourage and promote the business use of existing residential buildings within the district and the development and expansion of the four corners area to serve the needs of the surrounding residential area. The Central Business District of the City of North Muskegon is viewed as the older, traditional center of the city, and is characterized by smaller lot sizes, more intense land uses, mixed land uses and higher percentages of lot coverage. This area permits the integration of business activity, services and residential land uses. Business uses should reflect a development theme.
- B. The City Master Plan identifies that the Four Corners Area be developed in a B-2 nature. Due to recent 2nd Story Residential pressures and the amount of lot coverage, the City of North Muskegon created this new zoning classification. The references to this area in the Master Plan remain, but it is no longer considered B-2.

Section 12.02. - Permitted Uses.

Land and/or buildings in the CBD District may be used for the following purposes by right:

- A. Office buildings for any of the following occupations:
  - 1. Executive, administrative, professional, designers, accounting, drafting, and other similar professional activities.
  - 2. Medical, optical, dental, pharmaceutical and veterinary offices and clinics, providing services on an outpatient basis.
- B. Financial institutions, and other similar uses, including those with drive-through facilities.
- C. Day care, family and group homes.

- D. Nursing or convalescent homes and substance abuse treatment centers.
- E. Restaurants, excluding those with drive through facilities.
- F. Coin operated laundries.
- G. Retail businesses not exceeding ten thousand (10,000) square feet gross floor area conducting business entirely within an enclosed building.
- H. Public and private parks.
- I. Personal service establishments conducting services on the premises, such as barber and beauty shops, shoe repair, tailoring and dry cleaning, photo shops, real estate and insurance agencies, drug and gift stores, fitness centers, travel agencies, and other similar uses.
- J. Municipal and public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.
- K. Accessory buildings, structures or uses customarily incidental to a permitted or special land use.

#### Section 12.03. - Special Land Uses.

Land and/or buildings in the NC District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17.

- A. Open air businesses.
- B. Recreation centers and entertainment facilities, such as bowling alleys, skating rinks, and other similar uses.
- C. Retail businesses exceeding ten thousand (10,000) square feet gross floor area conducting business entirely within an enclosed building.
- D. Bed and breakfast inns.
- E. Public and private schools.
- F. Churches, synagogues, temples, and similar places of religious worship.
- G. Mortuaries and funeral homes. Such uses may include a residential dwelling for one (1) family, subject to the minimum floor area requirements of the R-2 District.
- H. Vehicle service station, repair and wash facilities.
- I. Second story residential dwellings subject to note [4] of the Schedule of District Regulations for the R-2 District minus the lot width and area requirements.
- J. Short-term rentals so long as they comply with City Ordinance, Chapter 14, Article II, et seq. and MCL sec. 141.861.

( Ord. No. 544, § 8, 8-21-2017 )

#### Section 12.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15, "Schedule of District Standards."

#### CHAPTER 13. - GENERAL COMMERCIAL (GC) DISTRICT

### Section 13.01. - Statement of Purpose.

The General Commercial (GC) district is intended to provide a wide range of goods and services to residents of North Muskegon as well as the surrounding areas. These uses will generally be more intensive and less compatible with residential uses. These uses will have appropriate signs, adequate lighting levels, attractive landscaping, and convenient parking areas. Special attention will be given to the location of access points and other traffic and pedestrian conditions to ensure that such businesses are operated in a safe and efficient manner. Where possible, access points, parking areas, and other common features will be combined to serve more than one business. Careful consideration will be given to development around the Whitehall Road/M-120 intersection.

### Section 13.02. - Principal Permitted Uses.

Land and/or buildings in the GC District may be used for the following purposes by right:

- A. Office buildings for any of the following occupations:
  - 1. Executive, administrative, professional, designers, accounting, drafting, and other similar professional activities.
  - 2. Medical, optical, dental, pharmaceutical and veterinary offices and clinics, providing services on an outpatient basis.
- B. Financial institutions, and other similar uses, including those with drive-through facilities.
- C. Personal service establishments conducting services on the premises, such as barber and beauty shops, shoe repair, tailoring and dry cleaning, photo shops, real estate and insurance agencies, drug and gift stores, fitness centers, travel agencies, and other similar uses.
- D. Restaurants, excluding those with drive through facilities.
- E. Coin operated laundries.
- F. Retail businesses of less than seventy-five thousand (75,000) square feet gross floor area conducting business entirely within an enclosed building.
- G. Municipal and public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.
- H. Accessory buildings, structures or uses customarily incidental to a permitted or special land use.

### Section 13.03. - Special Land Uses.

Land and/or buildings in the GC District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17:

- A. Open air businesses, including building materials, supplies and similar uses.
- B. Restaurants with drive through facilities.
- C. Recreation centers and entertainment facilities such as bowling alleys, skating rinks, and other similar uses.
- D.

Vehicle service station, repair and wash facilities.

- E. Hotels and motels.
- F. Kennels, commercial.
- G. Retail businesses of greater than seventy-five thousand (75,000) square feet gross floor area within an enclosed building.
- H. Mortuaries and funeral homes. Such uses may include a residential dwelling for one (1) family, subject to the minimum floor area requirements of the R-2 District.
- I. Churches, synagogues, temples, and similar places of religious worship.
- J. Lodges and private clubs.
- K. Nursing or convalescent homes and substance abuse treatment centers.
- L. Public and private schools.
- M. Planned unit developments.
- N. Tattoo, branding and body piercing establishments.

(Ord. No. 537, § 1, 3-16-15)

Section 13.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15, "Schedule of District Standards."

CHAPTER 14. - LI DISTRICT LIGHT INDUSTRIAL

Section 14.01. - Statement of Purpose.

- A. The intent of the LI Light Industrial District is to permit in planned areas of the City, certain industries which are primarily light manufacturing in character and do not create an adverse impact on the environment or pose the probability of creating a heavy demand on public services or utilities. To ensure that industrial uses may be properly integrated with nearby land uses, such as commercial and residential uses, limitations are placed on the degree of acceptable noise, smoke, glare, waste, and other such impacts so as to avoid adverse effects.
- B. Specifics. The City's Master Plan recommends restricting industrial development in many instances and reducing the overall intensity of development in North Muskegon. Industrial development should be restricted to the east end of the City. The Light Industrial District recognizes certain industrial locations which, according to the City's Master Plan, are proposed for eventual transition to non-industrial use. Specifically, the Master Plan recommends that all industrial property west of Whitehall Road be removed from this zoning classification, making it possible for other more suitable uses to occur.
- C. Sites which generally meet the following qualifications may be considered for light industrial development:
  - Adequate road capabilities to manage truck traffic;
  - Sufficient area for parking, loading, screening, and activities; and

- Adequate separation from residential uses to prevent a nuisance.

#### Section 14.02. - Principal Permitted Uses.

Land and/or buildings in the LI District may be used for the following purposes by right:

- A. Light manufacturing and processing industries enclosed entirely within a building, not including the baking or processing of food or food products, processing of organic wastes, or similar activities employing plant or animal products or other goods, materials, or products or procedures likely to result in the off site transmission of odor, dust, light, glare, noise, vibration, or other external impacts of a similar nature. Examples of permitted light industrial uses include the assembly of pre-manufactured electronic, computer, vehicular, communication, furniture, or other such components; fabrication of signs and sheet metal products; production of clothing from pre-manufactured materials; silk screening; commercial and industrial packaging and mailing services; and, delivery services (e.g. United Parcel Service).
- B. Wholesale business and warehousing of new materials and products when enclosed entirely within a building, including refrigerated and general storage.
- C. Moving and storage operations, with no outside storage.
- D. Indoor boat storage facilities.
- E. Research and development facilities, including production activities related to the uses permitted in this Section.
- F. Trade or industrial schools.
- G. Service and repair shops enclosed entirely within a building, except those classified as Special Land Uses.
- H. Municipal and public utility buildings, without storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.
- I. Accessory buildings, structures or uses customarily incidental to a permitted or special land use.

#### Section 14.03. - Special Land Uses.

Land and/or buildings in the LI District may be used for the following purposes when approved by the Planning Commission in accordance with the requirements of Chapter 17:

- A. Light industrial uses having a potential to result in the limited transmission of off-site odor, dust, light, glare, noise, vibration, or other external impacts or those possessing large quantities of explosives, fuels, or other such materials potentially detrimental to surrounding uses and the overall environment unless properly stored and handled. For purposes of this section, large quantities shall mean quantities in excess of one thousand (1,000) gallons for liquid or semi-liquid products and five hundred (500) pounds for dry products. The above light industrial uses may be permitted subject to the provisions of this Ordinance and after demonstration that all potential off-site impacts may be mitigated through appropriate design controls.
- B. Vehicle service stations, repair, wash, rental, and sales.
- C. Adult uses.

- D. Machinery and transportation equipment sales and service.
- E. Heavy equipment rental.
- F. Freight and trucking terminals.
- G. Warehousing of new materials and products involving outside storage.
- H. Moving and storage operations involving outside storage.
  - I. Outdoor boat storage facilities.
  - J. New building materials sales and storage, including building trade contractors and related storage yards.
  - K. Municipal and public utility buildings, including storage yards, but not excluding essential public services such as poles, wires, and underground utility systems.
  - L. Marinas and yacht clubs.
- M. Restaurants, excluding those with drive through facilities.
- N. Public and private parks.
- O. Planned unit developments.

Section 14.04. - Area, Height, Bulk and Placement Requirements.

Area, Height, Bulk and Placement Requirements unless otherwise specified are as provided in Chapter 15, "Schedule of District Standards."

CHAPTER 15. - SCHEDULE OF DISTRICT STANDARDS

Section 15.01. - Schedule of District Standards.

The City of North Muskegon provides the following district standards for principal permitted and special land uses to be used for each zoning district:

	Zone Districts [2,9,11,12—see next page for note comments relating to numbers]								
Standard	R-1	R-2 [3,4]	R-3 [3,4]	RPO [1,3,4]	OS [1]	CBD [1,14]	NC [1]	GC [1]	LI [1]
Minimum Lot Area	8,000 sq. ft. —Resid 10,000 sq. ft. — Other	6,000 sq. ft. Resid 10,000 sq. ft.- Other	6,000 sq. ft. Resid 10,000 sq. ft.- Other	6,000 sq. ft.	6,000 sq. ft.	None required	6,000 sq. ft.	10,000 sq. ft.	15,000 sq. ft.

Minimum Lot Width [8]	65 ft.	60 ft.	70 ft.	60 ft.	65 ft.	60 ft.	65 ft.	75 ft.	100 ft.
Minimum Front Yard [6]	25 ft.	25 ft.	25 ft.	25 ft. [10]	25 ft. [10]	0 ft.	20 ft. [10]	25 ft. [10]	35 ft. [10]
Minimum Side Yard	8 ft.	8 ft. Single detached 10 ft. Other	8 ft. Single detached 10 ft. Two-family 15 ft. Multiple/ other	10 ft.	10 ft.	0 ft.	10 ft.	10 ft.	15 ft.
Minimum Rear Yard	30 ft.	30 ft. Single detached 40 ft. Other	30 ft. Single detached 40 ft. Other	30 ft.	30 ft.	20 ft.	35 ft.	35 ft.	35 ft.
Maximum Building Height	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	50 ft.
Maximum Lot Coverage	35%	40% [5]	40% [5]	40% [5]	40%	90%	40%	35%	40%

Minimum Floor Area [7]	1,000 sq. ft. 1 story 1,300 sq. ft. 1 + story	1,000 sq. ft. 1 story 1,300 sq. ft. 1 + story	1,000 sq. ft. 1 story 1,300 sq. ft. 1 [story]	Resid uses, same as R-2	NA	[4] - for R-2 minus lot requirements	NA	NA	NA
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Notes:

[1] Setbacks: No building or structure shall be less than twenty (20) feet from any residential zoning district boundary lot line. In the case of an Industrial use, no building or structure shall be less than fifty (50) feet from any residential zoning district boundary lot line.

[2] Shoreline: In instances where the property line is farther from the building foundation than a shoreline, the setback shall be measured from the nearest shoreline floodway designation as shown on a Flood Insurance Rate Map (FIRM).

[3] Two-family dwellings: Two-family dwellings shall have a minimum lot area of seven thousand two hundred (7,200) square feet and a minimum lot width of one hundred (100) feet. Two-family dwellings shall have a minimum finished living area of eight hundred (800) square feet of floor area per unit with a minimum of six hundred (600) square feet per unit on the ground floor for units of more than one (1) story. Two-family dwellings shall possess a minimum of 2,000 square feet per building.

[4] Multiple family dwellings: Multiple family dwellings shall have a minimum lot area of twelve thousand (12,000) square feet and a minimum lot width of one hundred (100) feet. In addition, the minimum finished living areas for the following bedrooms: 1. One bedroom - 800 square feet in the R-2 and 600 square feet in the R-3; 2. Two bedroom - 800 square feet; 3. Three bedroom - 1,000 square feet  
The maximum density per acre permitted in R-2 and R-3 Districts is as follows: 1. R-2 - Eight (8) units per acre; 2. R-3 Twelve (12) units per acre.

[5] Building separation: There shall be a minimum distance of twenty-five (25) feet between ends of continuous buildings.

[6] Refers to setback from public street right-of-ways.

[7] Minimum Floor Area: exclusive of basements, garages, porches and breezeways.



[8] Cul-de-sacs and Irregular shaped lots: A lot on a cul-de-sac and irregular shaped lots with nonparallel side lot lines shall have frontage which is not less than 75% of the minimum lot frontage required for the zoning district in which it is located.

[9] Commercial Trash Dumpsters: Commercial trash dumpsters shall be enclosed by a sight obscuring structure on all sides and shall not be located in the front yard.

[10] Front Yard: Except for necessary drives and walks, the front yard, for a depth of twenty (20) feet, shall be landscaped and shall not be used for parking. Loading, storage and accessory structures shall not be permitted in any front yard. Outdoor storage may be permitted, if located in the rear yard and screened from adjoining properties by a sight obscuring fence, wall or landscaping.

[11] Permitted Height: No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established for each District, except that the following buildings and structures shall be exempt from height regulations in all districts: structures for the housing of elevators, stairways, tanks, and necessary mechanical appurtenances, and fire or parapet walls, fire towers, silos, stacks, cooling towers, monuments, cupolas, domes, spires, skylights, flagpoles, chimneys, smokestacks, electrical transmission towers, water tanks, or similar structures.

[12] Projections into Yards: Architectural features (include cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative structural ornaments) not including vertical projections, may extend or project into a required side yard not more than two (2) inches for each one (1) foot of width of such side yard and may extend or project into a required front yard or rear yard not more than three (3) feet. An unenclosed porch, paved patio, or terrace may project into a required front yard or rear yard for a district not to exceed eight (8) feet.

[13] Second Story Residential: Second Story Residential dwelling units shall not exceed four units per principal structure.

[14] Boat Slips: Boat slips for non commercial uses are permitted accessory uses in residential districts. This includes necessary boat lifts, but does not include an accessory building attached to the boat slip such as a boat house. Boat houses will need to follow the accessory building related portions of this Ordinance.

### Section 16.01. - Intent and Purpose.

It is the purpose of this Chapter to require site plan review approval for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, environmental quality, traffic patterns and the character of future development in the vicinity. It is typical for applicants to request that a planning commission accept a "napkin" type site plan drawing for site plan approval. Unfortunately, it is difficult to use informal methods as a proper way of providing for the health, safety and welfare of City residents. The City Council and Planning Commission realize that suitable site plans require an applicant to spend some time and money. It is the City's belief that the end result of suitable site plan development will allow plans to be properly reviewed for health, safety and welfare issues. In addition, many problems are often averted that may have cost the applicant and community additional time, energy and money.

The requirements for site plans in this Chapter are intended to reduce hazards to life and property due to fire, flooding, soil erosion, inadequate surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise, vibration, noxious odors, and other hazards; and to facilitate the provision of a system of roads, streets, parking, municipal sewage disposal, storm sewers, municipal water supply, public education, and other public needs. These requirements are further intended to promote orderly development and harmonious design in order to conserve the value of existing development and property.

### Section 16.02. - Uses Subject to Site Plan Review.

- A. A Building Permit for any proposed use or building requiring a site plan shall not be issued until a Final Site Plan has been reviewed and approved in accordance with the requirements of this Chapter.
- B. A Final Site Plan approved by the Planning Commission shall be required under the following conditions:
  - 1. All uses Permitted by Special Land Use.
  - 2. All uses required by this Ordinance to provide more than five (5) new off-street parking spaces or one (1) or more loading spaces.
  - 3. Developments of more than one (1) main building or use on a single lot or parcel, submitted as a site condominium.
  - 4. For any use which, in the opinion of the Zoning Administrator, should be reviewed by the Planning Commission for site plan approval because of the intensity of development proposed and potential effects on properties in the general vicinity.
- C. Uses not requiring formal site plan review. The uses listed below do not require Planning Commission site plan review and approval. The uses listed below require site plan review and approval only by the Zoning Administrator.
  - 1. Single and two-family dwellings (unless submitted as a site condominium under the provisions of [subsection] B.3., above)
  - 2. State licensed residential family care facilities.
  - 3. Day care, family homes.
  - 4. Accessory uses or structures.
  - 5. Home occupations.

6. All other uses not provided for in subsection B. above.

Section 16.03. - Procedure for Site Plan Review.

A. *Application Procedures.*

1. *[Generally.]* An application for Site Plan Review shall be submitted to the zoning administrator at least thirty (30) days prior to the next planning commission meeting. If the zoning administrator deems that the application is complete per the requirements of Subsection 16.03 A.2. then the plans will be reviewed and submitted to the Planning Commission for their consideration. The zoning administrator has the ability to reduce or extend the thirty (30) day period if it is deemed appropriate (i.e. - the submitted site plan is very basic and review can be performed in less than thirty (30) days or the site plan requires additional time due to the high level of detail and size of the project).
2. *Application Requirements.* An application for either a Preliminary or Final Site Plan Review shall consist of the following:
  - a. A completed application form, as provided by the City. The application shall be signed by an owner of, or person having an interest in the property to be developed, or an authorized representative.
  - b. A suitable number of copies of the Preliminary or Final Site Plan at a scale drawing of not less than 1 inch = 40 feet for parcels less than three (3) acres and 1 inch = 100 feet for parcels three (3) acres or more.
  - c. Payment of a fee, in accordance with a fee schedule, as determined periodically by a City Council resolution.
  - d. A legal description, including the permanent parcel number, of the subject property.
  - e. Other materials as may be required in this Chapter, by the Zoning Administrator or by the Planning Commission.
3. *Incomplete Applications.* An application shall not be accepted until all required materials are provided. Incomplete applications shall be returned to the applicant with an indication of the items necessary to make up a complete application.

