

# Chapter 98

## ZONING

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## **ARTICLE 1 – PURPOSE AND DEFINITIONS**

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

This chapter shall be known and may be cited as the City of Houghton Zoning Ordinance.

### **Sec. 98-2. Changes and amendments.**

The council may, on recommendation from the planning commission or on petition, amend, supplement or change the district boundaries or the regulations in this chapter in accordance with the provision of the Michigan Zoning Enabling Act, Public Act No 110 of 2006, as amended, utilizing the procedures and standards set forth in Article 7, Division 6.

### **Sec. 98-3. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance other than this chapter, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises.

### **Sec. 98-4. Vested rights.**

Nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

### **Sec. 98-5. Conflicting regulations.**

Whenever any provisions of this chapter conflict with the requirements, regulations, restrictions or

limitations imposed by the provisions of any other law or ordinance, the provisions imposed by the more stringent law or ordinance shall govern.

### **Sec. 98-6. Uses Not Mentioned.**

When a use is not expressly mentioned in this ordinance, the zoning administrator shall make an interpretation as to what district or districts should accommodate the use. The decision shall be based on the intent of each district, similar uses mentioned in a district, and recognized rules of interpretation. The zoning administrator's decision is appealable to the board of appeals.

### **Sec. 98-7. Definitions.**

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

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

**Accessory Dwelling Unit** is a room, or set of rooms, in the primary dwelling structure located within the single-family residential district that has been designed, configured, or altered to be used as a separate dwelling unit and has been established by permit.

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

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

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

**Adult Business** means a business which either directly or indirectly provides sex-related products, services, or adult entertainment.

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

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

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

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

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

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

**Best Management Practice (BMP)** means a practice, or combination of practices and design criteria, that comply with the most recent edition of the following manuals or their replacement.

- Michigan Department of Environmental Quality (MDEQ) Guidebook of BMP's for Michigan Watersheds.

- MDEQ Storm water Management Guidebook.

- Equivalent practices and design criteria that accomplish the purposes of this ordinance (including, but not limited to, minimizing storm water runoff, removing pollutants from storm water, and preventing the discharge of pollutants into storm water)

**Billboard sign** means a large outdoor board for displaying advertisements.

**Building** means any structure, either temporary or permanent, and having a room

supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattels or property of any kind.

**Building height** means the vertical distance measured from the established grade to the highest point of the roof surface. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall, excluding any chimney.

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

**Changes in land use** means any land use change, including, but not limited to, construction, earth change, and redevelopment.

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

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

**Construction site storm water runoff** means storm water runoff from a development site following an earth change until development is complete and landscaping is established.

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

**Cut** means an earth change which lowers topography or removes soil.

**Design storm** means a precipitation event of a designated duration, type and return frequency. Typically used in a regulatory setting to designate required design parameters for storm water facilities.

**Detention basin** means a storm water management facility which captures, stores and detains runoff and releases it through an outlet structure at a controlled rate. These basins may be dry between runoff events or may be "wet bottom", where a base water level occurs below the elevation of the outlet structure.

**Developer** means a person or entity contracted by the owner to develop property.

**Developed or Development (regarding storm water)** means the installation or construction of impervious surfaces on a site that require, pursuant to state law or local ordinance, the City approval of a site plan, plat, site condominium, special land use, planned unit development, land division, private road or other

actions resulting in land use changes; provided, however, that for purposes of this ordinance only, developed or development shall not include exemptions per subsection I c of the storm water ordinance.

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

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

**Discharge** means the rate of flow passing a given point, usually expressed as cubic feet per second.

**Disturbed area** means the surface of land from which vegetation has been disturbed, removed and/or subjected to earth moving activities.

**Downtown (for purposes of this ordinance)** means the area bounded by a line 100 feet south of Montezuma Avenue, north to the Portage Waterway, between Bridge Street and Franklin Street.

**Drainage** means the collection, conveyance, or discharge of ground water and/or surface water.

**Drainage area** means the contributing watershed, which is expressed in acres or square miles.

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

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

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

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

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

the provisions of the city building code can be complied with.

**Earth change** means any human activity which removes ground cover, changes the slope or includes, but is not limited to, any excavating, surface grading, filling, landscaping, creation, removal or relocation of spoil piles, or removal of vegetative roots.

**Efficiency Unit** means a dwelling unit that is occupied by one person in a single room with combined living spaces, sleeping space, and a kitchenette (includes counter space, a sink (separate from the bathroom sink)), refrigerator, and a stand-alone range or permanently mounted range top for cooking with a separate dedicated private bathroom.

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

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

**Erosion** means the process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

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

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

**Extended detention basin** means a detention basin that releases the storm water runoff from a 24-hour storm event over a minimum of 48 hours after the conclusion of the event.

**Family** means:

1. An individual, or group of two or more persons related by blood, marriage or adoption, together with not more than one (1) additional unrelated person, who are domiciled together as a single housekeeping unit in a dwelling unit; or

2. A collective number of individuals living together in one dwelling unit whose relationship is of a regular and permanent nature and having a distinct domestic character or a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other and all are living and cooking as a single housekeeping unit;

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

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

**FEMA** means the Federal Emergency Management Agency.

**Fill** means earth or other materials added to existing topography.

**First-flush** means the term given to the initial runoff quantity, having the highest pollutant concentration, which is defined as the first ½ inch of runoff.

**Flashing signs** means any lighted or electrical sign which emits light in sudden intermittent bursts. On/off time and temperature signs are not considered flashing signs for the purpose of this ordinance.

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

**Forebay** means a depression near the entrance to a basin where coarse sediments are deposited.

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

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

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

the occupants of the building to which it is accessory.

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

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

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

**Grading** means any stripping, excavating, or filling of soil, or any combination thereof, and the land in its excavated or filled condition.

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

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

**Impervious** means the surface condition which does not allow percolation or infiltration of precipitation, which results in nearly 100% runoff (roads, parking lots, sidewalks, and rooftops, etc.)

**Infiltration** means the percolation and movement of water downward into and through the soil profile. The rate of this movement is expressed in inches per hour.

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

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

abandonment of junk but does not include uses established entirely within enclosed buildings.

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

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

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

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

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

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

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

**Lot lines** means the lines bounding a lot:

1. Front lot line means, in the case of an interior lot, that line separating the lot from the street; in the case of a corner lot, or double-frontage lot, that line separating the lot from either street.

2. Rear lot line means that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, but not less than ten feet long lying farthest from the front lot line and wholly within the lot.

3. Side lot line means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street

lot line. A side lot line separating a lot from another lot is an interior side lot line.

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

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

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

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

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

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

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

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

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

**Medical marihuana dispensary** means any structure used for dispensing marihuana by a primary caregiver or caregivers to one or more



qualifying patient(s). A medical marijuana dispensary does not include a qualifying patient's residence if the marijuana transferred is exclusively for the qualifying patient's use.

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

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

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

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

**Non-point source** means any discharge that does not meet point source criteria.

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

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

**Offsite facility** means any portion of a storm water management system which is located off the development site which it serves.

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

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

**100-year storm** means a storm event having a 1 percent probability of occurrence in any given year. Thus, a 50-year storm has a two percent probability, a ten-year storm a ten percent probability, etc.

**Ordinary High Water Mark** means the point on a streambank, lakeshore, or other waterbody shoreline to which the presence and action of surface water is so continuous as to leave a distinct mark of erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

**Parking space-Automobile** means an area that is a minimum of 9 feet wide and 20 feet long, exclusive of drives, aisles or entrances giving access to the space, and fully accessible for the storage or parking of permitted vehicles.

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

**Peak discharge rate** means the maximum rate of storm water flow from within a drainage area expressed as cubic feet per second.

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

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

**Point source** means a discharge that is released to the surface waters of the State by a discernible, confined and discrete conveyance, including, but not limited to, a pipe, ditch, channel, tunnel, conduit, and well.

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

**Predevelopment** means existing site conditions prior to earth change.

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

**Property owner or legal representative** means any person, firm or corporation having legal or equitable title to property or any person having or exercising care, custody, or decision making control.

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

**Redevelopment** means new changes (demolition, reconfiguration, regrading, etc) to a developed site.

**Retention basin** means a storm water management facility, either natural or manmade, which captures and holds runoff directed into it until it infiltrates the soil or evaporates.

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

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

**Roominghouse** means a residential building where rooms or suites of rooms are rented where the renters use common facilities, such as hallways, bathrooms, and kitchens. A roominghouse shall not include hotels, motels, apartment houses, or fraternity and sorority houses.

**Runoff** means the portion of precipitation which does not infiltrate or percolate into the ground or evaporate, but rather moves over the land, eventually reaching a waterbody, wetland, or low area.

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

**Sealed in reference to plan drawings,** means stamped, and signed by a licensed Michigan professional engineer.

**Sediment** means any solid particulate matter which has been moved from its site of origin by erosion, is being transported by water, is in suspension in water, or has been deposited in a water body, wetland or floodplain.

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

**Sheetflow** means overland runoff which moves relatively uniformly over the ground surface rather than being concentrated in a conveyance channel.

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

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

**Site** means any tract, lot, or parcel of land or combination of tracts, lots, or parcels, which compose an area proposed for development and/or earth change.

**Soil erosion and sedimentation control** means structures, facilities, barriers, berms, vegetative cover, basins, and/or any other installation, temporary or permanent, which are designed to minimize and prevent erosion and off-site sedimentation.

**Storm drain** means a system of open or enclosed conduits and appurtenant structures intended to convey or manage storm water runoff, ground water and drainage.

**Storm water facility** means structures, BMP's, areas, or related items, which are used to control, store, receive, infiltrate, or convey runoff.

**Storm water runoff** means the surface drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

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

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

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

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

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

**Temporary sign** means a sign used for only a temporary period of time not to exceed six (6) months within a one-year period to promote a specific, special event.

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

**Time of concentration** means time required for water to flow from the most remote point of a watershed to a design location or discharge point. Flow paths, ground surface slope and roughness, and channel characteristics affect this time.

**Tower** means a free standing or attached device used for such purposes as, but not limited to, mounting an antenna, satellite dish, or wind generating device.

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

**Trailer or mobile home court** means a parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street,

equipment or facility used or intended for use incident to the occupancy of a mobile home.

**Usable floor area** means the area used for or intended to be used for the sale of merchandise or services, or use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways or for utilities or sanitary facilities, shall be excluded from this computation of "Usable Floor Area".

Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

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

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

**Wayfinding sign** means a sign erected by a public entity which enables a person to find his or her way to a given destination through the use of effective signage.

**Watershed** means the total land area which contributes runoff, or is within such an area, to a common outlet, such as a lake or stream. Also known as the drainage area or catchment.

**Wet Detention Basins** - See Detention Basins.

**Wetland** means land composed of hydric soils, characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation and/or aquatic life. Hydric soils are saturated or ponded long enough to exhibit anaerobic conditions. These areas are generally referred to as; bogs, fens, swamps, marshes, etc. (from Section 324.30301 of Michigan Compiled Laws, part 303 of NREPA, Wetlands Protection, most recent edition thereof). The Michigan Department of Environmental Quality and the U.S. Army Corp of Engineers are the authorities on the presence and regulatory statues of wetlands.

**Window area** means the area of a window as measured by the perimeter of the window glass, including glass windows in doors.