B. *Preliminary Site Plan Review Procedures.*

1. *Optional Preliminary Plan.* If desired by the applicant, a Preliminary Site Plan may be submitted to the Planning Commission for review prior to Final Site Plan review. The purpose of the Preliminary Site Plan Review is to allow discussion between the applicant and the Commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs which may be necessary for the review of the Final Site Plan.
2. *Applicant Preliminary Site Plan Requirements.* Preliminary Site Plans shall include the following, unless deemed unnecessary by the Zoning Administrator or the Planning Commission.
  - a. Small scale sketch of an area within one quarter (¼) mile of the subject property showing the property location.
  - b. Existing adjacent streets and proposed streets and existing curb cuts within one hundred (100) feet of the property.
  - c. All lot lines with dimensions.

- d. Parking lots (including required parking calculations) and access points.
  - e. Proposed buffer strips or screening.
  - f. Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, flood plains, hills, and other significant natural features.
  - g. Location of any signs not attached to the building.
  - h. Existing and proposed buildings, including existing buildings or structures within one hundred (100) feet of the boundaries of the property.
  - i. General topographical features including contour intervals no greater than five (5) feet.
  - j. Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.
  - k. Dwelling unit densities by type, if applicable.
  - l. Proposed method of providing sewer and water service, as well as other public and private utilities.
  - m. Proposed method of providing storm water management.
3. *Recommendations to Applicant by Planning Commission.* The Commission shall review the Preliminary Site Plan and make such recommendations to the applicant that will cause the Plan to be in conformance with the review standards required by this Chapter and this Ordinance.
  4. *Additional Site Plan Material.* The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.
- C. *Final Site Plan Review Procedures.*
1. *Approval Actions by Planning Commission.* A Final Site Plan, including those provided in conjunction with a Special Land Use request, shall be reviewed by the Planning Commission. The Planning Commission shall approve, approve with conditions, or deny the site plan, stating the reasons (use the Standards provided in Section 16.04) for such action in the Planning Commission minutes.
  2. *Applicant Final Site Plan Requirements.* Final Site Plans shall include the following information, unless deemed unnecessary by the Zoning Administrator or the Planning Commission:
    - a. Small scale sketch of an area within one quarter ( $\frac{1}{4}$ ) mile of the subject property showing the property location.
    - b. Date of preparation/revision.
    - c. Name, address, and professional seal of the preparer.
    - d. The topography of the site at a minimum of two (2) foot intervals and its relationship to adjoining land.
    - e. Existing man-made features.
    - f. Dimensions of setbacks, locations, heights and size of buildings and structures, including the locations of existing buildings or structures within one hundred (100) feet of the boundaries of the property.

- g. Street rights-of-ways, indicating proposed access routes, internal circulation, relationship to existing rights-of-ways, and curb cuts within one hundred (100) feet of the property.
  - h. Proposed grading.
  - i. Location, sizes, and type of drainage, sanitary sewers, water services, storm sewers, and fire hydrants.
  - j. Location, sizes, and type of fences, landscaping, buffer strips, and screening.
  - k. Location, sizes, and type of signs and on-site lighting, including information regarding lighting levels at the edges of the site.
  - l. Proposed parking areas and drives. Parking areas shall be designated by lines showing individual spaces and shall conform with the provisions of the Chapter on Parking.
  - m. Any public and private easements.
  - n. Dimensions and number of proposed lots.
  - o. Significant natural features, and other natural characteristics, including but not limited to open space, stands of trees, flood plains, lakes, and other significant natural features.
  - p. Building elevations, where required to ensure compliance with the requirements of Chapter 18.6.
3. *Additional Site Plan Material.* The Planning Commission may request from the applicant any additional graphics or written materials, prepared by a qualified person or persons, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.
4. *Staff, Professionals, Agency Reviews.* Prior to the planning commission taking action on an applicant's final site plan, the zoning administrator and/or planning commission may have City staff, support professionals or governmental agencies provide reviews on the plans. Reviews may also be placed as a condition of approval (i.e. - wetland mitigation approval by a state agency). The City Council may establish an escrow policy to recover reasonable and necessary costs for reviews related to a proposed site plan.

#### Section 16.04. - Standards for Site Plan Approval.

- A. *Planning Commission—Final Site Plan Compliance Requirements.* The Planning Commission in making its determination shall review the Final Site Plan and find the following prior to approval:
- 1. Compliance with the requirements of this Ordinance and other applicable City Ordinances.
  - 2. Compliance with any applicable comments received from reviewing City officials, support professionals or public agencies.
  - 3. Compliance with other applicable state and federal statutes and standards.
- B. *Planning Commission—Final Site Plan Approval Standards.* In reviewing an application for Final Site Plan Review, the following standards shall be met:
- 1. *Surrounding Development.* The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.
  - 2.

*Vehicular and Pedestrian Movement.* All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sites. Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.

3. *Street Access.* Every structure or dwelling unit shall have access to a private street, public street, walkway or other areas dedicated to common use. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within and around the City of North Muskegon.
4. *Surface Water.* Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties, the surrounding lakes, the City, or the County's storm drainage system. Provisions shall be made for the construction of storm sewer facilities including grading, gutters, piping and treatment of turf to handle storm water, prevent erosion and the formation of dust. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicle or pedestrian traffic or create standing water in paved areas. General purpose floor drains shall only be allowed if they are approved by the City's Department of Public Works for a connection to a public sewer system, an on-site closed holding tank (not a septic system) or regulated through a State of Michigan groundwater discharge permit.
5. *Hazardous substances.* Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substances. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without permits and approvals.
6. *Natural Features.* Removal or alteration of significant natural features shall be restricted to those areas which are reasonably necessary to develop the site in accordance with the requirements of this Ordinance. The Planning Commission may require that landscaping, buffers, and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

Section 16.05. - Approved Plans and Amendments.

- A. *Signed Approved Plans.* Upon approval of the Final Site Plan, the Planning Commission Chair, or the Chair's designee, shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the City's files; one (1) copy of the Final Site Plan shall be forwarded to the Building Official for issuance of a building permit; and one (1) copy shall be returned to the applicant.
- B. *Time Extensions.* Each development shall be under construction within one (1) year after the date of approval of the Final Site Plan, except as noted in this Section.
  1. An applicant may request from the Planning Commission one (1) six (6) month extension of the Final Site Plan approval. Any request for extension must be applied for in writing prior to the date of the expiration of the Final Site Plan. Such request may only be granted provided that:

- a. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
  - b. The site plan requirements and standards, including those of the Zoning Ordinance, that are reasonably related to said development have not changed.
2. Should neither of the provisions of Subsection 16.05 B. be fulfilled, or a six (6) month extension has expired without construction having been started and proceeding meaningfully, the Final Site Plan approval shall be null and void.
- C. *Final Site Plan Amendments.* Amendments to an approved Final Site Plan may occur only under the following circumstances:
1. The holder of a valid Final Site Plan approval shall notify the Zoning Administrator of any proposed amendment to such approved site plan.
  2. Minor changes may be approved by the Zoning Administrator upon certification in writing to the Planning Commission that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the Planning Commission. The Zoning Administrator shall consider the following to be a minor change:
    - a. Reduction of the size of any building and/or sign.
    - b. Movement of buildings and/or signs by no more than ten (10) feet, provided that such movement does not cause a violation of this Ordinance.
    - c. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
    - d. Changes in floor plans which do not alter the character of the use or increase the amount of required parking.
    - e. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
    - f. Changes required or requested by the City as it relates to their roads within the City or a Muskegon County department for safety reasons.
  3. Should the Zoning Administrator determine that the requested modification to the approved Final Site Plan is not minor, a new site plan shall be submitted and reviewed as required by this Chapter.
- D. *Certification of Compliance.* At final inspection or at other appropriate times the Zoning Administrator shall certify whether all conditions and other requirements of the Planning Commission in its approval of the Final Site Plan have been fulfilled.

#### Section 16.06. - Appeal of Decisions.

A person aggrieved by the decision of the Planning Commission with respect to an action regarding the Final Site Plan may have that decision reviewed by the Board of Zoning Appeals; provided the petition for appeal is filed with the City Clerk within fifteen (15) days of the Planning Commission decision.

#### CHAPTER 17. - SPECIAL LAND USES

### Section 17.01. - Application Procedures.

Application for a special land use permit shall be made to the Zoning Administrator and shall include the following:

- A. A suitable number of copies of a site plan as determined by the zoning administrator containing the information required by Subsection 16.01 D.2.
- B. A completed application form.
- C. Payment of an application fee, which shall be non-refundable, as established from time to time by resolution of the City Council.

### Section 17.02. - Notification, Hearing and Review Procedures.

- A. After receiving an application for a special land use permit, the Zoning Administrator shall advertise for a special land use public hearing, in accordance with the requirements of the City and Village Zoning Act, as follows:
  1. The notice of public hearing shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet, except that the notice shall be given not less than five (5), and not more than fifteen (15) days before the application will be considered.
  2. If the name of the occupant is not known, the term "occupant" may be used in making notification. If a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, business or organizations, one (1) occupant of each dwelling unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
  3. The notice shall:
    - a. Describe the nature of the special use request.
    - b. Indicate the property that is the subject of the request.
    - c. State when and where the request will be considered.
    - d. Indicate when and where written comments will be received concerning the request.
- B. Following public notification, the Planning Commission shall hold a public hearing on the special land use permit application.
- C. The Planning Commission may approve, approve with conditions, or deny the special land use permit request, based upon review and consideration of materials submitted with the application, comments received at the public hearing, and the applicable standards of this Chapter.

### Section 17.03. - General Standards for Approval.



- A. The Planning Commission (for City Council as may be required by Section 17.04) shall approve, or approve with conditions, a special land use permit request only upon a finding that all of the following general standards for approval are satisfied:
1. The use is designed and constructed, and will be operated and maintained, so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will be compatible with adjacent uses of land, and will not change the essential character of the area in which it is proposed.
  2. The use is, or will be as a result of the special land use permit, served adequately by public services and facilities, including, but not limited to streets, police and fire protection, drainage structures, refuse disposal, water and sewer facilities and schools.
  3. The use does not involve activities, processes, materials and equipment or conditions of operation that will have significant impact to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
  4. The use will be compatible with the natural environment and will be designed to encourage conservation of natural resources and energy.
  5. The site plan proposed for such use demonstrates compliance with the special land use specific design standards contained in Section 17.06 and all other applicable requirements of this Ordinance.
  6. If proposed in a residential district, the use will be compatible with the surrounding residential neighborhood, and the scale, density, or bulk of the use will be consistent with neighborhood character. Demolition of existing residential buildings in good repair is presumed to be inconsistent with maintaining the residential character of the city.
- B. The basis of the decision and any conditions imposed shall be included in the decision of the Planning Commission or the City Council. The decision and statement of conclusions, including conditions imposed on any approval, shall be kept and made a part of the minutes of the Planning Commission or City Council.

#### Section 17.04. - Conditions of Approval.

Due to the potential objectionable, detrimental or sensitive nature of certain special land uses, a two-tiered classification system shall be used to provide additional safeguards prior to special land use approval. All special land uses shall be considered Level 1 unless otherwise classified as Level 2. The major difference between the two-tier classification system is the approving authority. Level 2 special land uses require City Council approval after receipt of a recommendation by the Planning Commission. A public hearing is not necessary, but is optional by the City Council. If a hearing is held, notice will be as in Section 17.02. Planned Unit Developments approved as a special land use are excluded from the tiered system and shall be considered as described in the [Subsection] 17.06 R.

- A. Level 1—Special Land Uses (only Planning Commission approval necessary):
1. The Planning Commission may impose reasonable conditions in conjunction with approval of a special land use permit which are deemed necessary to ensure compliance with the general standards for approval in Section 17.03 and the Specific Design Standards of Section 17.06.
  2. Conditions shall be imposed in a manner in accordance with the City and Village Zoning Act.
- B. Level 2—Special Land Uses (Planning Commission recommendation, City Council approval):

1. The Planning Commission may recommend reasonable conditions in conjunction with recommended approval of a special land use permit which are deemed necessary to ensure compliance with the general standards for approval in Section 17.03 and the Specific Design Standards of Section 17.06. If denial is recommended, the Planning Commission shall state the reasons for such recommendation.
2. Conditions shall be recommended in a manner in accordance with the City and Village Zoning Act.
3. Upon recommendation of a special land use from the Planning Commission, the City Council may impose additional reasonable conditions in conjunction with approval of a special land use permit.

Section 17.05. - Approval Term and Expiration.

A special land use permit, including conditions imposed, is attached to, and shall run with the land for which the permit is granted, and shall be binding upon subsequent owners and all occupants of the subject land.

- A. An approved special land use shall either be under substantial construction or in operation within one (1) year after the date of approval of the Special Land Use, except as noted below:
  1. The Planning Commission may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.
  2. If the above provisions are not fulfilled or the extension has expired prior to substantial construction, the special use approval shall become null and void.
- B. The Planning Commission shall have the authority to revoke any special land use approval after it has been shown, after a public hearing, that the holder of the approval has failed to comply with any of the applicable requirements in this Chapter, other applicable provisions of this Ordinance or conditions of the special land use approval.

Section 17.06. - Special Land Use Specific Design Standards.

The following special land uses shall be subject to the requirements of the District in which located, in addition to all the applicable conditions, standards, and regulations as are cited in this Section. The following uses have such conditions, standards, or regulations:

- A. *Adult uses (Level 2 Special Land Use).*
  1. The lot or parcel on which the use is located shall not be closer than seven hundred fifty (750) feet from any residential use or zoning district, school, or church, measured from lot line to lot line.
  2. The use is not located within a five hundred (500) foot radius of any two (2) other such uses, measured from lot line to lot line.
  3. Any sign or signs proposed for the adult use business must comply with the requirements of this Ordinance, and shall not include photographs, silhouettes, drawings, or pictorial representations of any type, not include any animated illumination or flashing illumination.
  4. No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or property.

5. No adult use shall be open for business prior to 10:00 a.m., not after 10:00 p.m. However employees or other agents, or contractors of the business are permitted to be on the premises at other hours for legitimate business purposes such as maintenance, clean-up, preparation, record keeping and other similar purposes.
  6. For massage parlors, all persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a School of Massage Therapy that is certified by the State of Michigan.
- B. Banks, credit unions, savings and loan associations, and other similar uses, as determined by the Zoning Administrator, having drive-through facilities.
1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public street right-of-way. A minimum of four (4) stacking spaces for each drive-through teller operation, whether personal or automatic, shall be provided.
  2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
  3. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
- C. *Bed and breakfast establishments.*
1. Parking shall be located to minimize negative impacts on adjacent properties. Off-street parking shall be provided at a minimum ratio of two (2) spaces for the bed and breakfast, plus one (1) for each permitted guest room. No parking shall be permitted in the required front yard and no parking area shall be lighted, except for the use of typical residential lights, excluding flood lights that may shine light onto adjacent properties.
  2. The number of guest rooms in the establishment shall not exceed three (3), plus one (1) additional guest room for each three thousand (3,000) square feet or fraction thereof by which the lot area of the use exceeds twelve thousand six hundred (12,600) square feet, not to exceed six (6) guest rooms in any case.
  3. Exterior refuse storage facilities beyond what might normally be expected for a single family detached dwelling shall be prohibited.
  4. Signs for a bed and breakfast establishment shall comply with the requirements of the zone district in which the use is located.
  5. The establishment shall contain the principal residence of the operator.
  6. If located in a residential district, accessory retail or service uses to a bed-and-breakfast establishment shall be prohibited, including but not limited to gift shops, antique shops, restaurants, bakeries, and so forth.
  7. Meals shall be served only to the operator's family, employees, and overnight guests.
- D. *Churches.*
1. The purpose of these requirements is to integrate churches into the fabric of the City's neighborhoods, but not at the expense of the residential character of those areas. Therefore, the scale of the church related buildings, parking lots, and related accessory uses shall be compatible

with abutting homes and in character with the surrounding neighborhood. It is typical to find a library, small Christian bookstore open during service times, and church office as related uses.

2. The minimum lot area shall be one (1) acre, unless located in the CBD.
3. The minimum lot width shall be one hundred fifty (150) feet.
4. At least one (1) property line shall abut and have access to a major street.
5. To the extent possible, shared parking arrangements should be employed with other uses in the vicinity, consistent with Subsection 16.03 A.1., to minimize the number of spaces provided on the church property.
6. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.

E. *Commercial storage warehouses.*

1. Minimum lot area shall be two (2) acres.
2. An office for security personnel or operator may be permitted on the premises.
3. Parking and circulation:
  - a. One parking space shall be provided for each ten (10) storage cubicles, and shall be equally distributed throughout the site. One (1) additional parking space per twenty (20) storage cubicles, up to a maximum of ten (10) spaces, shall be located adjacent to the rental office for the use of customers.
  - b. Two (2) parking spaces shall also be required for the security or operator's office located on the premises.
  - c. All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.

F. *Funeral homes and mortuary establishments.*

1. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.
2. Minimum lot area shall be one (1) acre and minimum lot width shall be one hundred and fifty (150) feet.
3. An off-street vehicle assembly area shall be provided to be used in support of funeral processions and activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
4. No waiting lines of vehicles shall extend off-site or onto any public street.
5. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.

G. *Group day care homes.*

1. The dwelling's exterior and property shall be maintained in a manner that is compatible with the surrounding area and does not change the residential character of the neighborhood. No sign shall be permitted and no evidence of the day care facility shall be visible from any street or adjoining property.
- 2.

The lot shall contain the minimum area required for the district, plus one thousand eight hundred (1,800) square feet.

3. An outdoor play area of at least one thousand eight hundred (1,800) square feet shall be provided in the rear yard. Such play area and any other outdoor areas accessible to children shall be completely enclosed with a fence at least four (4) feet high, but not more than six (6) feet high.
4. The day care operation shall be restricted to Monday through Friday only and between the hours of 7:00 a.m. and 6:00 p.m.
5. No group day care facility shall be established within one thousand five hundred (1,500) feet of any existing group day care home.
6. The facility shall comply with all other applicable State licensing regulations.

H. *Hotels and motels.*

1. Minimum lot area shall be two (2) acres and minimum lot width shall be two hundred fifty (250) feet.
2. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setback of ten (10) feet.
3. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
4. Lighting for parking areas or outdoor activity areas shall be shielded to prevent light from spilling onto any residential district or use.