**Wireless communications facilities** means a broad range of telecommunication services that enables people on devices to communicate independent of location. This includes, but is not

limited to, current technologies of cellular communications and personal communication services. This excludes public utilities, noncommercial antennas, radio and television signals and noncommercial satellite dishes.

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

1. Front yard means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

2. Rear yard means an open space extending the full width of the lot the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage.

3. Side yard means an open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building.

**Zoning Administrator** means the city manager, his deputy or assigns, as authorized by the council.

**Sec. 98-8 – 98-15 Reserved.**

**ARTICLE 2 – ZONING DISTRICTS**

planning commission. This map shall be prepared within 90 days.

**DIVISION 1 – General**

**Sec. 98-16. Districts established.**

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

Residential districts:

- R-1 Single-family residential district
- R-2 Two-family residential district
- R-3 Multiple-family residential district
- R-4 Redevelopment Ready Residential District

Nonresidential districts:

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

**Sec. 98-17. District boundaries.**

The boundaries of the city's zoning districts are established as shown on the zoning map in Article 8. The map, with all notations, references and other information shown, shall be as much a part of this chapter as if fully described in this section. Copies of such zoning map shall remain on file and be available to members of the public at the office of the city clerk.

**Sec. 98-18. Zoning of annexed areas.**

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

1. Land that is zoned previous to annexation shall be lawfully zoned as being in whichever district of this chapter most closely conforms with the zoning that existed prior to annexation, such district to be recommended by the planning commission within 90 days.
2. Land not previously zoned shall be automatically zoned R-1 until a zoning map for the area is lawfully adopted by the council, after a recommendation by the

**Sec. 98-19. District requirements.**

Accessory buildings and uses customarily incident to any permitted use in any district established by this chapter are assumed permissible uses under the terms of this chapter.

**Sec. 98-20—98-30 Reserved.**

**DIVISION 2 – R-1 Single-Family Residential District**

**Sec. 98-31. Intent.**

The R-1 single-family residential district is designed to provide for an environment of predominantly single-family detached dwellings along with other residentially related facilities which serve the residents in the district.

**Sec. 98-32. Development Standards.**

Minimum Lot Size  
Per Dwelling Unit: 9,000 square feet\*  
75 feet in width\*

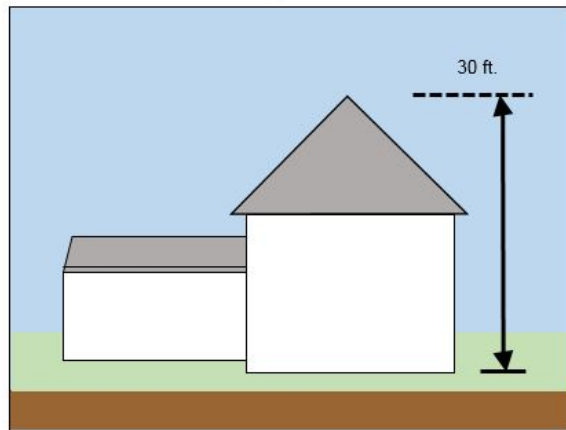
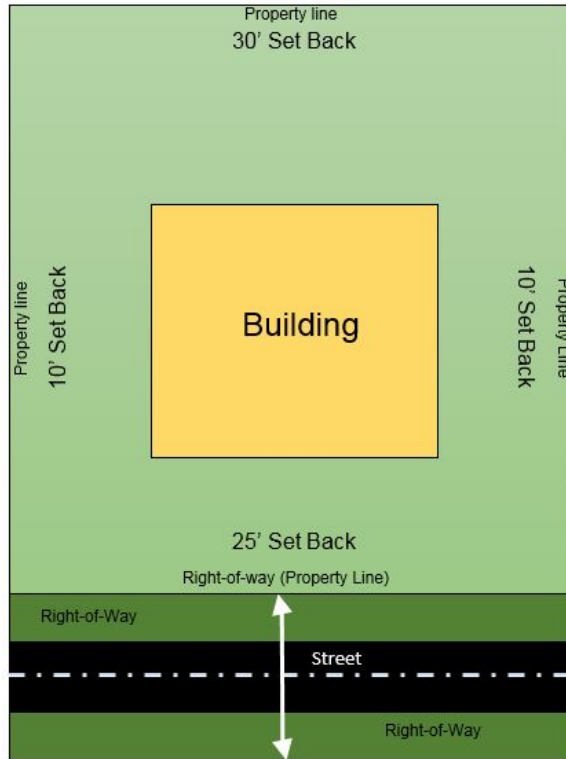
Maximum Dwellings  
Per Lot 1 (subject to 98-34(1))

Maximum Height  
of Structures: 30 feet

Minimum Yard  
Setbacks in feet:  
Front – 25\*\*  
Side – 10\*\*\*  
Rear – 30\*\*\*

Minimum Floor  
Area per Unit:  
500 square feet one  
bedroom  
  
200 square feet each  
additional bedroom

Maximum Percentage  
of Lot Area Covered  
by all buildings: 30



Above drawings are not to scale.

**Notes:**

\*See Article 7, Section 98-762 regarding nonconforming lots.

\*\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not have a front yard greater than the minimum depth of any existing front yard.

\*\*\*Whenever a rear yard abuts a side yard on the same side of a street in a residential district, the required side yard abutting the street shall not be less than the required front yard of the district in which it is located.

**Sec. 98-33. Principal uses permitted.**

1. Single-family detached dwellings.
2. Publicly owned and operated libraries, parks, and recreational facilities.
3. Nursery schools and child care centers without a dormitory adjunct.

**98-34. Uses allowed with a Special Land Use Permit in Article 6, Division 2 and subject to the use standards in Article 4.**

1. Accessory Dwelling Unit.
2. Home Based Business.
3. Churches and schools.
4. Utility and public service buildings and uses.
5. Private noncommercial recreation areas, and institutional or community recreation centers.

**Sec. 98-36—98-44 Reserved.**

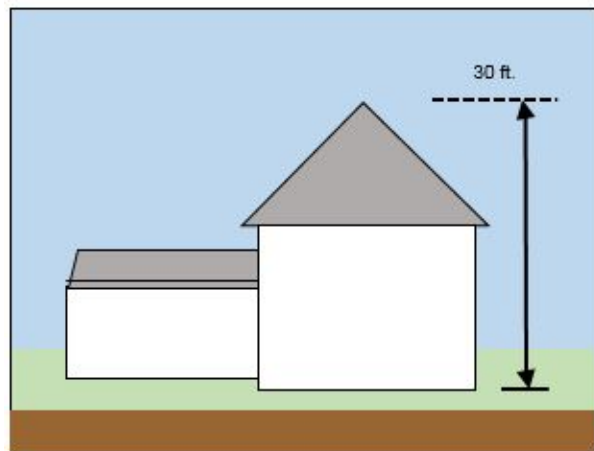
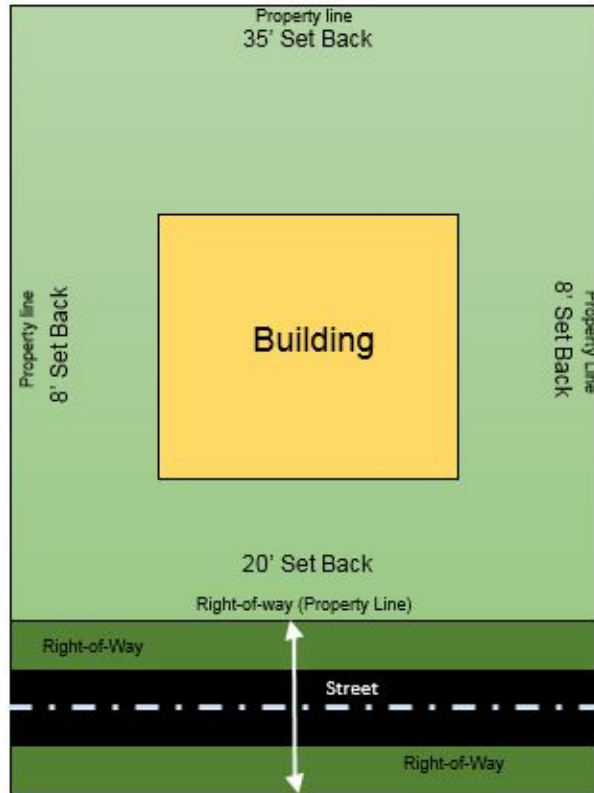
**DIVISION 3 – R-2 Two-Family Residential District**

**Sec. 98-45. Intent.**

The R-2 two-family districts are intended to provide lower density rental housing (and ownership) than the multiple-family districts, but higher density than in a single-family area. Two-family districts also recognize the need to allow limited conversions of older one-family homes (perhaps larger units) to extend the economic life of these structures, provided the premises are capable of supporting a higher density use.

**Sec. 98-46. Development Standards.**

- Minimum Lot Size
- Per Dwelling Unit: 3,750 square feet\*  
37.5 feet in width\*
  
- Maximum Dwellings
- Per Lot 2
  
- Maximum Height of Structures: 30 feet
  
- Minimum Yard Setbacks in feet: Front – 20\*\*  
Side – 8\*\*\*  
Rear – 35\*\*\*
  
- Minimum Floor Area per Unit: n/a
  
- Maximum Percentage of Lot Area Covered by all buildings: 30



Above drawings are not to scale.



**Notes:**

\*See Article 6, Division 3 for exceptions related to open space plans, cluster developments, and average size lot. Article 7, Division 5 discusses nonconforming lots. Minimum lot size for two-family dwellings in the R-2 district shall be 7,500 square feet with 75 feet of lot width. However, if either public water or a public sewerage system is unavailable or inaccessible to a residential lot, such residential lot shall not have an area of less than 12,000 square feet; and such residential lot shall not be less than 65 feet wide at a distance of 25 feet from its front line. If the lot diminishes in width from front to rear, it shall be no less than 65 feet wide at a distance of 50 feet from its front line.

\*\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not be greater than the minimum depth of any existing front yards.

\*\*\*Whenever a rear yard abuts a side yard on the same side of a street in a residential district, the required side yard abutting the street shall not be less than the required front yard of the district in which it is located.

**Sec. 98-47. Principal uses permitted.**

1. All principal uses permitted and as regulated in single-family residential districts.
2. Two-family dwellings.

**Sec. 98-48. Uses allowed with a Special Land Use Permit in Article 6, Division 2 and subject to use standards in Article 4.**

1. Home Based Business.

**Sec. 98-49. Required conditions.**

1. Every two-family use, new or converted, shall provide unobstructed vehicular access to a public street for the designated parking area of each dwelling unit.

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

Front to front (or back)	70
Back to back (or front)	70
Side to side	20
Side to back or front	40

**Sec. 98-50—98-55 Reserved.**

## DIVISION 4 - R-3 Multiple-Family Residential District

### Sec. 98-56. Intent.

The R-3 multiple-family residential districts are designed to provide sites for multiple-family and apartment dwellings, and related uses.