I. *Kennels.*

1. For kennels, the minimum lot size shall be one (1) acre.
2. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than one hundred (100) feet to any residential district boundary and shall not be located within any required yard area.
3. Outdoor runs, pens, and/or exercise areas adjacent to residential districts shall be screened with a six (6) foot high fence. Suitable shade, including landscaped vegetation shall be provided around these outdoor areas.
4. All indoor and outdoor kennel areas, runs, pens, and/or exercise areas shall be maintained to create safe and suitable environments for animals, including the daily elimination of animal waste.

J. *Lumber and planing mills.*

1. The principal and accessory buildings and structures shall not be located within three hundred (300) feet of any residential use or district property line.
2. Dust and noise control measures shall be provided to minimize impacts to employees, visitors and neighboring properties.

K. *Lumberyards.*

1. The lot area used for parking, display, or storage shall be paved, graded and drained so as to dispose of all surface water.
2. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
- 3.

Materials stored within ten (10) feet of the property line of the use may be stacked to a height not exceeding ten (10) feet. Storage materials at a greater distance than ten (10) feet from the property line may not exceed fifteen (15) feet in height

4. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.
- L. Manufacture, compounding, processing, packaging, or treatment of products requiring stamping or punch press operations.
1. The principal and accessory buildings and structures shall be located at least three hundred (300) feet from any residential use or district property line.
- M. *Manufacture of corrosive acid or alkali, cement, lime, gypsum, or plaster of paris (Level 2—Special Land Use).*
1. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
  2. The principal and accessory buildings and structures, shall not be located within one thousand (1,000) feet of any residential use or district.
- N. *Metal plating, buffing, and polishing (Level 2—Special Land Use).*
1. The principal and accessory buildings and structures shall not be located within three hundred (300) feet of any residential use or district property line.
  2. All systems shall be properly permitted, maintained and operated, including compliance with Michigan Department of Environmental Quality requirements for solid waste discharges to the sewer system.
- O. *Open air businesses.*
1. The lot area used for parking, display, or storage shall be paved, graded and drained so as to dispose of all surface water.
  2. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
  3. Lighting for parking and outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use property line.
  4. Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
- P. *Outdoor storage, display, and sale of farm implements and commercial construction equipment.*
1. The lot area used for parking, display, or storage shall be paved, graded and drained so as to dispose of all surface water.
  2. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
  3. Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use.
  - 4.

Any display materials or equipment stored or displayed outside of an enclosed building shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.

Q. *Outdoor storage yards.*

- A. All outdoor storage in the LI District shall only be located in the rear yard. Outdoor storage in the GC District shall only be located in the rear or side yard. All outdoor storage areas shall be fenced with a six (6) foot high chain link fence, screen wall, or equivalent.
- B. All outdoor storage yards shall be paved.
- C. Screening of outdoor storage yards shall be provided along all property lines in accordance with the requirements of subsection 16.2 D.
- D. Outdoor storage yards shall only be permitted in conjunction with a principal use on the property.
- E. Flammable or explosive liquids, solids, or gases shall be stored only in bulk above ground and underground in amounts not to exceed three hundred (300) gallons or six (6) cubic yards.

R. *Planned unit development.*

1. *Intent.* Planned Unit Developments are promoted as special land uses in North Muskegon as a way for the City to encourage high quality development with an emphasis on enhanced architectural and site design, landscaping, pedestrian, motorized and nonmotorized activities. In creating a "win-win" situation, the developer may expect a cooperative working relationship with the City by receiving relief from typical zoning ordinance standards, such as setbacks and parking requirements.

Planned Unit Developments (PUDs) may be established as a special land use when approved by the City Council in accordance with the procedures specified herein. It is the intent of this District to provide for flexibility in the regulation of land development; to encourage innovation in land use and variety in design, layout, and type of structures; to achieve economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities; to encourage useful open space; and to create better living, working, and shopping environments. In order to accomplish these objectives, this provision permits the relaxation of the conventional requirements found in the zoning districts. The use of land and the construction and use of buildings and other structures as Planned Unit Developments shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this Section.

2. *Qualifying Conditions.* Any development which fails to meet the following qualifying conditions, at a minimum, shall not be considered for a special land use:
  - a. The PUD site shall not be less than three (3) acres of fully contiguous property not separated by a public road, railroad, or other such feature or barrier. The Planning Commission may consider a PUD on lesser acreage if it is clear that the proposed PUD substantially promotes the intent of a PUD as stated above. In addition, the Planning Commission may use the same intent section of the Zoning Ordinance when considering a PUD with property that may be separated by a public road, railroad, or other such feature or barrier e.g. - If the applicant owned property on the north and south sides of Ruddiman Street, the applicant would need to prove why the separation would not restrict their ability to develop a cohesive PUD.
  - b. All PUD's shall be served by public water and sanitary sewer facilities.

- c. The tract of land for which a PUD application is received must be either in one ownership, filed jointly by the owners of all properties or through option agreements relating to the property in question.
  - d. The PUD must provide for integrated, safe and abundant pedestrian access and movement within the PUD and to adjacent properties.
  - e. The PUD should provide for coordinated and innovative architectural styles, building forms and building relationships.
  - f. The PUD should provide for enhanced landscaping within the development. Examples include efforts to preserve the natural landscape, tree lined streets, decorative landscaping around structures and focal landscape areas.
  - g. Open Space Requirements:
    1. The PUD development shall contain usable open space in an amount equal to at least twenty (20) percent of the total PUD site. The Planning Commission may consider a PUD with a lesser amount of open space if it is clear that the proposed PUD substantially promotes for the intent of a PUD as stated in above. It is noted that open space is a very important element of a PUD and reductions to the open space provision should be granted only as a result of specific, clearly documented reasons.
    2. Useable open space shall not include required yards or buffers, parking areas, drives, rights-of-way, utility or road easements, storm water detention ponds, and structures.
    3. Such open space shall be permanently set aside for the benefit, use, and enjoyment of present and future occupants of the PUD through covenant, deed restriction, open space easement, or similar legal instrument acceptable to the City; or, if agreed to by the City Council, the open space may be conveyed to the City for the use of the general public.
3. *Permitted Uses.*
- a. Any permitted or special land uses otherwise allowed in the existing District(s) in which the PUD is to be located may be approved within a PUD. A mixed use PUD may be allowed in a R-2 or R-3 district allowing for commercial uses that relate to the project in an amount not-to-exceed 15%. At least 30% of the residential uses in the PUD would need to be provided prior to developing the commercial portion of a mixed use PUD. In a mixed use PUD, the applicant must demonstrate that the proposed use would enhance the development and be comparable with surrounding and nearby uses.
4. *Pre-Application Conference.*
- a. Upon request to the Zoning Administrator, a pre-application conference may be held with the City of North Muskegon for the purpose of exchanging information, providing guidance to the applicant and determining the eligibility of the request for consideration as a PUD.
  - b. As part of the pre-application conference, the applicant shall submit copies of a conceptual plan, at a reasonable time period in advance of the pre-application conference, which shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation, and land use for the entire site.



- c. The City shall advise the applicant of the conformance of the PUD concept with the intent and objectives of a PUD in the City of North Muskegon, whether it meets the qualifying conditions listed above. No formal action will be taken at a pre-application conference nor will statements made at the pre-application conference be considered legally binding commitments by any party.
5. *PUD Application.*
- a. Following the pre-application conference, applicants seeking approval of a PUD District shall submit a complete application for review to the Zoning Administrator who shall schedule a date and time for a public hearing and Planning Commission review. Such application shall include the following:
    1. A completed application form, supplied by the Zoning Administrator.
    2. Payment of a fee, as established by the City Council.
    3. A narrative statement describing:
      - i. The objectives of the PUD and how it relates to the intent of the PUD District, as described above.
      - ii. Phases of development and approximate time frame for each phase.
      - iii. Proposed deed restrictions, covenants, or similar legal instruments to be used within the PUD.
      - iv. Anticipated start and completion of construction, including future phases is a multi-phased PUD.
      - v. Location, type, and size of areas to be dedicated for common open space.
    4. Sufficient copies of a preliminary development plan shall be provided to the Zoning Administrator. If the PUD is to be developed in phases, the preliminary development plan shall show all phases. The preliminary plan shall contain the same information required in Chapter 16, under Site Plan Review Procedures, Subsection 16.03 B.1.b
    5. Upon receipt of an application for PUD approval, the Zoning Administrator shall cause notice to be given, in accordance with the requirements of this Chapter.
6. *Planning Commission Recommendation.*
- a. Following notice, the Planning Commission shall hold a public hearing on the proposed PUD special land use, for the purpose of receiving public comment on the application.
  - b. Following the public hearing, the Planning Commission shall review the PUD request and preliminary development plan based on the conformance with the Standards for Approval listed in Subsection 17.06 R.10. and shall approve, approve with conditions, or deny the PUD special land use. If the proposed PUD is a mixed use PUD containing uses that are not permitted in the underlying district, then it shall be considered as a Level 2 PUD and shall require Planning Commission recommendation to the City Council.
7. *City Council Action.*
- a. After receiving the recommendation of the Planning Commission, the City Council shall review the application package, preliminary development plan, the record of the Planning Commission

proceedings and the recommendation.

- b. The Council shall then approve, approve with conditions, or deny the proposed PUD special land use.
8. *Final Development Plan Application.*
- a. Within twelve (12) months of the City Council's approval of the PUD, including the preliminary development plan, the applicant shall submit a request to the Zoning Administrator for final PUD approval. If the project includes phases, then the applicant must submit a request within twelve (12) months of the City Council's approval of the PUD for final approval of any phase.
  - b. If the applicant fails to submit a request within twelve (12) months as stated above, then the PUD shall be determined to be invalid. If a preliminary plan includes phases, the applicant must submit each subsequent phase within twenty-four (24) months of the approval date of the initial phase. If the applicant fails to submit the next phase within this time period, any phase included as part of the preliminary site plan not approved for final site plan shall be deemed invalid. Upon request to the City Council and in accordance with Subsection 17.06 R.13.a.1. and 2., these time frames may be extended for a reasonable period of time.
  - c. A final development plan application shall consist of the following:
    1. A completed application form, supplied by the Zoning Administrator.
    2. Payment of a fee, as established by the City Council.
    3. A written response to the findings, review comments, and conditions, if any, from the City Council's review and approval of the preliminary development plan and a narrative explanation of the changes made to the plan in response to those items.
    4. A site plan containing all of the information required in this PUD section and as stated in Chapter 16, under Final Site Plan Review, Subsection 16.03 B.2.a. If the plan consists of phases, then the above mentioned information is only required for the specific phase(s) being presented for final approval. Each subsequent phase shall be reviewed in the same manner.
9. *Planning Commission Review of Final Development Plan.*
- a. The Planning Commission shall review the final development plan in relation to its conformance with the preliminary development plan and any conditions of the PUD rezoning. If it is determined that the final plan is not in substantial conformance with the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Subsections 17.06 R.5.—7. of this Ordinance.
  - b. If the final development plan is consistent with the approved preliminary development plan, the Planning Commission shall review the final plan in accordance with the standards for approval stated in Subsection 17.06 R.10.
  - c. The Planning Commission shall prepare a record of its findings and shall approve, approve with conditions, or deny the final development plan.
  - d. Any zoning ordinance regulatory modification (e.g., - setbacks) shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory

modifications are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD plan may be appealed to the Zoning Board of Appeals. This provision shall not hamper an individual lot owner from seeking a variance (e.g. - a residential detached garage variance related to setbacks) following final approval of the PUD, provided such variance does not involve alterations to open space areas as shown on the approved PUD site plan.

- e. A table shall be provided on the final site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this PUD section.
10. *Standards for Approval.* Preliminary and final PUD's shall be approved only if they comply with each of the following standards:
    - a. The proposed PUD complies with all qualifying conditions of Subsection 17.06 R.2.
    - b. The proposed project is consistent with the spirit and intent of the PUD, as described in Subsection 17.06 R.1. and represents an opportunity for improved or innovative development for the community that could not be achieved through conventional zoning.
    - c. The proposed PUD meets all the review standards of Subsection 16.03 B.2.a. and 17.3.
  11. *PUD Development Agreement.*
    - a. Prior to issuance of any building permits or commencement of construction on any portion of the PUD, the applicant shall enter into an agreement with the City in recordable form, setting forth the applicant's obligations with respect to the PUD.
    - b. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the final development plan with all required revisions, other documents which comprise the PUD, and all conditions attached to the approval by the City Council.
    - c. A phasing plan shall also be submitted describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
    - d. The agreement shall also establish the remedies of the City in the event of default by the applicant in carrying out the PUD, and such remedies shall be binding on all successors in interest to the applicant.
    - e. All documents shall be executed and recorded in the office of the Muskegon County Register of Deeds.
  12. *Changes to an Approved Final PUD.*
    - a. Changes to an approved Final PUD shall be permitted only under the following circumstances:
      1. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
      2. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:

- i. Reduction of the size of any building and/or sign.
  - ii. Movement of buildings and/or signs by no more than ten (10) feet.
  - iii. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent.
  - iv. Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking.
  - v. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
  - vi. Changes required or requested by the City, Muskegon County, or other State or Federal regulatory agency in order to conform to other laws or regulations.
3. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the special land use PUD and shall be processed in the same manner as the original PUD application for the final development plan.
13. *Time Limit for Approved PUD District.* Each approved Final PUD must be under construction within twelve (12) months after the date of approval of the PUD final development plan, except as noted in this Section.
- a. The City Council may grant one (1) extension of up to one (1) additional twelve (12) month period from the expiration date of the PUD or phase of a PUD if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:
    - 1. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and
    - 2. The PUD requirements and standards, including those of the Zoning Ordinance, that are reasonably related to the development have not changed.
  - b. Should neither of the provisions of Subsection 17.06 R.13., a be fulfilled, or an extension has expired without construction underway, the PUD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.
- S. *Production, refining, or storage of petroleum or other flammable liquids (Level 2 Special Land Use).*
- 1. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
  - 2. The principal and accessory buildings and structures shall not be located within one thousand (1,000) feet of any residential use or district.
- T. *Recycling Centers.*
- 1. A six (6) foot fence or wall shall be constructed along the rear and sides of the lot, capable of keeping trash, paper, and other debris from blowing off the premises.
  - 2. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any residential use or district property line.
- U. *Residential dwelling units, in the same building with commercial uses.*
- 1.

No commercial uses, including storage, shall be located on the same floor of the building as the dwelling unit.

2. Two (2) on-site parking spaces shall be required for each dwelling unit.
3. Principal access to dwelling units shall be from outside of the building.
4. No dwelling unit shall be located on the ground floor of the building.

V. *Restaurants, exclusive of drive-through facilities.*

1. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
2. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
3. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas and safe walkways (can be shown with striping) to the restaurant.
4. Enhanced architectural elements for principal buildings shall be provided such as cupolas, towers, decorative lighting, and window awnings. Exterior building colors and materials shall be conducive with surrounding uses.

W. *Restaurants with drive-through facilities.*

1. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of eight (8) stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property or parking spaces by vehicles not using the drive-through portion of the facility. The stacking space requirement may be reduced by the Planning Commission based on the nature of the restaurant, provided sufficient reason is provided as to the reduction, but in no case shall fewer than six (6) spaces be provided.
2. In addition to parking and stacking space requirements, at least two (2) standing or parking spaces shall be provided, in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
3. Parking areas shall have a front yard setback of twenty (20) feet and side and rear yard setbacks of ten (10) feet.
4. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
5. Menu/speaker boards shall be provided that minimize verbal feedback. Speakers shall be located, positioned and controlled to minimize noise impacts.
6. Pedestrian elements shall be incorporated into the site plan including such features as outdoor seating areas, safe walkways to the restaurant, including measures to separate pedestrian and vehicular traffic in the areas nearest drive through windows.
7. Enhanced architectural elements shall be provided such as cupolas, towers, decorative lighting, and window awnings. Exterior building colors and materials shall be conducive with surrounding uses.

X. *Salvage yards, Junk yards (Level 2 Special Land Use).*

- 1.

Requests for a special land use approval for establishment of a salvage or junk yard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.

2. The site shall abut and have suitable access to a major street to ensure safe, direct transport of salvage to and from the site.
3. No portion of the storage area shall be located within one thousand (1,000) feet of any residential use or district.
4. Any outdoor storage area shall be completely enclosed by a fence or wall at least six (6) feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two (2) non-transparent gates not exceeding forty-eight (48) feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.
5. Stored materials shall not be stacked higher than ten (10) feet and shall be stored in a manner so as not to be visible from adjoining properties or streets rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.
6. The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
7. A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator. The residence shall meet floor area requirements of the R-2 District.
8. Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
9. All portions of the storage area shall be accessible to emergency vehicles.
10. Vehicles, equipment or vehicle bodies shall be stored in rows with a minimum of twenty (20) foot wide continuous loop drives separating each row.
11. All batteries shall be removed from any equipment and all radiator and fuel tanks shall be drained prior to being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from equipment shall be applied as a dust control method.
12. Equipment and vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
13. The property shall be a minimum size of at least six (6) acres.
14. All fences shall be set back a minimum of three hundred (300) feet from any residential use or district.
15. In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.
16. The Planning Commission may impose other conditions which have a reasonable relationship to the health, safety and general welfare of the City of North Muskegon.

*Y. Truck Terminals (Level 2 Special Land Use).*

1. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
  2. Trucks and trailers parked overnight shall be set back from the front lot line a minimum of one hundred (100) feet.
  3. The principal and accessory buildings and structures shall not be located within two hundred (200) feet of any residential use or district.
  4. The lot area used for parking, display, or storage shall be paved and shall be graded and drained so as to dispose of all surface water.
  5. Lighting for parking areas or outdoor storage areas shall be shielded to prevent light from spilling onto any residential district or use.
  6. Any vehicle or equipment stored outside of an enclosed building shall not be located within any required yard.
  7. No trailer operating a refrigeration unit shall be parked in, stored, or otherwise occupy any yard within three hundred (300) feet of a residential district.
- Z. Tattoo, Branding and Body Piercing Establishments (Level 2 Special Land Use)
1. Uses defined in Section 14-151 of the City of North Muskegon Code of Ordinances.
  2. The applicant shall demonstrate compliance with Chapter 14, Article V of the City of North Muskegon Code of Ordinances.
  3. The Planning Commission may recommend to the City Council the establishment of hours of operation to protect the character of the land uses within the vicinity. Hours of operation shall be consistent with those of adjacent land uses.
  4. Food and beverages shall not be served at the establishment.
  5. The applicant shall demonstrate that outdoor loitering space would not be provided for and that outdoor loitering would be prohibited.
  6. The use shall be compatible with other allowed uses in the vicinity. The impact of the establishment shall be no greater than that of other uses allowed in the GC, General Commercial district.
  7. The lot or parcel on which the use is located shall not be closer than seven hundred fifty (750) feet from an existing tattoo, branding and body piercing establishment or any residential use or zoning district, school or church, measured from lot line to lot line.
- AA. *Vehicle Repair.*
1. The principal and accessory buildings and structures shall not be located within one hundred (100) feet of any residential use or district property line.
  2. Minimum lot area shall be 32,670 square feet and minimum lot width shall be two hundred (200) feet.
  3. All equipment and activities associated with vehicle repair operations shall be kept within an enclosed building, except those in incidental use, such as air hoses.
  - 4.

Inoperative vehicles left on the site shall be stored within an enclosed building or in an area screened by an opaque fence not less than six (6) feet in height. Such fence shall be constructed in accordance with the requirements of Subsection 16.2 C.3., and continuously maintained in good condition.

5. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited, except in designated and approved storage areas screened from view of adjoining properties and streets.
6. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
7. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be constructed in accordance with the requirements of Subsection 16.02 D.3. and continuously maintained in good condition.

BB. *Vehicle Service Stations (including gas stations).*

1. Minimum lot area shall be 32,670 square feet and minimum lot width shall be two hundred (200) feet.
2. Pump islands shall be a minimum of fifteen (15) feet from any public right-of-way or lot line.
3. All equipment and activities associated with vehicle service operations shall be kept within an enclosed building, except those in incidental use, such as air hoses.
4. Storage of vehicle components and parts, trash, supplies, or equipment outside of a building is prohibited.
5. If retail sales of convenience goods are conducted on the premises, parking for such uses shall be computed and provided separately for that use.
6. Canopy roofs shall not be permitted to encroach into any required yard and the fascia of canopies must be a minimum of twelve (12) feet above the average grade. Canopies must be provided with at least a 4:12 pitched roof appearance and may not contain message signs on the roof or fascia. Pole supports must be surrounded at least 40% or to a minimum height of five (5) feet by a natural appearing product such as brick or stone. Canopy lights must be recessed into the canopy ceiling or be provided with sufficient banding around the sides of the light to prevent light from spilling onto adjacent properties or roadways.
7. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
8. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be constructed in accordance with the requirements of Subsection 16.02 C.3., and continuously maintained in good condition.
9. The Vehicle Service Station must contain a pitched roof of at least 4:12 and the roof design, materials and colors should be reflected throughout all accessory buildings and structures.
10. Outdoor display materials may not be located in the required front or side yards and may not be displayed at a height greater than four (4) feet and comply with related sign ordinances.

CC. *Vehicle Wash Establishment, either self-serve or automatic.*

- 1.



Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. Such vehicle stacking space shall be equivalent to five (5) times the wash capacity. Wash capacity shall be determined by dividing the length of the mechanical wash/dry machinery by twenty-five (25) feet. No less than twelve (12) stacking spaces shall be provided. For self-service establishments, each stall shall have at least two (2) stacking spaces at the entrance to the wash. At least two (2) stacking spaces shall be provided at the exits of both self-serve and automatic car washes.

2. Vacuuming activities, if outdoors, shall be at least three hundred (300) feet from any residential use or district property line. Wash bays for self-service establishments shall be located at least one hundred fifty (150) feet from any residential use or district property line.
3. Self-service wash bays shall be located so that they must be turned at an angle of at least 45 degrees from the primary street so that sight vision straight through the bays from the primary street is obscured.
4. Only one (1) access driveway shall be permitted on any single street. Access driveways shall be located no less than one hundred (100) feet from street intersections rights-of-way lines or seventy-five (75) feet from any driveway throat edge.
5. Where adjoining residentially zoned or used property, a solid wall or fence, six (6) feet in height shall be erected along any common lot line. Such fence or wall shall be constructed in accordance with the requirements of Subsection 16.02 C.3., and continuously maintained in good condition.

CC. *Veterinary Hospitals and Veterinary Clinics.*

1. Outdoor areas in which animals are kept, such as runs, pens, and/or exercise areas shall not be located nearer than one hundred (100) feet to any residential district boundary and shall not be located within any required yard area.
2. Outdoor runs, pens, and/or exercise areas that face residential districts shall be screened with a six (6) foot high fence. Suitable shade, including some natural vegetation shall be provided around these outdoor areas.
3. All indoor and outdoor hospital and clinic areas, runs, pens, and/or exercise areas shall be maintained to create safe and suitable environments for animals, including the daily elimination of animal waste.

DD. *Wireless Communication Towers, Commercial (Level 2 Special Land Use).*

1. The tower shall be of a monopole design, unless an antenna for the commercial wireless communication facility is provided for on an existing tower of other construction, including municipal structures such as water towers.
2. A security fence at least six (6) feet in height shall be constructed around the tower and accessory buildings, including supports. Landscape screening shall be placed at a minimum height of five (5) feet around the entire fenced area, except for the front gate. Decorative landscape trees and shrubs shall be utilized near the front gate.

[3]C. As a condition of approval, the applicant shall agree to permit not less than three (3) collocations to share the tower facility.

[4]D.

Unless located on the same site or tower with another user, no new tower shall be erected within a one-half (½) mile radius of an existing commercial cellular or wireless communications tower.

[5]E. The accessory equipment shelter shall be similar in appearance to a residential dwelling, including such features as windows (even if fake) and a gabled roof. If accessory equipment is located outside of a building, then it shall be placed away from direct view from the front gate into the site.

[6]F. No signs, except warning or other cautionary signs, shall be permitted on the site.

[7]G. The access driveway shall be hard surfaced with either asphalt or concrete.

#### DD. *Indoor Firearms Shooting Ranges*

1. If located in a residential district, the entire structure of the firearms shooting range ("shooting range" or "range") shall be below ground level and shall not be visible or change the outside appearance of the dwelling.
2. No unreasonable noise, smell or vibration may be detectable to the normal senses beyond the boundaries of the property.
3. The range must be designed by a professional engineer or architect with expertise in the area of shooting range designs.
4. The structure must be constructed in such a manner that a bullet of the maximum caliber fired within the range may not escape from the structure.
5. The range must utilize bullet traps that prevent the bullet from escaping from the structure and, in addition, minimize the escape of lead particles into the air, both inside and outside the structure.
6. The ventilation of the structure must meet all regulations applicable to such use, including but not limited to, the regulation of the Environmental Protection Agency.
7. The design of the range must meet all other applicable standards established by the National Rifle Association's publication *The NRA Range Source Book*.

(Ord. No. 528, 3-21-2011; Ord. No. 538, § 1, 3-16-15)

## CHAPTER 18. - NONCONFORMING USES AND STRUCTURES

### Section 18.01. - Intent.

Upon the adoption of this Ordinance or future amendments, there may exist lots, structures, and uses of land and structures which were lawful prior to the adoption of the Zoning Ordinance, or amendment to the Ordinance, but which are not in conformance with the provisions of this Ordinance, or any amendments. It is the intent of this Ordinance to permit these nonconforming lots, structures and uses to continue, but not to encourage their continued existence. Because nonconforming lots, structures and uses, so long as they exist, prevent the full achievement of the goals and objectives of the City of North Muskegon Master Plan, the spirit of this Ordinance is to reduce, rather than increase, any nonconformance.

### Section 18.02. - Nonconforming Lots.

- A. *Existing Lot of Record.* When an existing lot of record does not adjoin any lot or lots of record under common ownership or if the lot of record fails to meet the requirements for minimum lot area, minimum lot width, or both, of the zoning district in which it is located, such lot may be used for the permitted uses of the zoning district. The lot of record must still meet setback requirements of its zoning district and is subject to certain limitations provided by other provisions of this Ordinance.
- B. *Abutting Lots of Record Under Single Ownership.* In any zoning district, where two or more adjoining lots of record under common ownership do not, when considered individually, meet the requirements for minimum lot area, minimum lot width, or both, of the zoning district in which the lots are located, these lots shall be combined and considered as one lot for the purposes of this Ordinance.

#### Section 18.03. - Nonconforming Uses of Land Not Involving a Building or Structure.

The lawful use of any land, not involving a building or structure, existing and lawful on the effective date of this Ordinance, or as amended, may be continued, even though the use does not conform with the provisions of this Ordinance, or as amended, subject to the following provisions:

- A. *Enlargement.* Except as permitted under Sections 18.04 and 18.05, no such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this Ordinance, or as amended.
- B. *Relocation.* Except as permitted under Sections 18.04 and 18.05, no nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by the nonconforming use on the effective date of this Ordinance, or as amended.
- C. *Cessation.* If any such nonconforming use of land ceases for any reason for a period of more than six (6) months, any additional use of such land shall conform to the requirements of this Ordinance. Maintenance of the land or buildings or structures, including maintaining utility or postal services, shall not constitute a continuation of the use of land.

#### Section 18.04. - Nonconforming Structures.

Structures which are existing and lawful on the effective date of this Ordinance, or as amended, may be continued, even though the structure does not conform with the provisions of this Ordinance, or as amended, subject to the following elements:

- A. *Enlargement/Alteration.* Except as provided for, nonconforming structures may not be enlarged or altered in a way which increases its nonconformity with the provisions of this Ordinance, unless authorized by the Zoning Board of Appeals. Zoning Board of Appeals shall consider and document all of the following prior to making a decision for enlargement or alteration:
  1. Whether the proposed enlargement or alteration will change the essential character of the area.
  2. Whether the proposed enlargement or alternation will be contrary to the Master Plan.
  3. Whether the proposed enlargement or alteration will have a negative impact on adjoining property or the general welfare of the City, by reason if its nonconformity with the provisions of this Ordinance.
  - 4.

Whether there are reasonable and practical alternatives to achieving the desired enlargement or alteration in a manner which does not increase the degree of nonconformity of the structure with the provisions of this Ordinance.

- B. *ZBA Conditions Pursuant to Enlargement/Alteration.* In authorizing approval to enlarge or alter a nonconforming structure, the Zoning Board of Appeals may require conditions including, but not limited to: additional site landscaping; site buffers; fencing; facade design requirements, building materials and building color changes; additional off-street parking and vehicular circulation modifications; signage; exterior lighting; and related building and site design modifications and conditions.
- C. *Damage and Reconstruction.*
1. *Nonconforming Structure.* In the event that any nonconforming structure shall be damaged by fire, wind, accident, act of God, or other such means or manner, to the extent that the cost of reconstruction or restoration is equal to or less than one-half (½) of the value of such structure prior to the damaging event, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, for purposes of taxation, such reconstruction or restoration shall be permitted by right, subject to the provisions of this Ordinance. Structures damaged in excess of one-half (½) of the value of such structure prior to the damaging event, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, for purposes of taxation, shall only be reconstructed subject to compliance with underlying zone district standards.
  2. *Building Permit Required.* The above reconstruction or restoration shall require the issuance of a building permit within one (1) year of the event of the damage.
  3. *Secured Building Requirement.* A damaged structure awaiting reconstruction or restoration shall be properly secured to prevent trespass, vandalism, and injury to the public.
- D. *Decrease of Nonconformity and Reestablishment.* If a nonconforming structure is altered or modified so as to eliminate, remove, or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.

#### Section 18.05. - Nonconforming Use of Structure.

The lawful use of any structure existing and lawful on the effective date of this Ordinance, or as amended, may be continued, even though such use does not conform with the provisions of this Ordinance, or as amended, subject to the following provisions:

- A. *Extending Use Within a Structure.* Any nonconforming use may be extended throughout any parts of a building which were clearly arranged or designed for such use at the effective date of this Ordinance, or as amended, but shall not be extended to occupy any portion of a building which was not clearly arranged or designed for the use at the effective date of this Ordinance, or as amended, nor shall the use be extended to occupy any land outside such building.
- B. *Alteration of Structure Possessing a Nonconforming Use.* No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the zoning district in which it is located.

- C. *Reconstruction of Structure Occupied by a Nonconforming Use.* If a structure which conforms with the provisions of this Ordinance, but which is occupied by a nonconforming use, is damaged by any means or in any manner to the extent that the cost of reconstruction or restoration exceeds one-half (½) the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, excluding the value of land, for purposes of taxation, the structure may be reconstructed or restored only if its use conforms with the provisions of this Ordinance.
- D. *Re-establishment of Nonconforming Use.* If a nonconforming use of any structure is terminated and replaced by a permitted use, the nonconforming use shall not be reestablished.
- E. *Abandonment.* When a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for six (6) consecutive months, the structure, or structure and land in combination, shall not be used except in conformance with the regulations of the zoning district in which it is located. For purposes of this provision, the maintenance of utility service, mail service, newspaper service, and other similar services shall not, in and of themselves, be considered evidence of non-abandonment.
- F. *Removal of Nonconforming Use Status After Removal or Destruction of Building.* Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming use status of the land.
- G. *Change in Use (Substitution).* A nonconforming use of a structure may be changed to another nonconforming use, subject to prior approval of the Zoning Board of Appeals. The Zoning Board may approve the change only if it complies with all of the following standards:
1. The proposed use does not increase the degree of nonconformity existing prior to such change of use. Pursuant to this standard, the proposed use shall not create, or result in, impacts which are considered more objectionable than the use to be replaced. Such impacts shall include, but are not limited to, increased traffic, truck deliveries, parking requirements, hours of operation, noise, vibration, odors, litter, outside storage, pedestrian movement, off-site drainage, and other factors.
  2. No structural alteration of the existing structure will be required to accommodate the new use, unless the alteration will make the structure more in conformance with the zone district standards.
- In approving a change in use, the Zoning Board of Appeals may require reasonable conditions in order to increase the degree of conformity. Such conditions shall include, but are not limited to, buffers, landscaping, off-street parking, access controls, hours of operation, and other conditions to bring about a greater degree of conformity.

#### Section 18.06. - Repairs and Maintenance.

- A. *Basic Repairs and Maintenance.* On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, mechanical equipment, or plumbing, to an extent not exceeding twenty percent (20%) of the current replacement value of the structure as based on the records of the City Assessor, provided that the structure is not enlarged, extended, moved or structurally altered.
- B.

*Safety Improvements.* Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public health, upon order of such official.

#### Section 18.07. - Structures Under Construction.

Any structure on which actual construction was lawfully begun prior to the effective date of this Ordinance, or as amended, but, which under this Ordinance, or as amended, is classified as nonconforming, shall be considered existing and legally nonconforming due to construction purposes and the intended use. Nothing in this Ordinance shall be regarded to require any change in the plans, construction or use of such structure. Actual construction is defined to include the placing of construction materials in a permanent position and fastened in a permanent manner, except that where demolition or removal of an existing building has been substantially begun preparatory to reconstruction such demolition or removal shall be deemed actual construction. The moving or disturbing of dirt on a lot shall not be considered construction. All construction shall be done by first getting a building permit by the City of North Muskegon.

### CHAPTER 19. - LANDSCAPING AND SCREENING

#### Section 19.01. - Intent.

It is the intent of this article to specify landscape requirements for all land uses requiring site plan review, and to provide for landscape techniques to achieve compatibility between abutting and adjacent land uses, including public and private streets. The landscape regulations in this article are further intended to:

- A. Promote the public health, safety and general welfare by reducing noise, air, and visual pollution, air temperature, and light glare.
- B. Minimize the adverse effects of certain outdoor activities upon their surroundings.
- C. Prevent soil erosion.
- D. Improve the appearance of parking areas, vehicular-use areas, and property abutting public rights-of-way.
- E. Improve the aesthetics and safety on sidewalks.
- F. Provide screening between incompatible land uses and protect residential privacy.

#### Section 19.02. - Landscape Definitions.

*Canopy Tree:* deciduous tree that typically reaches a height of forty (40) feet or more at maturity, and is characterized by offering optimal shading potential. Examples include oaks, sycamores, and sugar maples.

*Landscape Area:* any outdoor land area that is planned and designed for the growth of vegetation. Landscape areas would include both formal landscape beds and lawn areas.

*Landscape Bed:* defined area intended for the intensive planting of trees, shrubs, and other plants. Landscape beds would exclude large areas planted in grass or ground cover, however, they might contain shall amounts of these types of vegetation.

*Understory Tree:* deciduous tree that typically reaches a height of between fourteen (14) and forty (40) feet at maturity. Understory trees would include smaller shade trees and ornamental trees.

Section 19.03. - General Screening Requirements.

- A. Screening shall be required on the subject parcel between abutting zoning districts, as indicated on the Screening Type table even if the adjacent parcel is unimproved land, unless determined by the Planning Commission to be inappropriate (i.e. - public utility easement).
- B. When any developed parcel changes to a more intense land use or a special land use approval or a site plan review is required, screening shall be provided in compliance with this Ordinance.
- C. If existing conditions on the subject parcel are such that a parcel cannot comply with the screening requirements, the Planning Commission may provide a waiver or a reduction in the standard based on shall determine the character of the screening based, but not limited to the following criteria:
  1. Traffic impacts, including sight distances;
  2. Building and parking lot coverage and placement, including building height;
  3. Outdoor sales, display, or manufacturing area;
  4. Physical characteristics of the site and surrounding area such as topography, vegetation, poor soils, existing vegetation, etc.;
  5. Views, noise and air pollution levels;
  6. Public health, safety, and welfare of the City of North Muskegon; and
  7. Proximity or potential proximity of adjacent residential uses.
- D. Screening shall be required on the subject parcel abutting applicable zoning districts for adjacent Townships, including the City of Muskegon.
- E. Screening shall not be required on the subject parcel abutting applicable zoning districts if the abutting district is located across the street from the subject parcel.
- F. Screening shall be required on the subject parcel in the following situations, except as may be provided elsewhere in this Section.
  1. Around all trash dumpsters in all districts,
  2. Around designated outdoor storage areas in the GC, General Commercial District, or LI, Light Industrial District.

Section 19.04. - Landscape/Screening Classification System.