### Sec. 98-57. Development Standards.

Minimum Lot Area per dwelling unit:\*

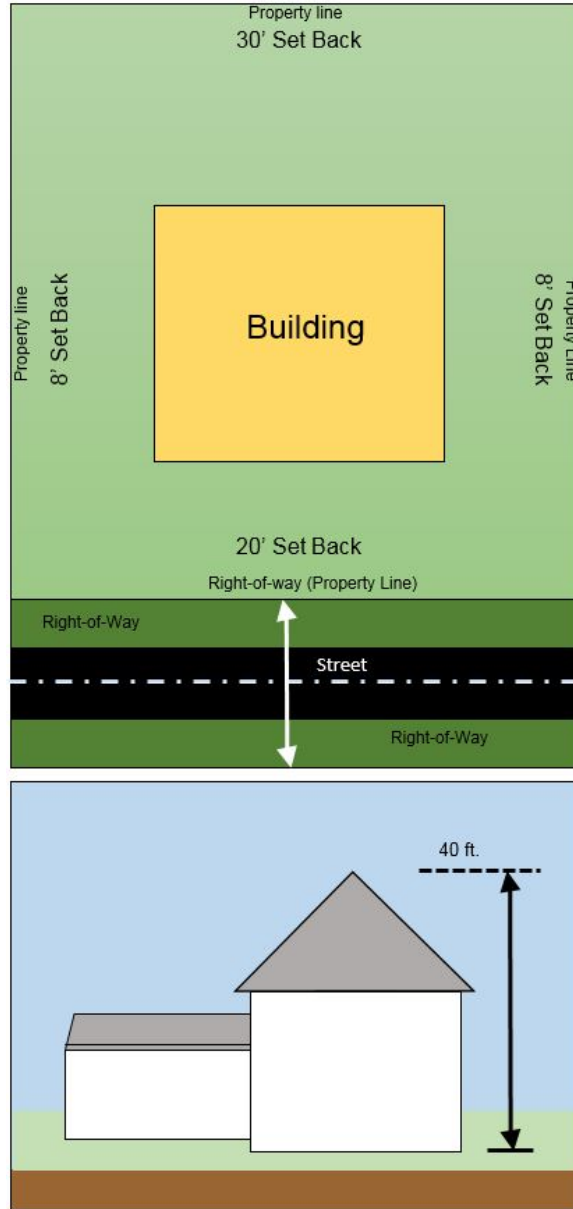
1. Efficiency 1,100sf per unit
2. One Bedroom 1,800sf per unit
3. Two Bedroom 2,400sf per unit
4. Three Bedroom 3,000sf per unit
5. Four Bedroom 3,600sf per unit

Maximum Height of Structures: 40 feet

Minimum Yard Setbacks in feet:  
 Front – 20\*\*  
 Side – 8\*\*\*  
 Rear – 30\*\*\*

Minimum Floor Area per Unit: n/a

Minimum percentage of Lot Landscaped: 30



Above drawings are not to scale.

**Notes:**

\*A higher density development may be approved by both the council and planning commission provided all of the set-back, landscaping, and parking requirements are met. In this event, the higher density shall not exceed the density requirement in the R-4 district.

\*\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not have a front yard greater than the minimum depth of any existing front yard.

\*\*For existing buildings that are not covered by Sec. 98-60, off-street parking shall be permitted to occupy a portion of the required front yard provided there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line or structure.

\*\*\*Whenever a rear yard abuts a side yard on the same side of a street in a residential district, the required side yard abutting the street shall not be less than the required front yard of the district in which it is located.

**Sec. 98-58. Principal uses permitted.**

1. All principal uses permitted and as regulated in the R-1 and R-2 residential districts.
2. Multiple-family dwellings, including housing for the elderly.
3. Group quarters, including apartments, roominghouses, fraternities, sororities, etc.
4. Nursery schools and child care centers, with a dormitory adjunct.

**Sec. 98-59. Uses permitted only with a Special Land use Permit in Article 6, Division 2, and subject to the use standards in Article 4.**

1. Home Based Business.
2. General hospitals.
3. Convalescent homes and orphanages.
4. Motels and motor inns.

5. Medical clinics and professional offices (except veterinarian clinics or animal hospitals).
6. Lodge halls and fraternal assembly buildings.
7. Mortuaries and funeral homes.

**Sec. 98-60. Required conditions.**

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

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

**Sec. 98-61 – 98-65 Reserved.**

**DIVISION 5 – R-4 REDEVELOPMENT  
READY RESIDENTIAL DISTRICT**

**Sec. 98-66. Intent.**

The R-4 Redevelopment Ready Residential District is intended to encourage:

1. The renovation and conversion of current unsightly housing stock, or housing stock which fails to comply with the current property maintenance codes (Chapter 14, Article III of the City of Houghton Code of Ordinances) into multi-unit dwellings or residential units. These multi-unit dwellings or residential units will have new or refurbished siding or exterior treatments, windows and roofing that improve the overall appearance of the renovated housing stock and neighborhood; or
2. The demolition of current unsightly housing stock, or housing stock which fails to comply with the current property maintenance codes (Chapter 14, Article III of the City of Houghton Code of Ordinances) and its replacement with new residential units or new multi-unit dwellings. These residential units or multi-unit dwellings will have new siding or exterior treatments, windows and roofing that improve the overall appearance of the neighborhood; or
3. Existing housing stock that is currently in compliance with the property maintenance codes (Chapter 14, Article III of the City Houghton Code of Ordinances) into multi-unit dwellings; or
4. The construction of new dwellings on vacant lots.

The intent is the improved appearance of a neighborhood in exchange for an allowed density higher than R-3.

Cross ref. Chapter 14, Article III

**Sec. 98-67. Development Standards.**

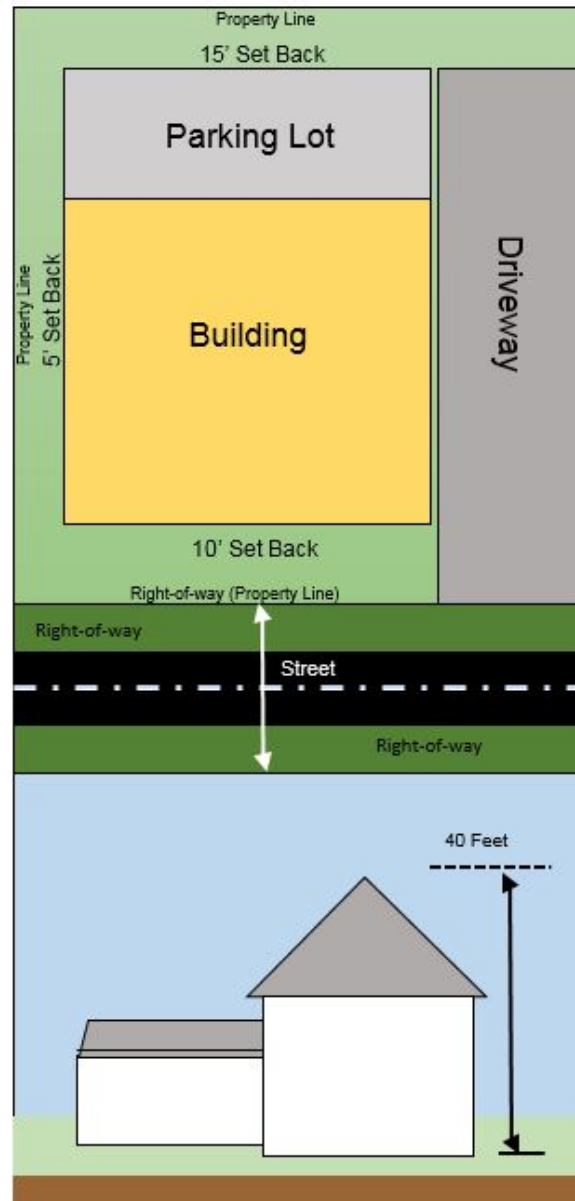
Minimum Lot area per dwelling unit\*:

- Efficiency/One Bedroom 300 sf per unit
  - Two Bedroom 600 sf per unit
  - Three Bedroom 900 sf per unit
  - Four Bedroom 1,200 sf per unit
- Increase 300 sf for each additional bedroom.

Maximum Height  
Of Structures: 40 feet

Minimum Yard  
Setbacks in feet: Front\*\* --10  
Side -- 5  
Rear\*\*\* -- 15

Minimum Percentage  
of Lot Landscaped: 20



Above drawings not to scale.

\*See Article 7, Section 98-762 regarding nonconforming lots.

\*\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not have a front yard greater than the minimum depth of any existing front yard.

\*\*\*Whenever a rear yard abuts a side yard on the same side of a street in a residential district, the required side yard abutting the street shall not be less than the required front yard of the district in which it is located.

**Sec. 98-68. Principal uses permitted.**

1. All principal uses permitted and as regulated in the R-1 and R-2, and R-3 residential districts.

**Sec. 98-69. Uses permitted only with a Special Land Use Permit in Article 6, Division 2 and subject to the use standards in Article 4.**

1. Home Based Business.

**Secs. 98-70 – 98-80 reserved.**

**DIVISION 6 - B-1 LOCAL BUSINESS DISTRICT**

**Sec. 98-81. Intent.**

The B-1 district is intended to meet the demand for local business services and minimum tourist services in areas regarded to have a residential or neighborhood environment.

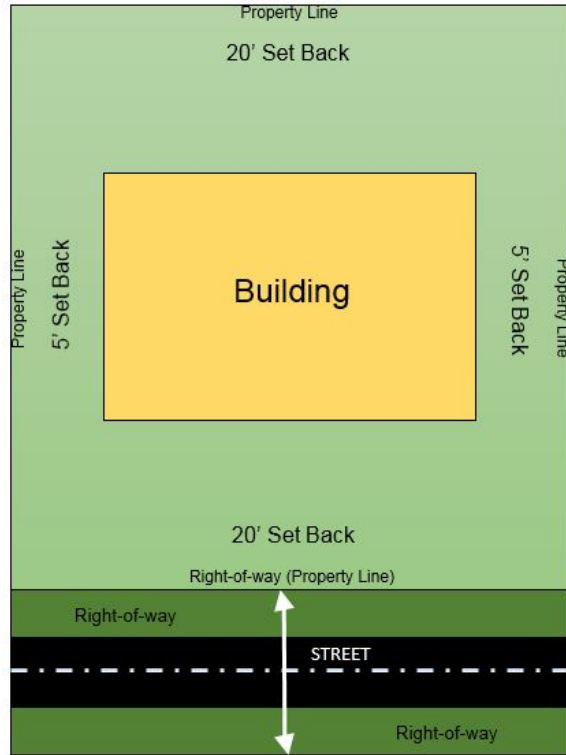
**Sec. 98-82. Development Standards.**

Minimum Lot Size in square feet: n/a

Maximum Height of Structures: n/a

Minimum Yard Setbacks in feet:  
 Front – 20\*  
 Side – 5\*\*  
 Rear – 20

Minimum Floor Area per Unit: n/a



Above drawing is not to scale.

**Notes:**

\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not have a front yard greater than the minimum depth of any existing front yard.

\*Off-street parking shall be permitted to occupy a portion of the required front yard provided there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line or structure.

\*\*No side yards shall be required along interior side lot lines. However, if a side yard is provided, it shall not be less than five feet. Yards which abut a residential district shall be at least 30 feet or equal to the height of the building, whichever is greater.

**Sec. 98-83. Principal uses permitted.**

1. All principal uses, and all uses subject to conditions, as regulated in any Residential District.
2. Professional and administrative offices.
3. Banks and other financial institutions.
4. Personal and professional services.
5. Retail services to meet basic local needs.
6. Off-street parking lots.
7. Retail food stores and restaurants.
8. Professional and medical offices, except animal hospital, kennels or veterinarian services.
9. Motels.