- A. The following three-tier landscape/screening classification system is intended to provide for graduated levels of screening to be used in a variety of land use transition situations. The screening types have been designed to correlate with the degree of incompatibility between uses. The screening types are defined in order of magnitude of the screen effect. The Type A requiring the greatest amount of screening, and the Type C requiring the least. Screen Types shall meet all other applicable standards of this Section.
- B. The type of landscape screen (A, B or C) required between abutting land uses shall be that screen type indicated in the following landscape/screening table. To determine the required screen, identify the row containing the zoning district and read across that row to the column labeled with the zoning district in

which the abutting land uses are located. The cell at the intersection of the subject zone row and the appropriate abutting-zone column will contain a letter indicating the screen type required for that combination of land uses.

LANDSCAPE/SCREENING										
Subject Zoning District	Abutting Zoning District									
		R-1	R-2	R-3	MHP	RPO	OS	NC	GC	LI
	R-1	NR	NR	B	A	C	B	A	A	A
	R-2	NR	NR	C	B	C	B	A	A	A
	R-3	B	C	NR	NR	NR	B	B	B	A
	MHP	A	B	NR	NR	C	B	B	B	A
	RPO	C	C	NR	C	NR	NR	C	B	A
	OS	B	B	B	B	C	NR	NR	B	B
	NC	B	B	B	A	B	NR	NR	NR	C
	GC	A	A	A	A	B	B	NR	NR	C
	LI	A	A	A	A	B	B	B	C	NR

NR = None Required

A. *Type "A Screen"*.

Purpose: The Type A Screen is intended to exclude all visual contact between uses, mitigate noise impacts, and to create a strong impression of separation.

1. Thirty (30) foot minimum width for screening area.
2. Equivalent of one (1) canopy tree and four (4) shrubs per thirty (30) linear feet or fraction of screen zone length. Two-thirds (⅔) of all required trees shall be evergreen and the balance shall be canopy.
3. Six (6) foot high continuous sight-obscuring screen composed of evergreen plant material, berming, walls or fences, or any combination approved by the Planning Commission.
- 4.



If berming is used for any part of the screen, all required plant material shall be placed on the top and side slope facing the exterior property line.

5. If a wall or fence is used for any part of the screen, a minimum of 4 (four) shrubs are required per twenty (20) linear feet of wall or fence, with at least fifty (50) percent of all such plant material being at least twenty-four (24) inches high at time of planting.
6. All areas within the screen zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.

B. *Type "B Screen"*.

Purpose: Type B Screen is intended to mitigate noise and provide visual privacy.

1. Twenty (20) foot minimum width for screening area;
2. Equivalent of one (1) tree per forty (35) linear feet or fraction of screen zone length. Two-thirds ( $\frac{2}{3}$ ) of all required trees shall be evergreen and the balance shall be canopy (trees may be evenly spaced or clustered);
3. Six (6) foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the Planning Commission;
4. If berming is used for any part of the screen, it shall contain one (1) shrub for each ten (10) feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line;
5. If a wall or fence is used for any part of the screen, a minimum of one (1) shrub per ten (10) feet of fence or wall shall be placed along the exterior side. At least fifty (50) percent of all such plant material shall be at least twenty-four (24) inches high at time of planting;
6. All areas within the screen zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.

C. *Type "C Screen"*.

Purpose: Type C Screen is intended to accomplish physical separation without substantial visual separation, while meeting the minimum tree planting necessary to meet the environmental and health objectives of this ordinance, mitigate noise and provide visual privacy.

1. Ten (10) foot minimum width for screening area;
2. Equivalent of one (1) tree and four shrubs per fifty (50) linear feet or fraction of screen zone length. At least fifty (50) percent of the total number of required trees shall be canopy trees;
3. Three (3) foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the Planning Commission;
4. If berming is used for any part of the screen, it shall contain one (1) shrub for each ten (10) feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line;
5. If a wall or fence is used for any part of the screen, a minimum of one (1) shrub per ten (10) feet of fence or wall shall be placed along the exterior side. At least fifty (50) percent of all such plant material shall be at least twenty-four (24) inches high at time of planting;

6. All areas within the screen zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.

Section 19.05. - Greenbelts Required.

A. *General Requirements.* Greenbelts, as indicated in the following section shall be required on the subject parcel in the following situations, except as may be provided elsewhere in this Section.

1. Within the front setback area for parking lots in the OS, NC, GC and LI Districts.
2. Around any nonresidential parking lot abutting or within one hundred (100) feet of a Residential District.
3. Within any parking lot which contains ten (10) spaces or more.

B. *Greenbelt Standards.*

1. Greenbelts shall meet the following requirements:
  - a. Minimum width shall correspond to the setback requirements for parking areas as prescribed in the Schedule of Regulations, but shall not be less than ten (10) feet.
  - b. Equivalent of one (1) tree per twenty (20) linear feet or fraction of street frontage.
  - c. A minimum of one (1) shrub at least twenty-four (24) inches high per each ten (10) linear feet or fraction of street frontage.
  - d. All areas within the greenbelt which do not contain trees or planting beds shall be covered with grass or other living ground cover.
  - e. Clustering of trees and shrubs within the greenbelt is permitted.
  - f. Detention/retention areas shall be permitted within required greenbelts provided they do not hamper the screening intent of the greenbelt or jeopardize the survival of the plant materials.
  - g. All other applicable standards of this Section shall be met.
2. Greenbelts within parking lots shall meet the following requirements:
  - a. An amount equal to 15 sq. ft. of area per parking space.
  - b. The minimum size of any internal landscaped area shall be one hundred eighty (180) sq. ft.
  - c. Internal landscaped areas shall be protected by the installation of a raised curb, anchored timbers, or similar edge around the border.
  - d. For each one hundred eighty (180) sq. ft. of required greenbelt a minimum of one (1) deciduous tree shall be planted.

Section 19.06. - Screening, Buffer and Greenbelt Development Standards.

All required screens, buffers and greenbelts shall comply with the following standards:

1. *Minimum Plant Material Standards.*
  - a. All plant materials shall be hardy to Muskegon County, be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.
  - b. All plant materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.

- c. All plant material shall be planted in a manner so as to not cause damage to utility lines (above and below ground) and public roadways.
- d. Minimum plant sizes and spacing at time of installation shall conform to the following requirements:

TREE TYPE	MINIMUM SIZE
Deciduous Canopy Tree	2½ inch caliper
Deciduous Ornamental Tree	2 inch caliper
Evergreen Tree	5 feet in height
Deciduous Shrub	2 feet in height
Upright Evergreen Shrub	2 feet in height
Spreading Evergreen Shrub	24 inches spread

- e. Existing plant material which complies with the standards and intent of this Ordinance, as determined by the Planning Commission, shall be credited toward meeting the landscape requirements.
  - f. The installed plant material shall achieve its horizontal and vertical screening effect within four (4) years of initial installation.
  - g. The overall landscape plan shall not contain more than thirty-three (33) percent of any one plant species.
  - h. Plant materials shall not be placed closer than four (4) feet to any fence or property line.
  - i. Where plant materials are placed in two (2) or more rows, planting shall be staggered in rows.
2. *Minimum Standards for Berms.*
- a. Where possible, berms shall be constructed so as to maintain a side slope not to exceed a one (1) foot rise to a three (3) foot run ratio. When topography or other site condition prevents construction of berms at this ratio, retaining walls or terracing may be permitted. If a berm is constructed with a retaining wall or by terracing, the earthen slope shall face the exterior of the site.
  - b. Berm areas not containing planting beds shall be covered with grass or other living ground cover maintained in a healthy condition.
  - c. Berms shall be constructed in such a manner so as not to alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.
3. *Minimum Standards for Screen Walls and Fences.*
- a.

All walls and fences required for screening shall be constructed with new, durable, weather resistant, and easily maintainable materials. Chain link and barbed wire fences are not permitted to serve as screen fencing.

- b. Unless otherwise prohibited, the wall or fence may be constructed with openings that do not exceed twenty (20) percent of the wall or fence surface. The fence openings shall not reduce the intended obscuring effect of the wall or fence.
- c. Screen walls or fences shall not be constructed so as to alter drainage on site or adjacent properties, or obstruct vision for safety or ingress or egress.

4. *Installation and Maintenance Provisions.*

- a. The Planning Commission or Zoning Administrator may require a financial guarantee, of a sufficient amount to insure the installation of all required landscaping.
- b. All landscaping shall be maintained in a healthy, neat and orderly state free from refuse and debris. Any dead or diseased plants shall be replaced.
- c. All required landscaping shall be completed within six (6) months from the date of occupancy of the buildings, unless a performance bond is submitted in accordance with the provisions of Subsection 19.03 B.

CHAPTER 20. - PARKING AND LOADING STANDARDS

Section 20.01. - Purpose and Application of Standards.

The purpose of this Chapter is to provide all districts at the time of erection, enlargement or change in use, of any principal building or structure, off-street parking space with adequate access to all spaces. Off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a certificate of zoning compliance as described within this Chapter.

Section 20.02. - General Requirements.

- A. *Residential Off-Street Parking.* Residential off-street parking spaces shall consist of a parking strip and access route (which shall have a concrete, asphalt, or brick paver surface equivalent or greater in size to the parked vehicle), driveway, garage, or combination shall be located on the premises they are intended to serve. On any residential lot, the parking of vehicles shall be restricted to the driveway, carport, or garage. Except for the parking of recreational vehicles as provided for under Section 3.26, and as provided above, the front yard shall not be used for the parking of vehicles.
- B. *Non-Residential Uses.* Off-street parking within for non-residential uses shall either be on the same lot, contiguous lots under the same ownership (can be located across an alley or Local Street, but not a Major Street as defined by Act 51) or open public (municipal) parking lots within three hundred (300) feet of the building it is intended to serve, measured from the nearest public building entrance to the nearest parking space of the off-street parking lot. Provided however, the city may require that some or all of the required parking be provided outside of municipal parking lots if it is determined that sufficient capacity is unavailable

within the municipal parking lot(s). Parking shall be restricted to those locations (e.g. driveways and parking lots) approved for such use based on the provisions of this Ordinance and subject to site plan review and approval.

- C. *Commercial Vehicle Parking Restrictions in Residential Districts.* Commercial Vehicles with a rating capacity over two (2) tons shall not be allowed to park on any residential lot, except for making drop off deliveries or pickups, periodic loading and unloading, as in the case of a moving truck, providing necessary construction activities or at other such typical temporary occasions as determined by the Zoning Administrator.
- D. *Change in Parking Location.* Once an area is designated as required off-street parking, it shall not be changed to any other use unless and until equal facilities meeting the standards of this section are provided elsewhere, or the parking requirements of the site change.
- E. *Prohibited Use of Parking Area for Storage.* The use of required parking areas for material storage, refuse storage stations and dumpsters, storage or display of vehicles and/or merchandise, or for vehicle or machinery repair or maintenance is expressly prohibited, except during construction for which a building permit has been issued. The use of semi-trailers or similar vehicles for storage purposes on the premises for five (5) or more consecutive calendar days is prohibited, unless approved as part of a site plan.
- F. *Collective Parking Arrangements.* Except for single-family detached housing units, two (2) or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces for the uses calculated individually may be reduced by up to twenty-five percent (25%) if a signed agreement is provided by the property owners, and the Zoning Administrator, after site plan review, determines that the uses will not over load the sites. The agreement shall be recorded by the applicant with the Muskegon County Register of Deeds, shall run with the land and not the property owners or uses of record, and shall only be modified by consent of the Planning Commission.
- G. *More Than One Use on Premises.* Where two or more uses exist on the premises, parking requirements shall be calculated for each use, unless specifically provided elsewhere in this Ordinance.
- H. *Parking Lot Deferment.* Where the property owner can demonstrate that the required amount of parking is excessive, the Planning Commission may approve a smaller parking area, provided that an area of sufficient size to meet the parking space requirements of this Chapter is retained as open space, and the owner agrees to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Zoning Administrator. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout. The Planning Commission may require the applicant to post a performance guarantee to ensure construction of the deferred parking if it is determined that said parking is needed. Parking lot deferment for special land uses and planned unit developments shall be processed by the City Council.
- I. *Use Enlargement or Change.* In the event an existing use is enlarged or changed to a different use, the available on-site parking provided shall be adjusted to reflect the parking requirements of the expanded use or new use, provided, however, should the expansion or new use require less parking than the former use, the applicant shall not be required to modify the existing parking.
- J. *Excess Parking/Pavement.* In order to minimize excessive areas of pavement which depreciate aesthetic standards and contribute to high rates of storm water runoff, exceeding the minimum parking space requirements by greater than twenty percent (20%) shall not be allowed, except as approved by the Planning

Commission. In granting such additional space, the Planning Commission shall determine that such parking will be required, based on documented evidence.

- K. *Parking of Vehicles During Construction.* During construction, off-street parking (off the public right-of-way) shall be provided for all construction vehicles and employees. Construction period parking shall be on the lot or parcel where the construction is occurring or another adjacent lot or parcel. If parking is to occur on another lot or parcel, written permission shall be secured from the owner of the lot or parcel prior to the parking of vehicles. In all cases, the Zoning Administrator shall have the authority to require the rearranging and/or relocation of parking so as to assure the public safety.
- L. *Uses Not Listed, Including Temporary and Seasonal Uses.* For uses not specifically listed in Section 20.04, the requirements for off-street parking facilities shall be in accordance with a similar use or based on documentation regarding the specific parking needs for the particular use, as determined by the Planning Commission or, in the case of a special land use or planned unit development, the City Council, following a recommendation from the Planning Commission.

(Ord. No. 511, 2-20-2006)

Section 20.03. - Parking Units of Measurements.

- A. *Floor Area.*
  - 1. *Gross Floor Area (GFA).* Where floor area is the unit for determining the required number of off-street parking and loading spaces, GFA shall mean the gross floor area (GFA), unless otherwise noted.
  - 2. *Useable Floor Area.* Where the floor area measurement is specified as useable floor area (UFA), parking requirements shall apply to all internal building areas excluding the floor area used for incidental service, storage, mechanical equipment rooms, heating/cooling systems and similar uses, and other areas not intended for use by the general public. Where these areas are not defined, useable floor area shall be considered to be eighty-five percent (85%) of the gross floor area.
- B. *Benches and Pews.* In calculating bench seating for places of assembly, each twenty-two (22) inches of benches, pews or other such seating, shall be counted as one seat.
- C. *Number of Employees.* Where the number of spaces required is based on the number of employees, calculations shall be based upon the maximum number of employees likely to be on the premises during the peak shift.
- D. *Fractional Spaces.* When units of measurements determining the number of required parking or loading spaces result in a fractional space, any fraction shall be counted as one (1) additional space.

Section 20.04. - Parking Space Numerical Requirements (Parking Space Schedule).

The minimum number of off-street parking spaces shall be determined by the type of use in accordance with the following schedule:

A. General Residential	
Single and Two-Family dwellings.	2.0 spaces per dwelling unit

Multiple-family dwellings.	1.5 spaces per each efficiency or one bedroom dwelling unit and 2.0 spaces per each unit with two or more bedrooms
Manufactured homes in a manufactured home community.	2.0 spaces per each manufactured/mobile home unit or site

B. Senior Housing [Retirement Villages/Centers, Independent Care Units, Elder Care Housing, Intermediate Care Units, Convalescent Homes, and Nursing Homes]	
Housing for fully independent residents: Senior independent units and Independent Care Retirement Village or Center.	1.5 spaces per each room and living unit
Housing for residents requiring a moderate level of care: Senior "interim care", "elder care", and "intermediate care" units.	1.0 space per each room, plus 1.0 space per shift
Housing for residents whose care is fully dependent on others: Convalescent homes, nursing homes, rest homes, etc.	1.0 space per each two rooms, plus 1.0 space per shift

C. Institutional/Civic [Religious, Municipal, Hospital, Child Care, Schools, and Halls]	
Churches, temples, synagogues and other places of worship.	1.0 space per each three seats or six feet of pews
Municipal office buildings.	4.0 spaces per 1,000 sq. ft. GFA, plus spaces required for any assembly hall, auditorium, and outdoor arena
Hospitals.	2.5 spaces per each licensed bed, plus outpatient care and emergency care requirements
Outpatient care and emergency care services.	Refer to Office Parking Requirements

Child care centers.	2.0 spaces, plus, 1.0 additional space for each seven children of licensed authorized capacity
Primary schools (elementary and junior high schools).	1.0 space per each classroom, plus 3.5 spaces per each 1,000 square feet of gross office area, plus spaces required for any assembly hall, auditorium, and outdoor arena
Secondary (high) schools. Commercial/Trade schools. College/University.	5.0 spaces per each classroom, plus 3.5 spaces per each 1,000 square feet of gross office area, plus spaces required for any assembly hall, auditorium, outdoor arena, and dormitory or other on-campus housing
Auditoriums. Assembly halls. Outdoor arenas.	1.0 space per each three seats or six feet of bleachers
Public recreation centers	5.0 spaces per 1000 square feet of GFA
Dance hall. Union/Lodge hall. Fraternal hall/club. Similar uses	1.0 space per every two persons of capacity authorized by the City Building Code [or Fire Code if more stringent]

#### D. Office

Medical/dental office/clinic.	7.0 spaces per 1,000 sq. ft. GFA, plus outpatient care, emergency, twenty-four hour med station requirements
Outpatient care. Emergency care. Twenty-four (24) hour med station.	2.0 spaces per exam or outpatient procedure/operating room, plus 1.0 space per laboratory or recovery room, plus 1.0 space for each two rooms for employee parking
General office building.	3.5 spaces per 1,000 sq. ft. GFA



Branch bank. Credit union. Savings and Loan.	5.0 spaces per 1,000 sq. ft. GFA, plus 4.0 stacking spaces per window and ATM
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### E. Commercial/Retail/Service

Appliance store	4.0 spaces per 1,000 sq. ft. UFA
Bar (Lounge)	16.0 spaces per 1,000 sq. ft. UFA, or 0.7 spaces per seat, whichever is greater
Barber shop/beauty salon/hair salon	2.5 spaces per each barber or beautician's chair or station
Bed and Breakfast Inn/Short-term Rental	2.0 spaces, plus 1.0 space per guest room
Conference rooms, exhibit halls, and similar uses	1.0 space per every two persons of capacity authorized by the City Building Code, or 10.0 spaces per 1,000 sq. ft. GFA, whichever is greater
Convenience store, with or without gasoline service	4.0 spaces per 1,000 sq. ft. UFA, plus 2.0 spaces per pump
Discount retail store	5.0 spaces per 1,000 sq. ft. UFA
Dry cleaners	2.0 spaces per 1,000 sq. ft. UFA, plus 2.0 spaces per drive-up window
Equipment repair	1.0 space per 4,000 sq. ft. UFA
Funeral homes	1.0 space per 50 sq. ft. UFA devoted to service parlors, chapels, and reception areas, plus 1.0 space per each funeral vehicle stored on the premises
Furniture/carpet store	<u>1.5</u> spaces per 1,000 sq. ft. UFA
Hardware/paint/home improvement store	3.0 spaces per 1,000 sq. ft. UFA

Laundromat	1.0 space per each two washing machines
Mini/self-storage warehouse	Minimum of 6.0 spaces, plus 1.0 space per each mini/self-storage unit with parking to be located adjacent to the front garage door of each unit
Motel/hotel with lounge, restaurant, conference or banquet rooms or exhibit facility	1.0 space per guest room, plus 10.0 spaces per 1,000 sq. ft of lounge, restaurant, conference or banquet rooms or exhibit space
Recreational vehicle, boat, manufactured home and similar sales	1.0 space per 800 sq. ft. UFA, plus 2.0 spaces per each vehicle sales service bay
Restaurant—Sit-down type with liquor license	16.0 spaces per 1,000 sq. ft. UFA, or 0.6 spaces per seat, whichever is greater
Restaurant—Family type (without liquor license)	12.0 spaces per 1,000 sq. ft UFA or 0.5 spaces per seat, whichever is greater, plus 3.0 longer spaces [no less than 25 ft.] designated for recreational vehicles
Restaurant—Fast food with drive-through window	15.0 spaces per 1,000 sq. ft. UFA or 0.6 spaces per seat, whichever is greater, plus 8.0 designated drive-through short term waiting spaces, plus 3.0 longer spaces [no less than 25 ft.] designated for recreational vehicles
Restaurant—Take out with less than six tables and/or booths	6.0 spaces, plus 1.0 space per employee
Shopping center	4.0 spaces per 1,000 sq. ft. UFA
Showroom of a plumber, cabinet maker, decorator, or similar trade	1.0 space per 800 sq. ft. UFA
Supermarket	4.5 spaces per 1,000 sq. ft. UFA
Mega-Market (combined grocery and department store)	4.0 spaces per 1,000 sq. ft. UFA

Vehicle service station and auto care centers without convenience goods	2.0 spaces per each service bay, plus 1.0 space per employee, plus 1.0 space per each tow truck, plus 1.0 space for each 500 square feet devoted to sales of automotive goods, plus 2.0 spaces per pump
Vehicle service-oil change/quick lube	2.0 spaces per service bay, plus 1.0 space per employee
Vehicle sales	1.0 space per 200 sq. ft. gross sales [showroom and office] floor area, plus 3.0 spaces per each auto service bay
Vehicle wash (automatic or semi-automatic)	2.0 spaces, plus 1.0 space per employee, plus 12.0 stacking spaces per bay
Vehicle wash (self-serve)	2.0 stacking spaces per bay before the wash, 2.0 stacking spaces per bay after the wash and 1.0 stacking space per vacuum
Video rental establishments	<u>1.5</u> spaces per 1,000 sq. ft. UFA, with a minimum of 8.0 spaces provided

#### F. Recreation/Entertainment

Batting cages	3.0 spaces per cage
Bowling centers	5.0 spaces per lane, plus amount required for the bar if a bar or lounge is present
Commercial outdoor recreation not listed elsewhere	5.0 spaces per 1,000 sq. ft. GFA, with a minimum of 10 spaces provided
Golf course, miniature	1.0 space per course hole
Health fitness centers without swimming pool	5.0 spaces per 1,000 sq. ft. UFA
Ice/roller skating rink	6.0 spaces per 1,000 sq. ft. GFA

Marina	1.5 spaces per boat slip, plus 1.0 space for each four (4) boat racks in an "in-out" boat keeping building or facility, plus 1.0 space per 800 sq. ft. UFA for showroom sales, plus 2.0 spaces per each service bay
Swimming pool	1.0 space per each three persons of capacity authorized by the City Building Code
Theater, cinema	1.0 space per each four seats, plus 4.0 spaces per screen or stage
Racquetball/tennis centers	1.0 space per 1,000 sq. ft. GFA or 6.0 spaces per court, whichever is greater
Video Arcade	1.0 space per 50 sq. ft. UFA, with a minimum of 6.0 spaces required

G. Industrial	
Light industrial, manufacturing, testing labs, research and development centers, other industrial	1.5 spaces per 1,000 sq. ft. GFA, or 1.2 spaces per employee, whichever is greater, plus 1.0 space for each corporate vehicle
Warehousing	1.0 space per each 2,500 sq. ft. GFA, or 1.0 space per employee, whichever is greater, plus 1.0 space for each corporate vehicle [Note: separate standard provided for mini-storage]

H. Uses Not Specified	
Refer to <u>20.02</u> , k for determining required parking for uses not specified under <u>Section 20.04</u> .	

( Ord. No. 544, § 8, 8-21-2017.)

Section 20.05. - Barrier Free Parking Requirements.

- A. *Barrier Free Spaces.* Within each parking lot, signed and marked barrier free spaces shall be provided at a convenient location, in accordance with state and federal law.
- B. *Barrier Free Access.* Wheelchair access requirements shall be according to state or federal barrier free regulations, with the most restrictive requirements applying.

Section 20.06. - Stacking Space Requirements.

Where the requirements of Section 20.04, Parking Space Schedule, requires the reservation of space for the stacking of vehicles, the follows standards shall apply to said space:

- A. *Conflict With Other Traffic.* Stacking spaces shall not conflict with traffic accessing the use, nor adjacent uses.
- B. *Length.* Each space shall be at least twenty-five (25) feet in length.
- C. *Blocking of Parking Spaces.* Parking spaces blocked by stacking spaces shall not be included in calculating the required number of parking spaces.
- D. *Use of Public or Private Street.* The use of a public or private street for stacking of vehicles is prohibited.
- E. *Additional Spaces Required.* Additional stacking spaces may be required if it is determined, during site plan review, that such spaces are necessary for proper traffic safety and control.

Section 20.07. - Off-Street Parking Space Design Standards and Setback Requirements.

Off-street parking facilities shall be designed, constructed and maintained according to the following standards and regulations:

- A. *Ingress and Egress.* Ingress and egress to the parking facility shall be provided by clearly defined driveways. For purposes of public safety, ingress and egress movements may be restricted or otherwise regulated pursuant to vehicular movement (e.g. one-way, in-only, out-only, right-turn only, etc.), driveway openings and spacings, driveway size, and related factors.
- B. *Construction Material Surface.* All parking lots and driveways shall have a concrete, asphalt, or brick paver surface.
- C. *Driveways—Design and Construction Standards.*
  - 1. *Single-Family Residential.* All driveways shall possess a curb opening and minimum width of sixteen (16) feet.
  - 2. *Multiple-Family, Commercial, and Industrial.* All driveways shall possess a curb opening and minimum width of thirty (30) feet, unless deemed unnecessary by the Planning Commission. Provided, however, more stringent design and construction standards may be required if determined necessary for the public safety and/or to maintain compliance with County or State requirements pursuant to connection with a County or State road.
- D. *Maneuvering Lanes.* All spaces shall be provided adequate access by means of maneuvering lanes.
- E.

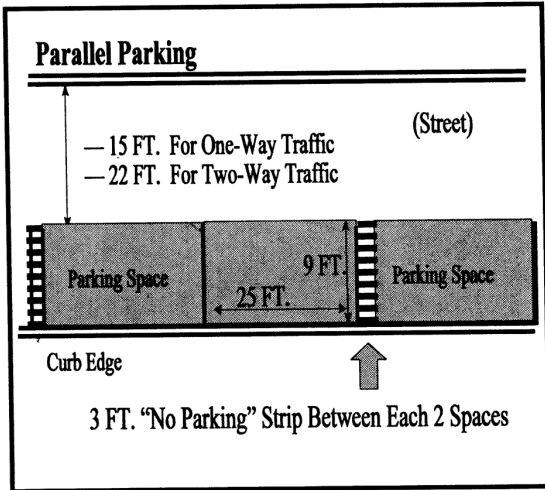
*Lighting.* All parking lot or display lighting shall be designed, located and/or shielded to prevent spill over onto adjacent properties, and shall be arranged to prohibit adverse affect on motorist visibility on adjacent public roadways. The maximum height of parking lot light fixtures shall be twenty (20) feet for any lot within one hundred and fifty (150) feet of a residential district, and a maximum height of forty (40) feet in all other parking lots.

- F. *Curbing.* Curbing or bumper blocks shall be provided where non-single and two-family parking spaces abut landscaping, property lines, sidewalks or required setback areas.
- G. *Use of Public Street.* Parking lots shall be designed to prevent vehicles from backing into the street or requiring use of the street for maneuvering between parking rows.
- H. *Right-of-Way Setback for Parking Lots and Maneuvering Aisles.* Parking lots and related maneuvering aisles shall have a minimum setback of ten (10) feet from any adjacent right-of-way line. Required parking lot setback areas shall be landscaped.
- I. *Parking Lot Setback from Property Line.* Parking lots shall have a minimum set back of ten (10) feet from any property line that is not a street right-of-way line. This requirement may be waived where a shared access driveway, connected parking lots, frontage road, or rear service drive exists. This does not include driveways, which may be provided for up to the lot line.
- J. *Parking Lot Setback from Residential Zone.* Commercial and Industrial parking lots shall have a minimum rear and side yard setback of twenty (20) feet from any single and two-family residential zoning district. This setback area shall include either a landscape berm or other landscaping and/or a wall to screen headlights. The design of the landscape or wall feature shall be compatible with the character of the adjacent residential district.
- K. *Parking Space Design.* All spaces shall be designed and marked with dimensions described below:

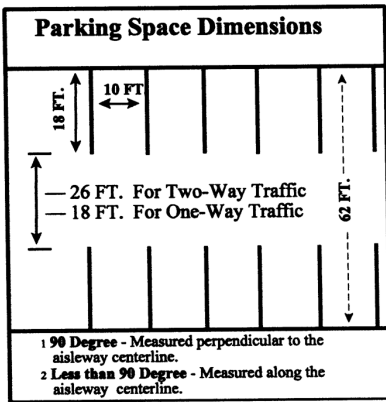
ANGLE	SPECIFICATION [Refer to Parking Design Standards, following]
76 to 90 Degree	10 × 18 feet with 26 feet wide aisle for 2-way traffic or 18 feet for single-loaded 1-way aisle.
30 to 75 Degree	9.5 × 21 feet with 24 feet wide aisle for 2-way traffic or 15 feet for single-loaded 1-way aisle.
Parallel Parking	9 × 25 feet with a 3 feet area striped for "No Parking" between each two spaces, and 22 feet for 2-way traffic lanes or 15 feet wide for 1-way lane.

[L]M. *Space Width Reduction Option.* Required width of parking spaces may be reduced by eighteen (18) inches per space if the parking lot is marked with double (or loop) stripes at three (3) or four (4) inches wide and spaced at least eighteen (18) inches apart.

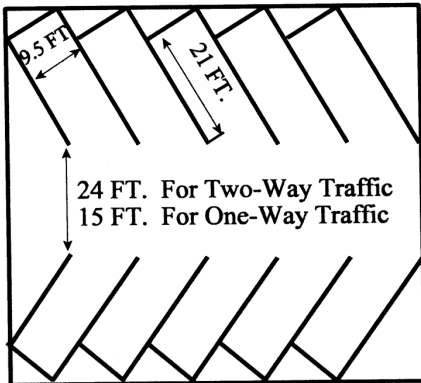
Section 20.07(A). - Parking Space Design Standards.



PARALLEL PARKING



30 TO 75 DEGREE ANGLE PARKING



70 TO 90 ANGLE PARKING

Section 20.08. - Parking Lot Construction and Maintenance.

A. *Plans and Review and Approval.* Plans and specifications for parking areas shall be submitted to the Zoning Administrator prior to the issuance of a Building Permit. These plans shall be reviewed by the Zoning Administrator for compliance with this Ordinance and the Building Official for compliance with City

Construction Codes. If the parking lot is to be constructed in conjunction with a building project, the following information may be submitted as part of an overall project site plan which incorporates all project elements. The plan shall include:

1. Existing and proposed locations, sizes, and grades of the parking lot(s).
  2. Sufficient engineering design detail, including run-off calculations, to demonstrate that storm water will be accommodated on-site through approved drainage facilities, including catch basins, proper pipe sizes, and connections to existing drainage structures.
  3. Design detail of surface and base materials to be used during construction.
  4. Curb cut and deceleration and acceleration lane detail, including size, design, relationship to curb cuts on adjacent property, turning radius, and traffic flow.
  5. Perimeter and interior landscaping including location, size, and setbacks of planting areas, type and size of plant materials, irrigation, architectural screens or walls, and other such features.
  6. Signs, including placement, purpose, size, type, and method of illumination.
  7. Lighting detail including location, size, and type(s) of fixture(s). Fixtures used for the lighting of parking lots shall be of a cut-off (or comparable) design to prevent the spillage of light/glare onto adjoining residential properties.
- B. *Installation Period.* Approved parking lots shall be installed and completed before issuance of a building occupancy permit. In the advent that the required hard surface is not installed due to adverse weather conditions or unusual construction delays beyond the control of the property owner, the Zoning Administrator may grant a temporary occupancy permit, combined with an extension for up to six (6) months. In granting a temporary occupancy permit, the uncompleted parking lot must be sufficiently improved to permit safe use by the public. The Zoning Administrator may require the applicant to file a performance guarantee to ensure construction of the parking lot as approved.
- C. *Pavement Markings.* All parking spaces, aisles, loading and unloading areas, pedestrian crossings, and directional control shall be marked. The visibility of pavement markings shall be of high quality and well maintained. Pavement markings shall be maintained on a regular basis to ensure lasting visibility.
- D. *General Maintenance.* All parking lots shall be maintained. Zoning approval is not required for normal maintenance such as cleaning, sealing, and/or patching.

#### Section 20.09. - Off-Street Loading and Unloading Areas.

On the premises, space for standing, loading and unloading vehicles shall be provided for each use involving the receipt or distribution of goods based on the following criteria:

- A. *Size and Location (General).* The loading area shall be of sufficient size, and properly located, to prevent undue interference with adjacent required parking spaces, maneuvering aisles, or traffic flow on public streets.
- B. *Alley Location.* Where an alley exists at the rear of the building, the required loading area may be computed from the centerline of the alley.
- C. *Visible to a Public Street.* Loading/unloading areas and docks shall not be provided in the front yard or on any building side facing and directly visible to a public street.



- D. *Visible to a Residential District.* Loading docks and loading areas facing a residential district shall be adequately screened by a wall and/or landscaping.
- E. *May Not Be Used in the Calculation of Off-Street Parking.* Required loading areas shall not be included in calculations for off-street parking space requirements.
- F. *Space Size and Clearance.* The size of all required loading/unloading spaces shall be at least ten (10) feet by fifty (50) feet or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height.
- G. *Construction Material.* Loading dock approaches shall be constructed of an asphalt or cement binder with a base sufficient to accommodate expected vehicle weight.
- H. *Required Spaces.* The minimum number of loading spaces shall be provided in accordance with the following table:

Required Loading and Unloading Spaces Institutional, Commercial and Office Uses	
Up to 2,000 sq. ft. GFA	None Required
2,001 to 20,000 sq. ft. GFA	1.0 space
Exceeding 20,000 sq. ft. GFA	1.0 space per each 20,000 sq. ft. GFA, with a maximum of 5 spaces required

Required Loading and Unloading Spaces Industrial Uses	
Up to 5,000 sq. ft. GFA	1.0 spaces
5,001—25,000 sq. ft. GFA	2.0 spaces
25,001—100,000 sq. ft. GFA	1.0 space per each 25,000 sq. ft. GFA, but no less than 2.0 spaces
100,001 sq. ft. GFA and over	1.0 space per each 30,000 sq. ft. GFA, but no less than 4.0 spaces

## Section 21.01. - Intent.

- A. The sign regulations of this Chapter are intended to protect and further the health, safety, and welfare of the residents of the City of North Muskegon; to maintain and improve the appearance of the City; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs.
- B. It is further determined that to allow signs of excessive number and size in the City would unduly distract pedestrians and motorists, create a traffic hazard, and reduce the effectiveness of signs needed to direct the public.

( Ord. No. 564, 9-19-2022)

## Section 21.02. - Definitions.

- A. *Awning*. A retractable or fixed shelter constructed on a supporting framework that projects from the exterior wall of a building.
- B. *Billboard*. An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.
- C. *Business Center*. Any two (2) or more businesses which:
  - 1. Are located on a single parcel of property; or
  - 2. Are connected by common walls, partitions, canopies, or other structural members to form a continuous building or group of buildings; or
  - 3. Share a common parking area; or
  - 4. Otherwise present the appearance of a single, contiguous business area.
- D. *Mural*. A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
- E. *Reader Board*. A portion of a sign on which copy is changed manually.
- F. *Roof Line*. The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- G. *Sign*: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images; including the following sign types:
  - 1. *Sign, animated or moving*: Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation, not including electronic message boards.
  - 2. *Sign, banner*: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
  - 3.

*Sign, bench:* A sign painted, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public place or roadway.

4. *Sign, bulletin board:* A sign that identifies an institution or organization on the premises of which it is located and that contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.
5. *Sign, construction:* A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.
6. *Sign, directional:* Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as "one-way," "entrance," and "exit."
7. *Sign, electronic message board:* A sign with a fixed or changing display/message composed of a series of lights that may be changed through electronic means.
8. *Sign, government:* A temporary or permanent sign erected by the City of North Muskegon, Muskegon County, the State of Michigan, or federal government either on public land or within the right-of-way.
9. *Sign, ground:* Any sign, other than a pole sign, in which the entire bottom is in contact with or close to the ground and is independent of any other structure and which is up to six (6) feet in height.
10. *Sign, identification:* A sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.
11. *Sign, memorial:* A non-illuminated sign, tablet, or plaque commemorating a person, event, structure, or site.
12. *Sign, marquee:* A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by ordinance.
13. *Sign, multi-tenant:* A freestanding sign identifying the name of a business center and/or one or more individual businesses.
14. *Sign, off-premises. See Billboard.*
15. *Sign, placard:* A sign not exceeding two (2) square feet which provides notices of a public nature, such as "No Trespassing", "No Hunting", "Closed", or "Open" signs.
16. *Sign, pole:* A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six (6) feet or more above grade.
17. *Sign, political:* A sign announcing or supporting political candidates or issues in connection with any national, state, or local election.
18. *Sign, portable:* A sign that is not permanent, affixed to a building, structure, or the ground, such as an A-frame sign.
19. *Sign, projecting:* A sign that is wholly or partly dependent upon a building for support and that projects more than twelve (12) inches from such building.
- 20.