**Sec. 98-84. Required conditions.**

1. Refer to Article 3, Division 1 regarding off-street loading and unloading.
2. In the B-1 district, the outdoor storage of goods or materials shall be prohibited, and indoor storage shall be limited to that normally incident to the principal uses.
3. The front ten feet of the required front yard setback shall be maintained as unobstructed open space, free from parked

vehicles, minor structure and advertising signs.

4. No sign shall project beyond or overhang the wall, roof or any permanent architectural feature by more than one foot.
5. A planted greenbelt (if physically feasible) shall be provided between any B-1 district use which directly abuts any R-1, R-2, R-3, or R-4 district boundary.

**Sec. 98-85 – 98-94 Reserved.**

**DIVISION 7 - B-2 COMMUNITY BUSINESS DISTRICT**

**Sec. 98-95. Intent.**

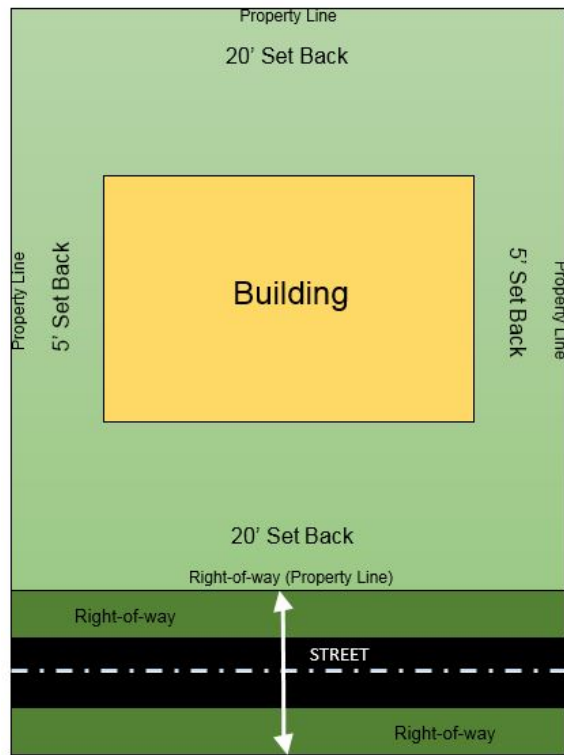
The B-2 community business district is designed to meet the general shopping and retail service needs of persons residing in residential areas of the city as well as trade area residents.

**Sec. 98-96. Development Standards.**

Minimum Lot Size in square feet: n/a

Maximum Height of Structures: n/a

Minimum Yard Setbacks in feet:  
 Front – 20\*  
 Side – 5\*\*  
 Rear – 20



Above drawing is not to scale.



**Notes:**

\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not have a front yard greater than the minimum depth of any existing front yard.

\*Off-street parking shall be permitted to occupy a portion of the required front yard provided there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line or structure.

\*\*No side yards shall be required along interior side lot lines. However, if a side yard is provided, it shall not be less than five feet. Yards which abut a residential district shall be at least 30 feet or equal to the height of the building, whichever is greater.

**Sec. 98-97. Principal uses permitted.**

1. All principal uses and all uses subject to conditions as regulated in the B-1 District or in any Residential District.
2. Retail commercial uses.
3. Any service establishment of an office, showroom or workshop nature.
4. Private clubs, fraternal organizations and lodge halls.
5. Restaurants, taverns or other places serving food or beverages.
6. Theaters, assembly halls, concert halls or similar places of assembly.
7. Business schools and colleges or private schools operated for profit.
8. Hotels and motels.
9. Health and fitness facilities.
10. Indoor commercial recreation.
11. Bus stations, taxi stands and parking lots.

**Sec. 98-98. Uses allowed with a Special Land Use Permit in Article 6, Division 2 and subject to the use standards in Article 4.**

1. Open-air business.

2. Gasoline service stations along with minor repair work.
3. Publicly owned buildings, public utility buildings, telephone exchange buildings; electric transformer stations and substations; gas regulator stations with service yards, but without storage yards; water and sewage pumping stations.
4. Automobile showrooms and service centers.
5. Wireless communications.

**Sec. 98-99 Required conditions.**

1. Refer to Article 3, Division 1 regarding off-street loading and unloading.

**Sec. 98-100 – 98-105 Reserved.**

**DIVISION 8 - B-3 GENERAL BUSINESS  
DISTRICT**

**Sec. 98-106. Intent.**

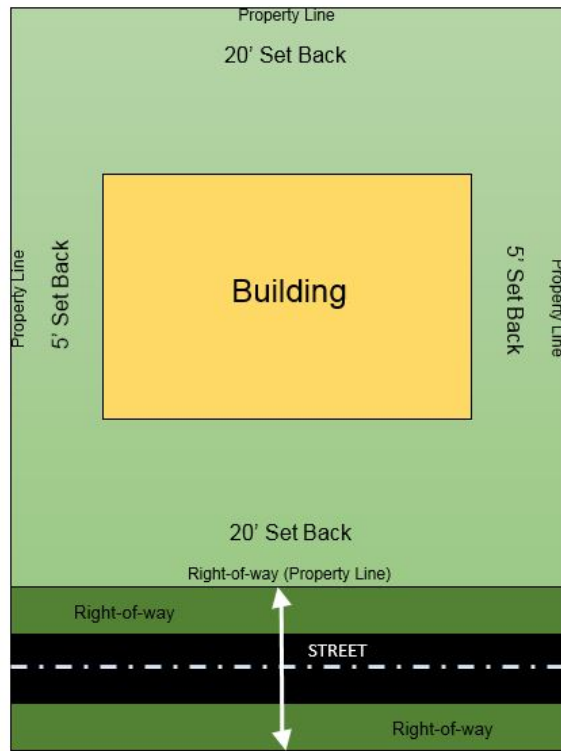
The B-3 district is designed to provide sites for more diversified business types than are found in the B-1 or B-2 districts and are frequently located so as to serve passer-by traffic.

**Sec. 98-107. Development Standards.**

Minimum Lot  
Size in square feet: n/a

Maximum Height  
of Structures: n/a

Minimum Yard  
Setbacks in feet: Front – 20\*  
Side – 5\*\*  
Rear – 20



Above drawing is not to scale.

**Notes:**

\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not be greater than the minimum depth of any existing front yards.

\*Off-street parking shall be permitted to occupy a portion of the required front yard provided there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest point of the off-street parking area, exclusive of access driveways, and the nearest right-of-way line or structure.

\*\*No side yards shall be required along interior side lot lines. However, if a side yard is provided, it shall not be less than five feet. Yards which abut a residential district shall be at least 30 feet or equal to the height of the building, whichever is greater.

**Sec. 98-108. Principal uses permitted.**

1. All principal uses and all uses subject to conditions permitted as regulated in any Residential District or the B-1 and B-2 Districts, except as may be modified in this article.
2. Establishments renting equipment, tools and household articles.
3. Automobile dealer showrooms.
4. Automobile car wash.
5. Wholesale uses, freezer plants and storage services, when enclosed.
6. Bottling works and food packaging.
7. Government uses including public utility offices, exchanges, transformer stations, pump stations and service yards, but not including outdoor storage.
8. Enclosed greenhouses, florists and plant materials.
9. Veterinary hospitals or clinics.
10. Technology, research, and light manufacturing facilities whose operations are wholly contained indoors and do not produce noise, dust, fumes, or other environmental or safety hazards.

**Sec. 98-109. Uses allowed with a Special Land Use Permit in Article 6, Division 2 and subject to the use standards in Article 4.**

1. Medical Marihuana Dispensary, Medical Marihuana Nursery, Provisioning Center.
2. Provisioning Center, as that term is defined in Sec. 98-422.
3. Adult Business.
4. Wireless communications.

**Sec. 98-110. Required Conditions.**

1. Refer to Article 3, Division 1 regarding off-street loading and unloading.

**Sec. 98-111 – 98-115 Reserved.**

## DIVISION 9 - I-1 INDUSTRIAL DISTRICT

### Sec. 98-116. Intent.

The I-1 industrial district is designed to accommodate wholesale activities, warehouses, major repair operations, manufacturing and other industrial operations, subject to certain performance requirements relative to their impact on the community and adjacent nonindustrial districts.

### Sec. 98-117. Development Standards.

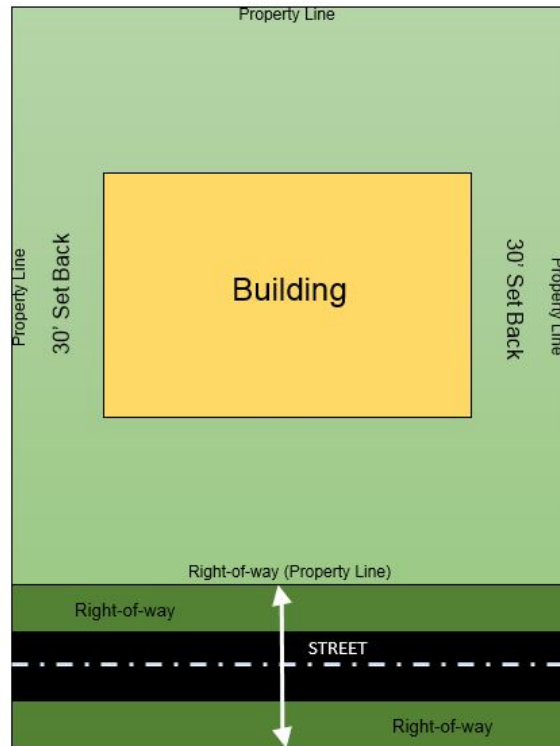
Minimum Lot Size  
in square feet: n/a

Maximum Height  
of Structures: n/a

Minimum Yard  
Setbacks in feet:  
Front – \*  
Side – 30\*\*  
Rear –

Minimum Floor  
Area per Unit: n/a

Maximum Percentage  
of Lot Area Covered  
by all buildings: n/a



**Notes:**

\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not be greater than the minimum depth of any existing front yards.

\*Off-street parking shall be permitted to occupy a portion of the required front yard provided there shall be maintained a minimum unobstructed and landscaped setback of ten feet between the nearest right-of-way line or structure.

\*\*No side yards shall be required along interior side lot lines. However, if a side yard is provided, it shall not be less than five feet. Yards which abut a residential district shall be at least 30 feet or equal to the height of the building, whichever is greater.

**Sec. 98-118. Principal uses permitted.**

1. All generally recognized manufacturing, processing, research and experimental laboratories, including sawmills and related lumber-forest industries.
2. Any storage, wholesale, transportation and/or terminal facilities.
3. Contractors' yards, equipment storage, and materials-handling operations.
4. Any repair operations and/or maintenance activities for vehicles of any kind, including farm implements, conveyors and other equipment or machinery. Uses related to public buildings and utility services of all kinds (public or private).
5. B district uses, provided the site has access features suitable for offering retail services to the public and does not disrupt the continuity of development in any planned industrial park, so called, or the use is accessory to the industrial activity.
6. Wireless communications.

**Sec. 98-119. Required conditions.**

1. Refer to Article 3, Division 1 regarding off-street loading and unloading.
2. Refer to Article 3, Division 3 regarding Fences and Wall Buffers.