*Sign, real estate:* A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

21. *Sign, roof:* A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.
  22. *Sign, special event:* A temporary sign containing public messages concerning special events sponsored by governmental agencies or non-profit organizations.
  23. *Sign, suspended:* A sign hanging down from a marquee, awning, or porch that would exist without the sign.
  24. *Sign, temporary:* A sign designed for use for a limited period of time to announce special events.
  25. *Sign, wall:* A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than twelve (12) inches from such building or structure, and the exposed face of which shall be on a plane parallel to the building wall to which it is attached.
  26. *Sign, wayfinding:* An off-premises sign that is part of a city-sponsored and coordinated program for the purpose of facilitating pedestrian and vehicular transit to local destinations as designated and recognized by the city's way-finding sign program.
  27. *Sign, window:* A sign attached to, or in close proximity to, the window surface so as to be clearly and comprehensively visible from the outside.
  28. *Sign, yard:* A sign of relatively impermanent construction manually placed in a yard and typically intended to announce or advertise an infrequent event such as, but not limited to, a garage sale; or to support a political candidate or political position; or the sale or rental of real property.
- H. *Sign area:* The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

( Ord. No. 564, 9-19-2022)

#### Section 21.03. - General Requirements.

- A. All signs shall conform to all applicable codes and ordinances of the city and shall be approved by the building inspector or zoning administrator, and a permit issued.
- B. Sign area.
  1. The area of a sign shall be measured within a single, continuous rectilinear perimeter composed of no more than eight (8) straight line segments which encloses the extreme limits of the advertising message, together with any frame or other material or color forming an integral part of the display, message, drawing, or similar device, or used to differentiate same from the background against which it is placed, excluding the necessary supports, braces and/or uprights of the sign.
  2. When two (2) sign faces are placed back-to-back, so that both faces cannot be viewed from any one point at the same time, and when such sign faces are part of the same sign structure and are not more than twenty-four (24) inches apart at any point, the sign area shall be computed by the measurements of one of the faces.

- C. Sign setbacks. All signs shall be set back a minimum of one-half (1/2) of the front yard setback.
- D. Height. Sign height shall be measured as the vertical dimension from the median natural grade to the highest point of the highest attached component of the sign. A sign shall not extend above the roof line of a building to which it is attached.
- E. Maintenance.
1. Signs shall be maintained free of peeling paint or paper, staining, rust, or other condition which impairs legibility or intelligibility.
  2. Sign supports, braces, guys, and anchors shall be maintained in such a manner as not to cause a hazard.
  3. If signs are not properly maintained and/or pose a threat to the public health, safety, and welfare, the city shall have the right to remove the sign. Accordingly, the city shall pass on all removal costs to the sign owner.
- F. Where a projecting sign, marquee sign, suspended sign, or similar element projects or protrudes over any public or private sidewalk or walkway, the bottommost point of the sign structure shall be at least nine (9) feet from said walkway. Projecting signs, including brackets, shall not project more than forty-eight (48) inches from the face of a building or wall and shall not exceed twelve (12) square feet in sign area.
1. If any sign encroaches, projects, or is suspended on or over public property, public street, sidewalk, or alley, the owner of such sign shall keep in force a public liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00). In addition, when a sign is extending into the right-of-way, an encroachment permit must be obtained, which will require showing the insurance coverage and shall be renewed at least every three (3) years.
  2. If at any time the insurance policy is canceled, the sign encroaching on, over, or into the public right-of-way, alley, or other public place shall be immediately removed. In the event the sign is not removed, the City of North Muskegon shall have the right to remove the sign and repair the façade at the expense of the property owner.
- G. Illumination. Unless further regulated elsewhere in the ordinance, sign illumination shall be opaque background with internally lit lettering, facelit channel lettering, backlit lettering or externally lit. When illumination of signs is permitted, illumination shall comply with the following requirements:
1. Illumination shall not be flashing, blinking, intermittent, or an on-and-off type of lighting.
  2. Illumination shall be arranged so that light is deflected away from adjacent properties so that no direct sources of light shall be visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.
  3. External illuminated sign. Any external lighting of signs shall be downward facing, shielded, or otherwise directed to illuminate only the sign face.
  4. Internal illuminated sign. Sign faces shall be opaque so that individual lamps are muted and cannot be distinguished behind the sign face. Only the sign face may be internally illuminated.
  5. Backlit illuminated sign. Individual bulbs and light sources shall not be visible.
- H. Design Standards for awnings. Awnings shall meet the following standards in all districts:
1. Awnings shall be constructed of an opaque material only
  - 2.

Lighting shall be downward facing illuminating the area beneath the awning, downward facing illuminating the awning, or upward facing directed at the sign upon the awning.

( Ord. No. 564, 9-19-2022)

#### Section 21.04. - Exempt Signs.

The following signs are exempt from the permitting requirements in this article, but shall be subject to all other applicable general requirements:

- A. Any public notice, traffic control, or warning required by a valid and applicable federal, state or local law, regulation, or ordinance.
- B. Placards.
- C. Property address and owner identification up to two (2) square feet in area.
- D. Window signs. Window sign overage shall not exceed twenty-five (25) percent of window area provided per building elevation.
- E. Special event signage on public property.
- F. Any sign wholly located within a building and not visible from outside the building. This does not include window signs.
- G. Holiday lights and decorations with no commercial message.
- H. Murals and other works of art that do not contain a commercial message.
- I. Governmental historical designation signs and markers.
- J. City wayfinding signs as approved by the city manager on public or private property.
- K. Temporary yard signs.
  1. A lot or parcel shall be limited to one (1) sign per street frontage.
  2. Extra signs are permitted during a time period of thirty (30) days prior to an election date to seven (7) days after the election date, and during times of emergency to allow businesses the ability to adequately advertise business practices.
  3. Signs shall not exceed three (3) square feet in area on residential property and twelve (12) square feet in area on nonresidential property.
  4. Location.
    - a. Signs shall be setback a minimum of two (2) feet from the property line where a sidewalk is present adjacent to the parcel.
    - b. Signs shall be setback a minimum of fifteen (15) feet from the curb/road edge on parcels without an adjacent sidewalk.
    - c. Signs on the Causeway and Whitehall Road in the GC and RPO districts shall be setback a minimum of thirty (30) feet from the edge of the roadway to ensure signs do not encroach on the right-of-way.
- L. Temporary yard signs on residential or commercial construction sites.
  1. A lot or parcel shall be limited to one sign per street frontage.
  - 2.

Signs shall not exceed twelve (12) square feet in area in residential districts and twenty-four (24) square feet in area in nonresidential districts.

3. Signs shall not exceed ten (10) feet in height.
4. Signs shall be subject to a one-foot setback from any property line and right-of-way.
5. Signs shall be confined to the site of the construction and shall be removed within fourteen (14) days after the issuance of an occupancy permit.

( Ord. No. 564, 9-19-2022)

#### Section 21.05. - Prohibited Signs.

The following signs shall not be allowed in any district.

- A. Signs placed in, upon, or over any public right-of-way, alley or other public place, except for permitted highway and government signs.
- B. Signs affixed to a light pole, utility pole, or other supporting member, except for permitted highway and government signs.
- C. Signs which are obsolete, that do not relate to existing business or products for sale or available on the site.
- D. Signs which are illegal under state laws or regulations and applicable local ordinances or regulations, and which are not consistent with the standards in this ordinance.
- E. Signs that are not clean and in good repair, and signs that are out of compliance with applicable building and electrical codes.
- F. Air filled balloons, air dancer signs, and lighter than air signs.
- G. Signs not securely affixed to a supporting structure.
- H. Signs that are not official traffic signs that appear to or attempt to regulate, warn, or direct the movement of traffic, which interfere with or resemble any official traffic sign, signal, or device, or which may obstruct a motorist's vision.
- I. Signs located in, projecting into or overhanging within a public right-of-way or dedicated public easement, provided the following shall be permitted with the following requirements:
  1. Official traffic signs posted by a governmental agency;
  2. Public transit signs, including bus stop signs and routing signs, erected by a public transit company;
  3. Informational signs of a public utility regarding its poles, lines, pipes, or facilities;
  4. Projecting, marquee, and suspended signs projecting over a public right-of-way as permitted;
  5. Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the right-of-way;
  6. Temporary signs, banners, or directional signs approved by the city council. The city council shall establish sign area standards and a time period for any temporary sign, banner or directional sign within the public right-of-way; and
  7. Sandwich board signs provided all other requirements of this article are met.
- J.

Truck or trailer mounted signs. No sign or other advertising structure shall be painted on or be attached to a motor vehicle used primarily for the display of such sign, including, but not limited to a billboard truck. This section shall not prohibit the identification of a business or its products or services on its vehicle(s) operated and parked in a manner appropriate to the normal course of business.

- K. Electronic message board signs. An electronic message board sign may only be allowed on the Causeway and Whitehall Road in GC and RPO districts and Holton Road in GC and LI districts. An electronic message board sign shall be regulated/operated by the following standards:
1. One electronic message board sign is permitted for each lot.
  2. Electronic message board signs shall not flash, scroll, blink, strobe, or show moving pictures.
  3. Graphics are prohibited.
  4. Messages may not change more than once every three and one-half (3.5) seconds.
  5. Electronic message board signs shall be fitted with automatic sensors that adjust their brightness and intensity during daylight and nighttime hours. The overall brightness and intensity shall only be enough to make the sign legible and shall not create a nuisance or a traffic hazard.
  6. Electronic message board signs shall be secondary to a traditional stationary sign and shall not exist as the sole sign, but in no instance shall such sign exceed fifty (50) percent of the traditional stationary sign area.

(Ord. No. 514, 11-20-2006; Ord. No. 564, 9-19-2022)

#### Section 21.06. - Measurement.

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- B. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back, are of equal size, and are no more than two (2) feet apart at any point, the area of the two (2) back-to-back faces shall be counted as one face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as one (1) face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, excluding any artificially constructed earthen berms.
- D. For buildings with multiple tenants, the sign areas for wall signs, projecting signs and awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing sign requirements for that portion of the total wall.

#### Section 21.07. - Reserved.

**Editor's note—** Ord. No. 564, adopted September 19, 2022, repealed § 21.07, which pertained to illumination.



Section 21.08. - Reserved.

**Editor's note**— Ord. No. 564, adopted September 19, 2022, repealed § 21.08, which pertained to maintenance.

Section 21.09. - Signs Permitted by District.

The following signs are permitted in combination (unless otherwise noted) in each district, subject to the requirements described in the tables and all other applicable regulations of the Chapter.

<b>Residential Districts: R-1, R-2, R-3, MHP, RPO</b>	
Wall Sign for Dwelling with a Home Occupation	
Max. Number	1
Max. Sign Area	2 sq. ft.
Illumination	Not permitted
Wall Sign for Nonresidential Uses, Existing Non-Conforming Use	
Max. Number	1 per frontage
Max. Sign Area	5% of the wall area not to exceed 18 sq. ft.
Illumination	Downward facing external
Ground Sign for Nonresidential Uses	
Max. Number	1 per frontage
Max. Sign Area	18 sq. ft.
Illumination	Downward facing external
<b>Nonresidential Districts: CBD, OS, NC, GC, LI</b>	
Wall, Awning, and Projecting Signs	
Max. Number	1 each per frontage
Max. Sign Area for all signs	5% of wall area each not to exceed 30% total

Illumination	Permitted
Ground Sign	
Max. Number	1 per frontage
Max. Sign Area	24 sq. ft.
	50 sq. ft. on lots of record having at least 90 feet of frontage on Causeway/Whitehall Rd. and Holton Rd.
Max. Height	6 feet
Min. Setback	½ required front yard setback
Illumination	Permitted
Pole Sign	
Max. Number	One, in lieu of one permitted ground sign on lots of record having at least 90 feet of frontage on Causeway/Whitehall Rd. and Holton Rd.
Max. Sign Area	50 sq. ft.
Max. Height	20 feet
Min. Setback	½ required front yard setback
Illumination	Permitted
Gas Station Canopy Signs	
Max. Number	2; one per side of canopy fascia
Max. Sign Area	24 sq. ft.
Illumination	Permitted
Mixed Use Development or Multi-Tenant Commercial Development	

Max. Number	One wall sign per building entrance
Max. Sign Area	10% of wall area of the portion of the building that the entrance serves.
Illumination	Permitted

( Ord. No. 564, 9-19-2022)

Section 21.10. - Nonconforming Signs.

- A. Every permanent sign which was erected legally and which lawfully exists at the time of the enactment of this Chapter, but which does not conform to the height, size, area, or location requirements of this Chapter as of the date of the adoption of these regulations, is hereby deemed to be nonconforming. This status shall not be granted to any temporary sign, banner, placard, or other non-permanent sign.
- B. Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
- C. For the purposes of this Chapter, a nonconforming sign may be diminished in size or dimension without jeopardizing the privilege of nonconforming use. The copy of the sign may not be amended or changed, unless specifically designed to be changed periodically as in Reader Board, without bringing such sign into compliance with the requirements of this chapter.
- D. Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50) percent of the value of the sign on the date of loss.
- E. Any sign which for a period of six (6) months or more no longer advertises a bona fide business conducted or product sold shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
- F. A sign for a nonconforming use may be erected in the City in accordance with the sign regulations for the District in which the property is located.

( Ord. No. 564, 9-19-2022)

Section 21.11. - Sign Permits.

No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a building permit, unless such sign is specifically exempted as provided in this Chapter.

( Ord. No. 564, 9-19-2022)

CHAPTER 22. - ZONING BOARD OF APPEALS

Section 22.01. - Statement of Purpose.

- A. The role of the Zoning Board of Appeals (ZBA) as authorized by Michigan's zoning statutes is a unique and important one. The ZBA is empowered to hear and decide appeals from any person or board aggrieved by an administrative decision. An administrative decision is one made by a zoning administrator or the planning commission, or by a legislative body acting in an administrative capacity. The ZBA has significant authority relative to interpreting and ultimately enforcing the legislative intent of zoning regulations. This "quasi-judicial" responsibility is separate from the duties carried out by the City Council, Planning Commission, Zoning Administrator, and others involved in zoning.
- B. No other body or individual in the City has the power to waive or vary the requirements of the community's zoning law. For this reason, the exercise of that authority must be carried out in conformance with prescribed procedures to ensure to the extent possible that there is uniform application of the zoning laws throughout the community.
- C. Obtaining a variance from the City's zoning laws should be difficult, at best, to accomplish. Only the rarest of situations should qualify and each must satisfy a number of prescribed tests in order to be granted relief from the regulations that are ultimately intended to protect the general health, safety, and welfare of the community. Each time a waiver of the rules is granted, there is potential to erode the integrity of the community's zoning regulations.
- D. As with all the City's boards, commissions, and committees, the Zoning Board of Appeals is often asked to make tough choices. It is sometimes difficult to remain entirely objective, not allowing emotion, compassion, and personal preferences to influence a decision. But as a quasi-judicial body, the ZBA must not be persuaded by likes and dislikes, personalities, or personal feelings. Whether the ZBA agrees or disagrees with any provision in the ordinance is irrelevant. Decisions must be based solely on the applicable provisions of the zoning ordinance and the applicant's ability to qualify for some relief from those provisions based on the standards of the ordinance.
- E. Unless caution is exercised, actions of the ZBA may sometimes have the effect of amending the ordinance and violating the intent of its provisions. The ZBA cannot amend the zoning ordinance, including providing rezonings or text changes. The Board must function solely to provide relief for the rare exception situation where conformance to the zoning requirements is either impossible or would be extremely difficult. Secondarily, the Board must be the "arbiter" of disputes or questions regarding the enforcement or interpretation of the ordinance provisions. This job must be undertaken with a genuine commitment to uphold the intent and spirit of the City zoning regulations.

#### Section 22.02. - Membership, terms of office.

The zoning board of appeals shall consist of five (5) members appointed by the mayor and confirmed by city council. One member of such board shall be a member of the planning commission, and the commissioner's term on the board shall be co-terminus with the member's term on the planning commission. An elected officer of the city shall not serve on the zoning board of appeals.

The term of each member shall be for three (3) years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. The expiration dates of terms for the zoning board of appeals shall be such that at least one member's

term expires each year. With approval of council, the mayor may appoint at least two (2) alternate members, who shall serve for three (3) years.

( Ord. No. 563, 8-15-2022)

Section 22.03. - Organization.

- A. *Rules of Procedures.* The Zoning Board of Appeals shall adopt rules and/or procedures for the conduct of its meetings and the performance of its powers and duties. The procedures shall be in accordance with the provisions of this Ordinance and applicable State law.
- B. *Meeting Dates.* Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson.
- C. *Quorum.* A majority of the total membership of the Board (4 members) shall comprise a quorum.
- D. *Minutes.* Minutes shall be kept of each meeting and the Zoning Board of Appeals shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon each appeal case. All meetings and records shall be open to the public. All minutes shall be filed in the office of the City Clerk. The City Clerk, or the Clerk's agent, shall act as recording secretary to the Zoning Board of Appeals, including recording the minutes, publishing legal notices, and providing notices to property owners and others required by law.
- E. *ZBA Applications.* Applications shall not be accepted unless all of the following information is submitted:
  - 1. A completed application form (provided by the City);
  - 2. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The Zoning Administrator shall determine the completeness of such plans;
  - 3. An application fee as may be determined by the City Council from time-to-time and;
  - 4. A written explanation from the applicant indicating why the application meets the applicable review standards of this Chapter.
- F. *Public Hearings.* Upon receipt of an application as required by this Chapter, the Chairperson of the Zoning Board of Appeals shall fix a reasonable time and date for a public hearing.
  - 1. Upon determination of the time and date of the hearing, the Clerk shall notify the following by regular mail or in person, not less than ten (10) days before the public hearing:
    - a. The applicant;
    - b. All persons to whom real property is assessed, within three hundred (300) feet of the boundary of the property in question; and
    - c. The occupants of all structures within three hundred (300) feet of the boundary of the property in question.
  - 2. The Clerk shall also publish a notice of public hearing in a newspaper of general circulation. The notice shall be published not more than ten (10) days nor less than five (5) days prior to the date on which the hearing is to be held. The notice shall contain the date, time and place of hearing, a description of the matter under consideration, a general description of the property involved and the name of the applicant.
  - 3. The Board may adjourn any meeting held in order to allow the obtaining of additional information, or to

provide further notice as it deems necessary.