3. Whenever any use permitted in this article faces a residential district by sharing a common fronting street, the industrial use shall provide and maintain a landscaped front yard no less than 40 feet deep. The planning commission may require either a buffer greenbelt or buffer fence depending on the character of the industrial use and specific site conditions. The required front yard shall not be used for parking.
4. The height of industrial structures and uses shall be controlled by the land area. Therefore, the minimum yard setbacks shall be increased by one foot for each foot of building height above 20 feet when adjacent to nonindustrial districts. Any structures proposed to exceed the height limits stated in the schedule of regulations, section 98-586, shall require approval by the board of appeals after a hearing.
5. Any industrial activity that produces glare, noise, vibration, smoke, dust, odors and similar or related nuisances shall confine these nuisances to the industrial district and must conform to state and federal environmental regulations.
6. Industrial operations involving the manufacture, processing or packaging of materials which are inherently dangerous or hazardous due to flammability, toxicity, radioactivity or explosiveness shall require special approval by the board of appeals after a hearing; and approval shall be contingent upon a showing by the applicant industry that no dangerous, noxious or nuisance conditions will impact any adjacent nonindustrial premises. The recommendations of the health officer and/or public safety officer (fire-police) shall be obtained by the board of appeals prior to allowing uses which have inherently dangerous characteristics.

**Sec. 98-120 – 98-126 Reserved.**

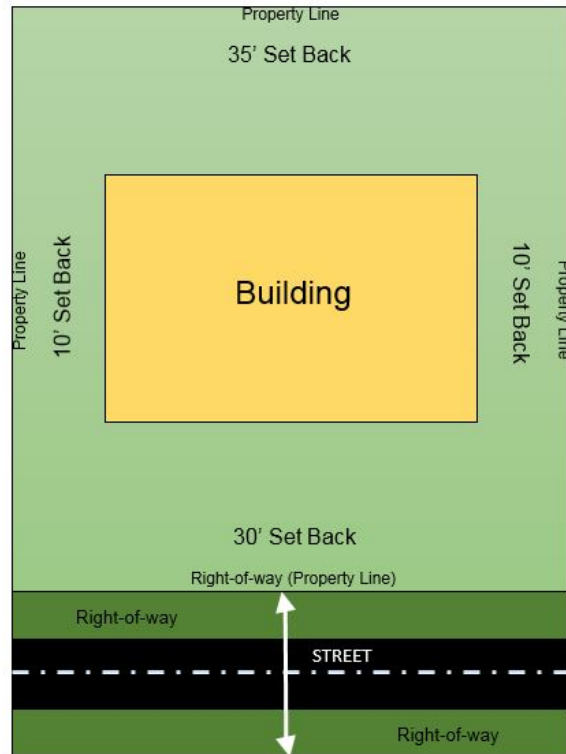
## DIVISION 10 - RSV RESERVE DISTRICT

### Sec. 98-127. Intent.

The RSV reserve districts are intended primarily to serve the needs of undeveloped city areas and lands bordering the Portage Waterway. As a reserve district, RSV lands may be rezoned to allow more intensive urban usage as the demand for additional urban land increases.

### Sec. 98-128. Development Standards.

Minimum Lot Size in square feet:	12,000*
Maximum Height of Structures:	100
Minimum Yard Setbacks in feet:	Front – 30** Side – 10*** Rear – 35***
Minimum setback From Portage Waterway Not including docks	35
Minimum Floor Area per Unit:	n/a
Maximum Percentage of Lot Area Covered by all buildings:	30



Above drawing is not to scale.

**Notes:**

\*See Article 6, Division 3 for exceptions related to open space plans, cluster developments, and average size lot. Article 7, Division 5 discusses nonconforming lots. Minimum lot size for two-family dwellings in the R-2 district shall be 7,500 square feet with 75 feet of lot width. However, if either public water or a public sewerage system is unavailable or inaccessible to a residential lot, such residential lot shall not have an area of less than 12,000 square feet; and such residential lot shall not be less than 65 feet wide at a distance of 25 feet from its front line. If the lot diminishes in width from front to rear, it shall be no less than 65 feet wide at a distance of 50 feet from its front line.

\*\*Where the existing front yards of two or more principal structures in any block in the same district and on the same side of the street are less than the minimum required front yard, any subsequent buildings within that block need not have a front yard greater than the minimum depth of any existing front yard.

\*\*\*Whenever a rear yard abuts a side yard on the same side of a street in a residential district, the required side yard abutting the street shall not be less than the required front yard of the district in which it is located.

**Sec. 98-129. Principal uses permitted.**

1. One-family dwellings.
2. Seasonal homes and/or vacation cottages.
3. Farms.
4. Growing and harvesting of forest products and nursery stock.
5. Publicly owned parks, playgrounds and recreational facilities.
6. Private or commercial recreation areas.
7. Non-profit schools.
8. Public buildings and uses, including cemeteries.
9. Churches and religious uses.
10. Wireless communications.

**Sec. 98-130. Uses permitted only with a Special Land Use Permit. (Article 6, Division 2)**

1. Riding academies or stables, provided that all animal housing and pasture areas are at least 200 feet from any residential district

boundary or any off-premises residential use.

2. Mining and quarrying when adequate measures have been instituted to protect the residential areas of the community from operational hazards, air and stream pollution, and other serious nuisance effects which may detract from the environmental amenities of the city.
3. Utility services and facilities necessary to serve the city and immediate environs.
4. Railroad uses and switching yards necessary to sustain rail transportation services, but not manufacturing.
5. Public or private marine transportation facilities.

**Sec. 98-131. Required conditions.**

1. Any permitted uses in the RSV district which border within 1,000 feet of the Portage Waterway shall not be approved until a site plan has been submitted for review and approval by the planning commission.
2. The required site plan shall illustrate the intended uses of the premises, building arrangement, access routes, docking, parking and related features; and further shall indicate methods, devices and manners by which the waterway will be protected from shoreline erosion, siltation, and chemical or biological pollution. To the extent practical or feasible, whenever reasonable options are available, endeavor to:
  - a. Retain and enhance existing scenic features of the site (vegetation).
  - b. Provide for open views of the waterway, and avoid walling off the shoreline with structures over four feet in height.

**Sec. 98-132 – 98-139 Reserved.**

applicable with respect to each of the lots contained in the subdivision.

## **DIVISION 11 – MULTIPLE USE DISTRICTS**

### **Sec. 98-140. Intent.**

The multiple use district is intended to serve the needs of undeveloped city areas that are or may become suitable for the integration of any combination of uses previously permitted.

### **Sec. 98-142 – 98-149 Reserved.**

### **Sec. 98-141. Principal uses permitted.**

1. Subject to the prior review, consent and approval of the planning commission and the council, any combination of uses permitted in divisions 2 through 9 of this chapter may be permitted in the multi-use district. All proposed subdivisions within a multi-use district shall be subject to approval by the council after first having received the review recommendation of the planning commission. Prior to any review, a subdivision plan shall be submitted by the developer to the planning commission illustrating the intended use of the premises, building and housing arrangements, access routes, docking, parking and related features; and further shall indicate methods, devices and manners by which any waterway will be protected from shoreline erosion, siltation and chemical and biological pollution and shall indicate such information otherwise required by this chapter. Any other provisions of this chapter notwithstanding, the council may approve a subdivision plan permitting construction to extend up to one boundary of one or more of the lots in the proposed subdivision.
2. The preliminary plat for any multi-use subdivision shall be presented by the developer to the planning commission, which plat shall depict the general intended use and restrictions applicable to the various lots in the subdivision in addition to the information otherwise required in this chapter. Such plats shall be approved or rejected by the council after having received the review recommendation of the planning commission. The final plat of the subdivision shall, likewise, depict the specific uses permitted and the restrictions



## DIVISION 12 – GENERAL EXCEPTIONS

### Sec. 98-150. Area, height and use exceptions.

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

1. Essential services.
  - a. Essential services shall be permitted as authorized and regulated by law and other ordinances of the city, it being the intention of this chapter to exempt such essential services from the application of this chapter.
  - b. Major essential services such as high-tension transmission towers, electric substations, gas regulator stations, sanitary fill sites, incinerators, and the like shall require special approval from the board of appeals before being allowed in any area that abuts a residential district.
2. Voting place. The provisions of this chapter shall not be so construed as to interfere with the temporary use of any property as an official public voting place.
3. Height limit. The height limitations of this chapter shall not apply to farm buildings, chimneys, church spires, flagpoles, public monuments or wireless transmission towers; however, the board of appeals may specify a height limit for any such structure when such structure requires authorization as a conditional use.
4. Lot area. Any lot existing and of record on the effective date of the ordinance from which this chapter derives may be used for any principal use permitted in the district in which such lot is located, whether or not such lot complies with the lot area requirements of this chapter, but not conditional uses for which special lot area requirements are specified in this chapter, and except as provided in section 98-760. Such use may be made provided that all requirements other than lot area requirements prescribed in this chapter are complied with, and provided that not more than one dwelling unit shall occupy any lot except in conformance with the provisions of this chapter for required lot area for each dwelling unit.
5. Lots adjoining alleys. In calculating the area of a lot, for the purposes of applying

lot area requirements of this chapter, half the width of an adjoining alley shall be considered as part of such lot. No building can be erected in the alley.

6. Yard regulations. When yard regulations cannot reasonably be complied with, or where their application cannot be determined on lots of peculiar shape, topography or due to architectural or site arrangement, such regulations may be modified or determined by the board of appeals.
7. Porches. An open, unenclosed and uncovered porch or paved terrace may project into a front yard for a distance not exceeding ten feet, but this shall not be interpreted to include or permit fixed canopies.
8. Access through yards. Access drives may be placed in required front or side yards so as to provide access to rear yards and/or accessory structures. Any walk, terrace or a like surface area not in excess of nine inches above the grade upon which placed shall not be considered a structure, and shall be permitted in any required yard.

### Sec. 98-151 -- 98-155 Reserved.

## DIVISION 13 - MISCELLANEOUS

### Sec. 98-156. Averaged Size Lot

For flexibility in dealing with parcels of irregular shape or parcels which do not divide equally into lots, the subdivider or developer may vary his lot sizes and lot widths so as to average the minimum size of lot per unit as required in the schedule of regulations, for R-1 residential districts.

The subdivision shall not create lots having an area or width greater than ten percent below that area or width required in the schedule of regulations and shall not create an attendant increase in the number of lots.

All computations showing lot area and the resultant average shall be indicated on the print of the preliminary plat.

**Sec. 98-157. Performance standards.**

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

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

**Sec. 98-158 – 98-199 Reserved.**

## **ARTICLE 3 – SITE STANDARDS**

### **DIVISION 1 – PARKING**

#### **Sec. 98-200. Off-Street Parking.**

Off-Street parking facilities for the parking of motor vehicles and bicycles for occupants, customers, employees and other invitees shall be provided and continuously maintained in accordance with the provisions of this chapter.

#### **Sec. 98-201. Off-Street Parking Space Design and Construction.**

Parking lots required under the terms of this chapter shall be approved by the zoning administrator, subject to any required (city or otherwise) construction specifications and standards and due consideration for the following:

1. Safe ingress and egress from public streets.
2. Effective storm drainage and dust control measures
3. Safe maneuvering lanes and effective spacing between vehicles.
4. A logical circulation system in parking lots.
5. The avoidance of backing directly onto a public street.

#### **Sec. 98-202. Residential Off-Street Parking Requirements.**

In addition to the standards included in 98-201, off-street parking for residential uses shall be constructed in accordance with the following provisions:

1. Parking spaces shall be a minimum of 9 feet wide and 20 feet long.
2. Parking spaces shall have free and unobstructed access to the street consisting of a parking strip, parking bay, driveway, garage or a combination, and shall be located on the premises they are intended to serve. (See exception at 98-204).
3. Off-street parking shall not be permitted within a required front yard or a side yard setback unless in an approved driveway or as otherwise provided in this chapter, but

is allowed in the back yard setback. (See exception in 98-204).

4. Any parking area that is not on a hard surface shall have a definite separation from the non-parking area and have properly bedded surface aggregate. Rental properties shall remain subject to the hard-surface parking lot construction requirements of 98-204.
5. Any area once designated as required off-street parking or any existing off-street parking area shall not be changed to any other use unless it is on surplus parking area and/or until equal facilities are provided elsewhere.

#### **Sec. 98-203. Non-Residential Off-Street Parking Requirements.**

In addition to the standards included in 98-201, off-street parking for non-residential uses shall be constructed in accordance with the following provisions:

1. Dedicated off-street parking for non-residential uses shall be either on the same lot or within 500 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the parking lot.
2. Any area once designated as required off-street parking or any existing off-street parking area shall not be changed to any other use unless it is on surplus parking area and/or until equal facilities are provided elsewhere.
3. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the board of appeals may grant an exception to the spaces required.
4. The storage of merchandise, motor vehicles for sale, trucks or the repair of vehicles is prohibited on required off-street parking spaces.
5. On any side of a nonresidential off-street parking area which abuts a residential district, there shall be provided a continuous screening device (fence, wall or greenbelt) not less than four feet six inches in height. All screening devices shall be maintained in good condition and shall consist of materials which

complement the residential environment of the area as well as a regard for continuity with any existing screening devices.

**98-204. Exceptions.**

1. All uses and buildings, except lodging facilities, within the Downtown shall be exempt from the minimum parking space requirements listed in this Article, this area being defined as the central business district in the city's comprehensive land use plan.
2. In the R-2, R-3, and R-4 Residential Districts, for any change to the footprint or new construction, all parking must be provided for in the rear-yard or side-yard. No parking is permitted in the front yard. However, if there are existing physical characteristics of the property that present practical obstacles to rear-yard parking, the planning commission may either:
  - a. Reduce the front yard setback to 15 feet so that the parking can be provided in the rear yard; or
  - b. Allow off-street parking in the front yard which may include a portion of the required front-yard setback.
3. In the R-3 and R-4 Residential Districts, off-street parking lot construction on a lot which is not contiguous to the property for which the parking lot is used must meet the following standards:
  - a. The noncontiguous parking lot must be within 500 feet of the property for which the parking is used and must be under the same ownership. To ensure there is always adequate parking available, the owner of the properties must record with the Houghton County Register of Deeds a statement that no sale of either property will be made without a concurrent sale of the other property. The properties can only be divided with prior approval of the Houghton City Council.

- b. There must be a 10 foot landscaped setback exclusive of access driveways on the front, back and side yards. Setbacks must be landscaped in accordance with 98-230. Parking lot surfaces must be in accordance with Chapter 14-148(8).
- c. A site plan review is required for all non-contiguous parking.
- d. Any use established under this subsection shall preserve and respect existing site amenities to the fullest; and any site work in the required front yards that will disturb grass lawns, scenic views, tree stands and/or shrubbery shall be subject to review by the board of appeals for approval or disapproval.

**98-205. Bicycle Parking Requirements.**

Bicycle off-street parking space shall be required in all districts except for R-1 and the Downtown.

1. Accessory off street parking for bicycles shall include provisions for secure storage of bicycles. Such facilities shall provide lockable racks or enclosed locker structures in which a bicycle may be locked by the user. Structures that require a user supplied locking device shall be designated to accommodate U-shaped locking devices. All racks and lockers must be securely anchored to the ground or the building structure to prevent the racks and lockers from being removed from the location. Enclosed facilities shall be designed and maintained to be clean.
2. Bicycle parking facilities shall be located in a clearly designated, well-lighted, safe, and convenient location. The design and location of such facility shall be harmonious with the surrounding environment. The facility location shall be at least as convenient as a majority of the automobile parking spaces provided.

**98-206. Minimum Automobile and Bicycle Off-Street Parking Spaces Required per Unit of Measure**

<u>Land Use Residential:</u>	Automobile	Bicycle
Single-family Residence	2 per dwelling	n/a
Multi-family residence in R-2, R-3, and any residential use in any other zoning district; except R-4.	1 per bedroom	1 per bedroom
R-4	1 per 2 bedrooms	1 per bedroom
Elderly housing	1 per 2 bedrooms	1 per 8 bedrooms

<u>Land Use Commercial and Public:</u>	Automobile	Bicycle
Places of worship, theatres, auditoriums and assembly halls with fixed seating	One for each three seats	1 per 10 auto spaces
Assembly halls without fixed seating	One for each 100 sq ft of usable floor area	1 per 10 auto spaces
Schools	One per employee. High schools add 1 for each 10 students.	1 per 20 students
Extended care facilities	1 per 3 beds plus 1 per employee	1 per 10 auto spaces
Professional and administrative offices	1 per 300 sf of usable floor area	1 per 10 auto spaces
Professional offices of doctors, dentists or similar professions and outpatient clinics	1 per 200 sf of usable floor area	1 per 10 auto spaces
Personal services and retail uses	1 per 150 sf of usable floor area	1 per 10 auto spaces
Restaurants and other establishments offering the consumption of food or refreshments on the premises	1 per 100 sf of usable floor area	1 per 10 auto spaces
Beauty parlors or barbershops	1 per chair	1 per 10 auto spaces
Banks	1 per 300 sf of usable floor area	1 per 10 auto spaces
Health club and indoor recreation facilities	1 per 300 sf of usable floor area	1 per 10 auto spaces
Hotel or motel	1 per rental unit	1 per 10 auto spaces
All others not clearly falling within any of the above classifications	As determined to be adequate by the Planning Commission	As determined to be adequate by the Planning Commission

Notes:

- a. Space requirements are cumulative; hence, a country club may require parking for the golf use as well as restaurant or bar use.
- d. Employees refer to all permanent staff and part-time equivalents.

**Sec. 98-207. Off-Street Loading and Unloading.**

On the same premises with every building or structure involving the receipt or distribution of vehicles or materials or merchandise, there shall

be provided and maintained on the lot, adequate space for standing, loading and unloading.

All designated loading spaces shall be approved by the zoning administrator; and such space shall be in keeping with the character of the use and the normal size of vehicles serving the use (e.g. small vans and panel trucks, large vans, and/or semitrailer rigs, etc.). Uses in the central business district exempt from meeting the off-street parking requirements shall also be exempt from off-street loading requirements.

**Sec. 98-208 – 98-229 Reserved.**

## DIVISION 2 – LANDSCAPING

### 98-230. Landscaping requirements.

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

1. Landscape Plan. A detailed landscape plan for all yard areas shall be submitted to the city showing the names (common and botanical), location, spacing, starting size and planting and staking details of all plantings to be installed, and the location and types of all materials proposed to be included in the landscape treatment of the yard areas. This provision shall apply to all landscape yards including those expanded beyond the minimum setback requirements of this article.
2. General Requirements. Existing significant trees, tree stands, natural vegetation, and wildlife habitat shall be integrated into this site landscape plan to the maximum extent possible. Whenever any yard (front, side or rear) is not designated for a building, off-street parking, loading and unloading, storage or other purpose within the terms and requirements of a given zoning district, it shall be landscaped with approved materials or living plant materials which shall be maintained in an aesthetically pleasing condition. All landscaped areas shall be protected from the encroachment of vehicles or pedestrians by curbing or other suitable device. The zoning administrator may approve constructed features of other materials, such as masonry walls or brick, stone and cobblestone pavement, as a supplement or substitute, upon a showing by the applicant that general plantings will not prosper at the intended location.
3. Construction. Landscaping shall be planted, landscape elements shall be

installed, and earth moving or grading performed in a sound workmanlike manner and according to accepted good planting and grading procedures, with the plant materials and grading as described in this chapter.

4. Time Limits. All landscaping shall be completed within six (6) months from the date of occupancy and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties. Subsequent phases of the site shall be seeded, mowed and maintained.
5. Design Objectives. The following general design objectives and criteria shall be considered in the evaluation of landscape plans. Ample variety and quantity of ornamental plants, trees and shrubs should be provided. A few dominant types are usually chosen with subordinate types interspersed for accent. Repeating some types creates unity, but no types should be overused. Variety should be achieved with respect to seasonal changes, species selected, texture, color and size at maturity. Landscaping should be encouraged that will serve the functions of enhancing the visual environment, ensuring public safety, moderating the microclimate and minimizing nuisances. Landscaping should serve to integrate the project with the site, with a particular sensitivity to the natural topography, drainage and existing native vegetation. It should enhance the architecture of surrounding structures, when possible, by being of similar scale. Visual variety would be the aim of landscaping treatment. Landscaping should be used to break up large expanses of pavement. Local soil, water, and other climatic conditions should be considered when choosing landscape material to create optimum conditions for their survival and to ensure that they will thrive with a minimum amount of maintenance. Raised planting surfaces and use of curbs may be used to achieve this

objective. Species that are a public nuisance or that cause litter should be avoided.

6. Parking lot landscaping requirements.

A. Interior parking lot landscaping.

The interior portion of parking lots shall incorporate and provide curbed tree planting spaces providing not less than 100 square feet of land area per each tree planted. Trees shall be placed somewhat evenly, either symmetrically or asymmetrically, throughout the parking area. The number of trees required shall be based on a ratio of one tree for each six parking spaces, or fraction thereof, for the first 20 spaces. Beyond the first 20 spaces, the ratio shall be 1 tree for every 12 parking spaces, or fraction thereof. Small parking areas of less than 20 spaces may have the required trees placed next to the parking area, rather than within the lot proper. The minimum size of all parking lot trees shall be 1 inch caliper at the time of planting.

B. Frontage landscaping. Street landscaping shall be required along any public right-of-way line of any street, road or highway in the required front yard setback of districts where parking is not permitted. One tree shall be planted for each 30 linear feet of the landscaping strip and shall be located within said required front yard setback.

C. Vision clearance. To ensure that landscape materials do not constitute a driving hazard, clear vision site triangles shall be established at all street intersections and at the intersection of site driveways and streets. Internal parking lot

landscaping improvements should be located to avoid blocking the vision of drivers within the parking lot.

7. Plants and materials. All plant materials used shall be placed in fertile soil with suitable drainage and shall be given reasonable maintenance necessary to ensure their healthy existence and survival. All materials shall be maintained or refurbished as necessary to ensure a positive aesthetic quality. All proposed landscaped plantings shall meet the minimum size requirements specified in this section.