#### Section 22.04. - Jurisdiction.

The Zoning Board of Appeals shall not have the power to make any changes to the Zoning Ordinance, but does have power to act on those matters where this Ordinance provides for an administrative review, interpretation, and to authorize a variance as defined in this Section and the laws of the State of Michigan. The Zoning Board of Appeals shall not have the authority to hear appeals from a decision made in respect to any special land use, planned unit development, or rezoning. The powers of the Zoning Board of Appeals include:

- A. *Administrative Appeals.* 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 Administrator or any other administrative official in carrying out or enforcing any provisions of this Ordinance.
- B. *Variances.* A variance from the specific requirements of this Ordinance may be granted by the Zoning Board of Appeals in accordance with the requirements and procedures of this Chapter.
- C. *Zoning Ordinance Interpretations.* The Zoning Board of Appeals may interpret the provisions of this Ordinance to carry out the intent and purposes of the Zoning Ordinance where the meaning of the provisions is uncertain.

#### Section 22.05. - ZBA Decisions.

- A. *Procedure.* An appeal may be made by a person aggrieved, or by an officer, department, or board of the city. Such appeal shall be made within twenty-one (21) days of the action being appealed. The application shall be filed with the City and shall specify the grounds for the appeal.
- B. *Filing.* The party from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed was taken. These papers shall include a completed application form and site plan. Said site plan shall include the following information:
  1. Project Information, including:
    - a. The applicant's name;
    - b. North arrow;
    - c. Complete and current legal description and size of property in acres;
    - d. Size of property in acres or square feet;
    - e. A survey shall be required for dimensional variance.
  2. Existing Features:
    - a. Property lines and dimensions;
    - b. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site;
    - c. Lot lines and all structures on the property;
    - d. The Zoning Board of Appeals may require buildings and structures within one hundred (100) feet of the site's property lines to also be shown.
  3. Proposed Construction:

- a. Building footprints, setbacks, elevations and building height; and
  - b. Location and dimensions of parking spaces (if applicable).
4. In the case of a variance request, a written explanation from the applicant indicating why the application meets each of the standards of Subsections 22.07 (either B or C).
  5. Additional information may be required by the Zoning Board of Appeals, including, but not limited to:
    1. Existing and proposed topography;
    2. Location and method of screening waste dumpsters;
    3. A landscaping plan;
    4. Details of exterior lighting; and
    5. Details of site circulation and access design.
    6. A completed application form, supplied by the Zoning Administrator and an application fee.
- C. *Stay of Proceedings.* An appeal stays all proceedings in furtherance of the action appealed from unless the officer or body from whom the appeal is taken certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in the opinion of the officer or body, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order. This restraining order may be granted by the Zoning Board of Appeals or Circuit Court on application or notice to the officer or body from whom the appeal is taken and due cause shown.
- D. *Decisions.*
1. The concurring vote of a majority of the membership of the Board shall be required to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Board is required to pass, or to effect a variation in the ordinance; except that a concurring vote of two-thirds ( $\frac{2}{3}$ ) of the membership shall be necessary to grant a use variance.
  2. The Zoning Board of Appeals shall render its decision upon any appeal or application submitted to it within sixty (60) days after the hearing thereon.
  3. All decisions of the Zoning Board of Appeals shall become final five (5) days after the date of entry of an order, unless the Board shall find, and so certify on the record, that it is necessary to cause such order to have immediate effect, in order to preserve property or personal rights.
  4. Any variance granted by the Board shall only be valid for a period of twelve (12) months from the date of approval, unless substantial construction, as determined by the Board, has occurred and is progressing meaningfully toward completion. The Board may grant up to an additional twelve (12) month extension, if requested by the property owner in writing prior to the expiration of the original twelve (12) month period, upon showing that the expiration of the variance will cause an undue hardship on the owner.
- E. *Record of Actions.* For each decision of the Zoning Board of Appeals shall record their actions including, at a minimum, the following items:
1. Description of the applicant's request.
  - 2.

The Board of Zoning Appeal's motion including an explanation of how the request meets each standard outlined in Subsection 22.7 B., for Non-Use Variances, or Subsection 22.7 C., for Use Variances, or conversely, an explanation of how the request does not meet each said applicable standard.

3. The Board's vote on the motion.
  4. A summary or transcription of all relevant material and evidence presented at the hearing; and,
  5. Any conditions attached to an affirmative decision.
- F. *Appeals to Circuit Court.* The decision of the Zoning Board of Appeals shall be final. However, a person having an interest affected by the decision of the Zoning Board of Appeals may appeal to the Circuit Court. Upon appeal, the Circuit Court shall review the record in accordance with the requirements of the City and Village Zoning Act. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals, or may remand the decision to the Zoning Board of Appeals for further hearings or action.
- G. *Resubmission.* No variance request which has been decided by the Zoning Board of Appeals shall be submitted for reconsideration within a one (1) year period from the date of the original application unless the Board finds that at least one of the following conditions exist:
1. That the conditions involving all of the reasons for the original denial have been significantly altered.
  2. That new conditions or circumstances exist which change the nature of the original request.

#### Section 22.06. - Conditions of Approval.

- A. The Zoning Board of Appeals may impose reasonable conditions in conjunction with approval of an appeal, variance, or any other decision which they are required to make.
- B. Conditions shall be imposed in a manner in accordance with the City and Village Zoning Act and related to the standards by which the decision is reached.

#### Section 22.07. - Variance Procedures.

- A. *Authority for Variances.* After holding a public hearing, the Zoning Board of Appeals shall have the power to grant requests for variances from the provisions of this Ordinance. Depending upon the type of the variance granted, the applicant has the responsibility to prove that there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of the Ordinance relating to the construction, equipment, or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety secured and substantial justice done.
- B. *Granting of Non-Use Variances—(Practical Difficulty).* A non-use variance (sometimes referred to as a dimensional variance) may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and that all of the following conditions are met:
  1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district;
  2. That the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or



shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would involve practical difficulties;

3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
4. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
5. The variance will not impair the intent and purpose of this Ordinance.
6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.

C. *Granting of Use Variances—(Unnecessary Hardship).*

1. A use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship in the official record of the hearing that all of the following conditions are met:
  - a. That the building, structure, or land cannot be reasonably used for any of the uses permitted by right or special approval in the zone district in which it is located.
  - b. That the condition or situation of the specific piece of property or the intended use of such property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations. Unique circumstances include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter, or by reason of exceptional topographic conditions or other extraordinary situation on the land, building or structure or by reason of the use or development of the property immediately adjoining the property in question, the literal enforcement of the requirements of this chapter would cause unnecessary hardship;
  - c. That the proposed use will not alter the essential character of the neighborhood.
2. Prior to the Zoning Board of Appeals hearing on a request for a Use Variance, the Planning Commission shall consider such request and forward a report to the Zoning Board of Appeals. For this report the Planning Commission shall consider the Master Plan, the ability of the property owner to use the property for a use already permitted under the existing zoning classification, the effect of the request on the essential character of the neighborhood, and other such factors as the Planning Commission may deem relevant.

Section 22.08. - Fees.

The City Council may prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. The fee shall be paid to the City at the time the application for the appeal or variance is filed.

CHAPTER 23. - ADMINISTRATION AND ENFORCEMENT

Section 23.01. - Zoning Administrator Duties.

- A. *Deputy Administrator.* Where the provisions of this Ordinance authorize or direct the Zoning Administrator to perform any act or carry out any function, such act or function may also be carried out by a deputy or deputies designated by the City Manager.
- B. *Basic Duties.* The Zoning Administrator shall have the power to grant certificates of zoning compliance and to make inspections of premises necessary to carry out his/her duties in the enforcement of this Ordinance, and to otherwise carry out the duties assigned herein.
- C. *Official Zoning Map.* The Zoning Administrator shall be responsible for maintaining the Official Zoning Map.
- D. *Violations.* The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, signs or structures; removal of illegal buildings, signs or structures; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with, or prevent violations of its provisions.

Section 23.02. - Zoning Ordinance Amendments (including Rezoning).

The City Council may, from time to time, amend, modify, supplement or revise the zoning district boundaries shown on the Official Zoning Map or the text provisions of this Ordinance.

- A. *Time frame for Application Submittal.* All applications for amendments to the Zoning Ordinance, including Zoning Ordinance Map changes (rezonings), shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the first consideration by the City Planning Commission.
- B. *Initiation of Amendments and Application Requirements.* Requests for amendments to the text of the Zoning Ordinance may be requested from interested individuals to the Planning Commission. An amendment to the zoning district boundaries contained on the Official Zoning Map (rezonings) may be initiated in writing by the owner of the property requested for rezoning, or their authorized representative (authorized in the proof of a legal land purchase option). Requests to amend the text of the Zoning Ordinance or to the Official Zoning Map may also be made by the City Planning Commission or the City Council through official action of the Commission or Council taken at a public meeting which has been properly noticed as required by law.

In the case of an amendment requested by an interested individual in the case of a text amendment or a property owner or their authorized representative in the case of a rezoning, the request shall include the following:

- [C]3. *Completion of a Zoning Amendment Application as provided by the Zoning Administrator.* Said application to include:
  - a. The name and address of the person making the request and all persons having a legal or equitable interest in any land which is requested to be rezoned.
  - b. In the case of a text amendment, the specific section to be amended and the proposed text change.
  - c.

If the requested amendment requires a change in the zoning map, the common address, legal description of the area requested for change, and present and proposed district classifications shall be provided. The applicant shall also indicate by map form, the location of the property requested for rezoning.

If, in the opinion of the Zoning Administrator, Planning Commission, or City Council, the information submitted does not provide a clear delineation of the specific area to be rezoned, said Zoning Administrator, Planning Commission, or City Council shall require the applicant to submit a boundary survey of the property in question. Said survey to include a written legal description and drawing of the area to be rezoned. The boundary survey, including legal description and map, shall be completed by a Land Surveyor registered by the State of Michigan.

- d. The nature of the amendment shall be fully identified in writing.
- e. In a zoning map change, the applicant shall show how their request meets the criteria of Subsection 23.04 B.
- f. Payment of all fees as required by the City of North Muskegon.

#### Section 23.03. - Amendment Procedure.

After submission of the application and fee, amendments to this Ordinance shall be processed as provided for in the City and Village Zoning Act.

#### Section 23.04. - Consideration of Amendment by Planning Commission.

The following guidelines shall be used by the Planning Commission pursuant to consideration of amendments to the Zoning Ordinance:

##### A. *Text Amendment.*

1. The proposed text amendment would correct an error in the Ordinance.
2. The proposed text amendment would clarify the intent of the Ordinance.
3. The proposed text amendment would address changes to the state legislation, recent case law or opinions from the Attorney General of the State of Michigan.
4. The proposed text amendment would promote compliance with changes in other City Ordinances and County, State or Federal regulations.
5. In the event the amendment will add a use to a district, said use shall be fully consistent with the character of the range of uses provided for within the district.
6. The amendment shall not result in problems of incompatibility among land uses within a zoning district, or among adjacent districts.
7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
8. As applicable, the proposed change shall be consistent with the City's ability to provide adequate public facilities and services.
- 9.

The proposed change shall be consistent with the City's desire to protect the public health, safety, and welfare of the community.

- B. *Map Amendment* (also known as a Rezoning). The following standards are to be used before making a map amendment. The first three (3) numbered items are often called the "3 C's" and are fundamental to rezoning questions:
1. Consistency with the goals, policies and future land use map of the City of North Muskegon. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.
  2. Compatibility of the site's physical, geological, hydrological and other environmental features with the uses permitted in the proposed zoning district. The potential uses allowed in the proposed zoning district shall be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
  3. Capability of the existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting to sufficiently support those uses provided for within the proposed zoning district classification.
  4. Existing City facilities and services including, but not limited to, police and fire protection, recreational facilities, educational facilities, and waste collection shall have sufficient capacity to support those uses provided for within the proposed zoning district classification.
  5. The proposed change shall be governed by sufficient standards to ensure that the potential for problems of incompatibility between the proposed and adjoining districts shall be minimal.
  6. The requested rezoning will not create an isolated and unplanned spot zone.
  7. The proposed change shall not endanger the public health, safety, or welfare.
  8. Other factors deemed appropriate by the Planning Commission.

#### Section 23.05. - Consideration of Amendment by City Council.

1. Upon receipt of a report and summary of hearing comments from the Planning Commission as provided for in the City and Village Zoning Act, the City Council may hold an additional public hearing, if it considers it necessary, or may proceed to adopt or amend the proposed amendment. If the City Council proposes to amend the amendment, then the procedures described in the City and Village Zoning Act shall be followed.
2. If the amendment is a map amendment, a copy of the map amendment ordinance shall be added to the Zoning Ordinance as supplemental material, verifying the changes and stated reasons.

#### Section 23.06. - Zoning Compliance Permits.

- A. Unless otherwise exempted by this Ordinance, the construction, erection, alteration, expansion, moving, repair, or use of any building, sign or structure shall require receipt of a zoning permit and issuance of a certificate of zoning compliance. No building permit shall be issued for the construction, erection, alteration, expansion, moving or repair of any building or other structure until a certificate of zoning compliance has been issued therefor. Issuance of such a certificate shall indicate that the use and plans for which the permit is requested comply with this Ordinance.

- B. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure, or premises, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use as permitted under the terms of this Ordinance, until a certificate of zoning compliance shall have been issued hereunder by the Zoning Administrator. The certificate shall state that the building, structure, and lot and use thereof, conform to the requirements of this Ordinance.
- C. The Zoning Administrator shall maintain a record of all certificates of zoning compliance.
- D. Certificates of zoning compliance authorize only the use, arrangement and construction set forth in the application and any appended plans, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and is punishable as provided by law. Any change in approved plans shall occur as provided for in this Ordinance and shall require the issuance of an amended certificate of zoning compliance.

Section 23.07. - Performance Guarantee.

- A. As a condition of approval of a site plan, special land use, planned unit development, variance, or other such zoning action, the Zoning Administrator, Planning Commission, City Council, or Zoning Board of Appeals, as appropriate, may require a bond or other financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements", may include but shall not be limited to roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, utilities and similar items.
- B. Performance guarantees shall be processed in the following manner:
  - 1. The applicant shall prepare an itemized cost estimate of the required improvements, which shall then be reviewed and approved by the Zoning Administrator. The amount of the performance guarantee shall be one hundred (100) percent of the following costs:
    - a. Purchase and/or construction of improvements.
    - b. Installation of improvements.
    - c. Architectural and/or engineering design or related professional costs.
    - d. Reasonable amount for contingencies, but in no case less than five (5) percent of total costs for a. through c. above.
  - 2. The required performance guarantee shall be in the form of an irrevocable bank letter of credit, surety bond, or other form of guarantee acceptable to the party requiring said guarantee.
  - 3. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a certificate of zoning compliance for the subject development or activity.
  - 4. The Zoning Administrator, upon the written request of the applicant, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.
  - 5.

When all of the required improvements have been completed, the applicant shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall recommend to the Planning Commission, City Council, or Zoning Board of Appeals, as appropriate, approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejections.

6. The Planning Commission, City Council, or Zoning Board of Appeals, as appropriate, shall either approve, partially approve, or reject the improvements. The Zoning Administrator shall notify the applicant in writing of the action of the Planning Commission, City Council, or Zoning Board of Appeals, as appropriate, within thirty (30) days after the official action of said Commission, Council, or Zoning Board of Appeals. Where partial approval is granted, the applicant shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
7. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

#### Section 23.08. - Ordinance Violations.

- A. Any building or structure moved, erected, razed, converted, or used and any use of land or premises which is carried on in violation of this Ordinance is declared to be a nuisance per se. All buildings, structures, and land uses considered to be in violation of this Ordinance shall be reported to the Zoning Administrator.
- B. After an order to correct the violation has been issued by the Zoning Administrator, the property owner (owner of the property upon which the violation is located) shall have five (5) days to correct the violation. If the violation cannot be corrected within five (5) days the Zoning Administrator may, with just cause, extend the correction period for an appropriate amount of time up to a period of six (6) months. The approved extension period shall be at the discretion of the Zoning Administrator.

In the event a longer period of time is required:

1. The Zoning Board of Appeals, upon petition, may grant up to six (6) additional months to correct the violation if conditions warrant such an extended period of time. The six (6) period shall commence at the end of the extended period as approved by the Zoning Administrator (as referenced above).
2. If the violation involves a special land use or planned unit development, the request for the extended period of time shall be made to, and approved by, the City Council. Any violation not corrected within the required time frame shall be reported to the City Council.

In all cases, a request for extending the period of time for correcting a violation shall be made by the applicant. Said request shall be in writing to the Zoning Administrator and shall include specific detail on why the violation occurred, the requested time frame for correcting the violation, and actions to be pursued by the land owner to ensure correction of the violation. The written request shall be delivered to the Zoning Administrator no less than twenty-one (21) days prior to the expiration of the extended time frame as originally approved by the Zoning Administrator.

In the event the Zoning Administrator determines the violation poses an imminent threat to the health, safety, and welfare of the occupants of the premises on which the violation is located or to the general public, the Zoning Administrator may require that immediate measure be taken to correct the violation.

- C. Any person, firm, corporation, or organization who violates, disobeys, omits, or refuses to comply with any provisions of this Ordinance or lawful order of the Zoning Administrator, Planning Commission, Zoning Board of Appeals, or City Council issued in pursuance of this Ordinance shall be responsible for a civil infraction punishable by the sanctions as set forth below. Each day which a violation continues, may be deemed a separate infraction.
- D. The sanction for any violation of this Ordinance which is a municipal civil infraction shall be a civil fine as provided herein, plus any costs, damages, expenses, and other sanctions authorized under Act 12 through 26, Public Acts of Michigan of 1994.
- E. The Zoning Administrator, the Building Inspector, together with the police officers of the City of North Muskegon, are authorized officials to issue municipal civil infraction citations and municipal civil infraction violation notices for violation of this Ordinance.
- F. A violation of this Zoning Ordinance shall be a municipal civil infraction subject to a fine. Increased civil fines will be imposed for repeated violations that occur within a six (6) month period. The civil fines shall be as set forth from time to time by City Council. The City shall also be entitled to equitable relief to abate the violations and to such other relief as may be available to the City pursuant to Chapters 83 and 87 of the Michigan Revised Judicature Act, as amended at the present time or in the future.