8. Plant material spacing for natural fences. See Section 98-242 4. a.

9. Plant material size. Minimum size allowance to be measured at

	Height	Caliper
Evergreens	5'	6" (at 12" above ground)
Narrow Evergreens	3'	4" (at 12" above ground)
Large Deciduous	8'	2 1/2" (at 6" above ground)
Small Deciduous		2" (at 6" above ground)
Large Deciduous Shrubs	6'	
Tree-like shrubs	4'	

10. Approved Plant Materials.

- A. Evergreen trees: Juniper, Fir, Spruce, Hemlock, Pine, Douglas-Fir.
- B. Narrow Evergreens: Column Hinoki Cypress, Blue Columnar Chinese Juniper, Pyramidal Red-Cedar, Swiss Stone Pine, Pyramidal White Pine, Irish Yew, Douglas Arbor-Vitae, Columnar Giant Arbor-Vitae.
- C. Tree-Like Shrubs: Flowering Crabs, Mountain Ash, Redbud, Hornbeam Magnolia, Russian

- Olives, Dogwood, Rose of Sharon, Hawthorn.
- D. Large Deciduous Shrubs: Honeysuckle, Mock-Orange, Lilac, Cotoneaster, Euonymus, Buckthorn, Viburnum, Forsythia, Ninebark, Hazelnuts, Privet, Sumac.
- E. Large Deciduous Trees: Oaks, Hackberry, Planetree (Sycamore), Ginkgo, Sweetgum, Linden, Hard maples, Birch, Beech, Honeylocust, Hop Hornbeam.
- F. Trees Recommended for Parking Lots:
  - i. Small Trees: (< 30 ft.) appropriate for narrow spaces (less than 4 feet wide), planting squares or circles surrounded by concrete, large raised planting containers or other places where underground space for roots will not support large trees. Trident Maple, Hedge Maple, Freeman Maple, Tatarian Maple, Amur Maple, Serviceberry, Ironwood, American Hornbeam, Muscledwood, Eastern redbud, White Fringetree, Washington Hawthorn, Winter King Hawthorn, Flowering Crabapple, Canada Red Chokecherry, Smooth Sumac, Japanese Lilac Tree.
  - ii. Medium Trees: (30-45 ft.) Appropriate for medians 4-8 feet wide, large planting squares, and other open areas of at least 50 square feet where the above and below ground growing space will allow mature trees 30-45 ft. tall. European or Black Alder, Black Tupelo, Black Gum, American Hophornbeam, Persian

Parrotia, Korean Mountainash.

- iii. Large Trees: (>45 ft.) Recommended for streets without overhead restrictions where planting lawns or medians greater than 8 feet wide will allow for a large root system, trunk diameter, and root flare. Also appropriate for parks or other large open areas. Red Maple, Sugar Maple, Common Hackberry, Hardy Rubber Tree, Thornless Common Honeylocust, Kentucky Coffeetree, European Larch, American Large, Tamarack, Amur Corktree, Swamp White Oak, Bur Oak, Chinkapin Oak, Yellow Chestnut Oak, English Oak, Northern Red Oak, Basswood, American Linden, Littleleaf Linden, Silver Linden, Japanese Zelkova.

11. Prohibited Plant Materials. Where a landscape plan is required, the following plant materials are specifically prohibited:

- A. Box Elder.
- B. Silver Maple.
- C. Elm.
- D. Poplar/Aspen/Popple
- E. Tree of Heaven.
- F. Catalpa.
- G. Willow.
- H. Horse Chestnut (nut bearing).
- I. Norway Maple and similar cultivar.

12. Maintenance. The owner of property required to be landscaped by this section shall maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. All plant materials shall be continuously maintained in a sound, weed-free, healthy and vigorous growing



condition, and shall be kept free of plant diseases, weeds and insect pests. All unhealthy and dead material shall be replaced within one year or the next appropriate planting period, whichever comes first.

**Sec 98-231 – 98-239 Reserved.**

**DIVISION 3 – FENCES, WALLS**

**Sec. 98-240. Corner clearance.**

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of 25 feet from their point of intersection.

**Sec. 98-241. Fences, walls and hedges generally.**

Fences, walls and hedges may be permitted in any district subject to the following limitations and conditions:

1. If mutually agreeable to the abutting property owners, a fence may be erected on the property line; otherwise the fence may be erected one foot inside and parallel to the property line with the finished side facing the abutting property.
2. Fences or walls in a required rear yard setback shall not exceed six feet in height in residential districts subject to the provision in 98-240.
3. In residential districts, fences, walls or hedges shall not exceed a height of six feet in required side yard setbacks and four feet in required front yard setbacks.
4. Privacy fences, walls or hedges may be erected outside the required rear yard setback to a maximum height of eight feet.

5. Fences in residential districts shall not contain barbed wire or be electrified.
6. No fence, wall or hedge shall be constructed nearer than five feet to any public street or alley right-of-way. (See 98-240).
7. Fences or walls which enclose public areas shall not exceed a height of ten feet and shall not obstruct vision to an extent greater than 25 percent of the fence or wall surface area.
8. Fences, walls and/or hedges may be modified with respect to height limitations by the zoning administrator, provided a signed agreement between all abutting property owners consent to any modification, and there is no interference with sight distances at street corners or driveway entrances.
9. The design and construction materials for fences shall be of a type approved by the zoning administrator, or be in accordance with any official city standards, and further shall be consented to by a signed agreement between the abutting property owners. In cases of disagreement, the board of appeals shall rule on fence construction features.

Requirements for fences, walls and hedges are not intended to restrict landscaping features that exist or may be planted as a part of the beautification of any premises provided such planting does not constitute a hedge that obstructs the vision of drivers on streets or driveways and does not obstruct natural light and air on adjacent premises.

**Sec. 98-242. Fence and wall buffers.**

1. For those use districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential district an obscuring wall or fence as required. These requirements do not apply whenever the use, storage area, etc., is more than 200 feet from the adjacent residential district boundary.

Use	Required Height of Buffer(feet)	Primary Purpose to be Served
Off-street parking lots for all uses except 1 & 2 family residential	6	Screening and Protective
B1, B2 and I district uses	6 to 8 where indicated	Screening and/or containment
Open outdoor storage areas larger than 200 square feet	6	Screening
Hospital and funeral home entrances	6	Screening
Utility service buildings and/or substations	6	Screening and Protective

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

the board of appeals. If the board of appeals approves a natural fence, the plant materials shall be placed as follows:

- a. Plant materials shall not be placed closer than four feet from the fence line or property line. Where plant materials are placed in two or more rows, plantings shall be staggered in rows. Evergreen trees shall be planted not more than 30 feet on centers and shall be not less than five feet in height. Narrow evergreens shall be planted not more than six feet on centers and shall be not less than three feet in height. Large deciduous shrubs shall be planted not more than four feet on centers, and shall not be less than six feet in height. Large deciduous trees shall be planted not more than 30 feet on centers, and shall be not less than eight feet in height.

**Sec. 98-243 – 98-249 Reserved.**

#### **DIVISION 4 – ACCESSORY BUILDINGS**

**Secs. 98-250. Accessory buildings for non-residential use.**

1. Intent. It is the intent of this chapter that accessory buildings for non-residential use be placed on the lot in such a manner that they can be maintained on all sides and there is no undue encroachment upon adjacent properties, and sunlight, movements of air and views from adjacent residential premises are not impaired beyond a reasonable point. Therefore, some premises which have extremely limited land areas may not be capable of supporting an accessory building.
2. Minimum requirements. Accessory buildings shall comply with the minimum requirements for main buildings, except as follows:

- a. Unless structurally attached, accessory buildings shall not be located closer than five feet to any main building.
- b. In districts other than R-1 districts (except in cluster situations), accessory buildings may locate in required side yards or required front yards subject to approval by the board of appeals, who shall determine that:
  - i. There is at least 15 feet vehicular backing space between a residential garage and any sidewalk or similar pedestrian walkway.
  - ii. There is no undue encroachment upon adjacent premises; and sunlight, air flow and views from the adjacent property's dwellings are not impaired by shadows, high walls and related obstructions. A minimum side yard of eight feet shall be provided.

**Secs. 98-251 – 98-259 Reserved.**

**DIVISION 5 – EXTERIOR LIGHTING**

**Sec. 98-260. Exterior lighting.**

- 1. Exterior lighting shall be designed and constructed in such a manner to insure that all glare and lighting is confined to the development site, and that any point light sources are not directly visible from beyond the boundary of the site.

**Secs. 98-261 – 98-269 Reserved.**

**DIVISION 6 – STORM WATER MANAGEMENT**

**Sec. 98-270. General.**

- 1. Statement of Authority.

This ordinance is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq.; the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; and the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123 and 124; and other applicable state and federal laws.

**2. Purpose.**

It is the purpose of this ordinance to establish minimum storm water management requirements and controls to accomplish, among others, the following objectives:

- A. To reduce artificially induced flood damage;
- B. To minimize increased storm water runoff rates and volumes from identified new land development;
- C. To minimize the detrimental impact on existing watercourses, culverts and bridges, and other structures;
- D. To encourage water recharge into the ground where acceptable geologically favorable conditions exist;
- E. To prevent an increase in non-point source pollution;
- F. To limit overtaxing of existing storm water infrastructure by new post-development flow;
- G. To maintain the integrity of stream channels for their natural aesthetic, geological, and biological functions, as well as for drainage and other purposes;
- H. To minimize any negative impact of development upon streambank and streambed stability;
- I. The preferred solution for the accomplishment of the majority of these objectives is by limiting post-

development peak discharge to predevelopment peak discharge for the four (4) storm events listed in Section III.B.5 and filtering impervious surface runoff in grass swales or with other similar methods.

### 3. Applicability, Exemptions and General Provisions

This ordinance shall apply to any development or redevelopment site which requires approval of a plat, site plan review, or any other permit for work which will alter storm water drainage characteristics of the development or redevelopment site, provided, however, that this ordinance shall not apply to the following:

- A. Agricultural activity or silvicultural practice that is consistent with an approved Natural Resources Conservation Service conservation plan;
- B. Additions or modifications to any single family or duplex structure;
- C. Landscaping or gardening involving less than 1 acre of land;
- D. Construction of a single family or duplex structure on a legal lot within a development that itself previously received approval under this ordinance provided that less than 1 acre of land is cleared or graded for such construction;
- E. Construction of a single family or duplex structure on a legal lot that existed prior to this ordinance provided that less than 1 acre of land is disturbed.
- F. Any development within the Downtown is exempt from meeting any peak flow requirements, but must meet Best Management Practices (“BMPs”) for water quality where practical. During major construction or reconstruction in the Downtown, the owner is required to remove roof and perimeter drains from sanitary sewer and reroute to

storm water sewer system when it is in, or adjacent to the construction or reconstruction.

- G. The planning commission has the right to waive a professionally sealed storm water plan requirement based on size (affected area) and type of development (e.g.: if development could be classified as a “minor” project) provided an acceptable general management plan for any additional storm water generated is presented.

### 4. Wetland Permitting

Developers must be aware of the Michigan Department of Natural Resources, Michigan Department of Environmental Quality and U.S. Army Corps of Engineers definitions of wetlands and floodplains. These regulatory entities oversee and regulate wetlands and floodplains. Permits may be required from these regulators, and are the responsibility of the developer to determine if required and to obtain.

#### **Sec. 98-271. Storm water Permit.**

##### 1. Permit Required

A developer or property owner shall not engage in any development without first receiving a storm water management permit from the city except as otherwise exempted.

City approval of the storm water management plan and facilities does not connote approval of other state and federal laws such as Part 301, Part 303, Part 31, Construction Site Storm water.

##### 2. Planning Commission Review

The planning commission shall review the storm water management plan to determine compliance with the conditions contained in Section 98-271.

3.  
The storm water management plan shall be part of the planning commission site plan review.

### 3. Conditions of Approval

The city shall grant a storm water management construction and maintenance permit, with the terms and conditions in accordance with this ordinance, and shall be granted only upon compliance with each of the following requirements:

- A. The developer/owner has submitted a storm water management plan complying with Section 98-271.4.;
- B. The storm water management plan conforms with all applicable design and performance standards for storm water management systems, as set forth in Section 98-272 of this ordinance;
- C. All storm water facilities and construction site erosion and runoff controls are designed in accordance with the most current BMPs;
- D. The developer has paid or deposited the storm water permit review fee(s) pursuant to Section 98-271. 6.;
- E. For commercial and industrial developments and all other developments remaining private, the developer/property owner provides the required maintenance agreement for routine, emergency, and long-term maintenance of all storm water runoff facilities and in compliance with the approved storm water management plan and this ordinance. The maintenance agreement shall be acceptable to the city in form and substance and shall be recorded with the Houghton County Register of Deeds;

### 4. Storm water Management Plan Requirements

- A. General Plan Requirements:
  - i. Using thorough maps, illustrations, reports, and calculations, the storm water management plan shall display the required information in a clear and logical sequence. The storm water management plan shall be sufficiently detailed, including calculations, to specify the type,

location, and size of all erosion control, storm water facilities and storm water structures.

- ii. The storm water management plan shall be drawn to a scale of at least one inch equal to 40 feet (1 inch = 40 feet) for property less than three acres and one inch equal to one hundred feet (1 inch = 100 feet) for property three acres or more in size.

#### B. Plan submittal requirements:

The following plan requirements are in addition to the design requirements and performance standards specified in Section 98-272. The applicant shall provide a storm water management plan to the city for review and approval. Upon written request with justification by the applicant, or at its own initiative, the planning commission may determine that one or more of the requirements may be waived. Waivers are only valid upon written approval by the city. Applicant shall submit 3 paper copies and one electronic copy of the sealed storm water management plan, which shall identify and contain all of the following information:

- i. Contact information - The name, address, telephone number, e-mail address or other contact information of all persons having a legal interest in the property, the design engineering firm, and the licensed professional engineer. The property description or parcel number of the properties to be developed and all adjacent or affected properties. Include information on the zoning classification of the applicant's parcel and all adjacent parcels. The plan coversheet shall include an index and the signature(s) of the owner(s) of the parcel(s) and the licensed professional engineer.
- ii. General Location map – A large area map depicting the location of the development site and all nearby water bodies, ditches, or municipal storm water sewer systems that will receive storm water runoff.

- iii. Topographic base map - The existing and proposed topography of the development site, including the alignment and boundary of the natural drainage courses, with contours having a maximum interval of not greater than two feet. The map shall also show existing surface water drainage (permanent and intermittent) and flow direction, including streams, ponds, culverts, ditches, and wetlands; location of 100-year floodplain, if applicable to the site; current land use including all existing structures, utilities, roads, etc. and easements; designated natural areas; and any proposed environmental mitigation features.
- iv. Soils map - The site delineated on the Houghton County Soil Survey Map. Provide full descriptions of all the site's soils. Areas classified as udipsamments will require site specific evaluations to determine the soil classification to be used for runoff calculations.
- v. Watershed - A map showing the drainage boundary contributing to the proposed development and/or earth change, and each discharge point and its contributing watershed exiting the development and/or earth change on a topographical map.
- vi. Calculations – Storm water calculations shall be provided in accordance with the design standards referenced in Section 98-272.
- vii. Site plan - A drawing showing all proposed storm water facilities with existing and final grades. This map shall also show existing and proposed lot lines, property lines, easements, structures, parking areas and adjacent landowners, etc. on the parcel and within 100 feet of the site.
- viii. Construction plan - An implementation and sequencing plan for construction and inspection of all storm water facilities, including a schedule of the estimated dates of completion of the storm water facilities shown on the plan.
- ix. Sedimentation and erosion control plan - A soil erosion and sedimentation control plan shall meet the requirements as outlined in Section 98-271(7). This plan shall provide the effective control of construction site storm water runoff and sediment track-out onto roadways.
- x. Maintenance plan - A document detailing the maintenance of the planned storm water facilities. The maintenance plan for private systems shall include a mandatory association or other enforceable commitment to provide routine, emergency, and long-term maintenance of the facilities and, in the event that the facilities are not maintained in accordance with the approved storm water management plan, the maintenance plan shall authorize the city to maintain any onsite storm water facility as reasonably necessary, at the owner's expense.
- xi. Sealed Plans – The submitted plan shall be stamped and signed by a licensed Michigan professional engineer unless a waiver is granted.
- xii. Vegetation plan - A drawing, which details the existing vegetation to remain and protective measures to be undertaken during construction.
- xiii. Fees - Payment of applicable review fees is required before any review will commence.

xiv. Phased development plans - Should the applicant plan to subdivide or develop a given area but wishes to begin with only a portion of the total area, the storm water management plan shall include the proposed general layout for the entire area. The first phase of the subdivision/development will be clearly superimposed upon the overall plan in order to illustrate clearly the method of development and/or earth change that the applicant intends to follow. The storm water management plan for the current phase shall comply in detail with this ordinance. Moreover, the storm water management plan shall include preliminary calculations and devices for future phases sufficient to demonstrate to the city the feasibility of future phases complying with the standards of this ordinance.

5. Approved Plans and Amendments

A. Approved plans - Approval of final development plans, site plans, and final preliminary subdivision plats shall not be granted prior to approval of the storm water management plan, but may be simultaneously approved with the storm water plan approval. Final approval of the storm water plan shall be made by the entity (planning commission, council) that makes final approval for other city requirements. Upon approval of the sealed storm water management plan, the zoning administrator shall sign two copies thereof. One signed copy shall be made a part of the city's files; and one copy shall be returned to the applicant.

B. Amendments - Amendments to an approved storm water management

plan may occur only under the following circumstances:

- i. The holder of an approved plan shall notify the zoning administrator of any proposed amendment to such approved plan.
- ii. Minor changes may be approved by the city manager upon certification in writing to the city that the proposed revision does not alter the basic design nor any specified conditions of the plan as agreed upon by the city. The zoning administrator shall consider the following to be a minor change.
  - a. Any change that does not decrease the effectiveness of approved storm water facilities.
  - b. Any change that does not cause an increase in runoff rate.

Should the zoning administrator determine that the requested modification to the approved plan is not minor, then the applicant shall submit a new plan for review as required by this ordinance.

C. Expiration – City approval shall expire one year from the date of such approval, unless construction has commenced and proceeds satisfactorily.

6. Storm water Permit Review Fees

The fee for reviewing, and approving or denying a storm water management permit shall be set from time to time by the council and is listed in Appendix A to this Code.

7. Construction Site Runoff Controls

Prior to making any earth change on a development site regulated by this ordinance, the developer shall first obtain a soil erosion permit issued in accordance with Part 91 of Act No. 451

of the Public Acts of 1994, as amended, if one is required. The developer shall install construction site runoff controls and shall phase the development activities so as to control sediment/construction site storm water runoff and off-site sedimentation.

#### 8. Completion of Construction

- A. The city shall issue a Certificate of Completion of Construction when the following requirements are met.
  - i. Certification by the developer's licensed Michigan professional engineer that the storm water management plan facilities have been completed in accordance with the storm water management plan.
  - ii. Submittal of as-constructed plans prepared by the design engineer which show the final constructed conditions of the improvements.
- B. Failure to comply with requirements a. and b. prior to the occupancy of the building, will result in the withholding of the Certificate of Completion of Construction and the Certificate of Occupancy until the developer provides a suitable reason for the failure to complete the storm water management plan prior to the occupancy of the building including:
  - i. An estimate of the date of completion of the storm water management plan
  - ii. An estimate of the cost of the remaining work

#### 9. No Change in Approved Facilities

Storm water management facilities, after construction and approval, shall be maintained in good condition, in accordance with the approved storm water management plan, and shall not be subsequently altered, revised or replaced except in accordance with the approved storm water management plan, or in accordance with approved amendments or revisions in the plan.

#### 10. Terms and Conditions of Permits

In granting a storm water permit, the city may impose such terms and conditions as are reasonably necessary to effectuate the purposes of this ordinance. A developer shall comply with such terms and conditions.

### **Sec. 98-272. Design and Performance Standards**

#### 1. Performance and General Standards

- A. All developments and earth changes subject to review under the requirements of this ordinance shall be designed, constructed, and maintained to control runoff, prevent flooding and protect water quality. The storm water management features and facilities designed for the site shall consider:
  - i. the natural features, wetland, and watercourses on the site;
  - ii. the potential for onsite and offsite flooding, water pollution, and erosion;
  - iii. The size of the site.
- B. All redevelopment shall comply with the sections of this ordinance. If equal or greater than 50% of the developed site is redeveloped, then the entire site must comply with this ordinance.
- C. All post-development peak flow shall not exceed predevelopment peak flow while addressing first-flush water quality. All discharges must be addressed from the site in question, while riparian rights are maintained. All previously developed sites that are being redeveloped shall meet the same criteria as sites starting in an undeveloped condition.
- D. General standards – The standards for onsite and offsite storm water management are:
  - i. Storm water facilities shall be designed to prevent flood hazards and water pollution related to storm water runoff, soil erosion and channel erosion from the proposed earth change.



- ii. Existing storm water from upstream and offsite locations shall be safely conveyed around or through the site, or stored onsite. Existing offsite flow that contributes to onsite flow shall be incorporated into all the onsite calculations.
  - iii. Unless otherwise approved, storm water runoff shall be conveyed through swales and vegetated buffer strips so as to decrease runoff velocity, to allow for natural infiltration and passive storage, to allow suspended sediment particles to settle, and to remove pollutants.
  - iv. Cutting, filling, and grading shall be minimized and the natural topography of the site shall be preserved, except where specific findings demonstrate that major alterations will still meet the purposes and requirements of this ordinance.
  - v. All development involving earth changes shall be designed, constructed, and completed so that the exposed area of any disturbed land is exposed for the shortest possible period of time.
  - vi. Developers of residential developments shall provide storm water facilities that account for the total buildout of the development including, but not limited to, projected roof, lawn and driveway areas, and all new roads.
  - vii. Developers of commercial or industrial areas shall provide storm water facilities for all proposed improvements for which planning commission approval is sought. For subdivided commercial or industrial lots, future developers/owners will be responsible for their proposed development. However, the city may request evidence that future development can reasonably accommodate facilities that meet the requirements of this ordinance.
- E. Storm water facilities - The types of storm water facilities are listed in order of preference, with the most desirable listed first.
    - i. Storm water storage facilities - Storage may be open air basins or below ground. Options for storage basins are:
      - a. Wet detention basin.
      - b. Extended detention basins.
      - c. Detention basins
      - d. Retention basins
    - ii. Infiltration facilities Storm water management plan designers shall consider the site criteria, including soil permeability and the safeguarding of soil structure during saturated periods when designing storm water infiltration components of a management system. Furthermore, the following areas and conditions are considered inappropriate for use of storm water infiltration:
      - a. Fueling and vehicle maintenance and storage areas.
      - b. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
      - c. Areas with runoff from industrial, commercial and institutional parking lots and roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
      - d. Areas within 400 feet of a community water system well or within 100 feet of a private well.
      - e. Any area where the soil between the bottom of the infiltration system and seasonal high groundwater

or the top of bedrock is a clean sand (consisting of less than 10% silt/clay sized soil particles).

## 2. Design and Performance Standards

For additional design and performance assistance to meet this ordinance, the MDEQ BMP, and MDEQ Storm water Guidebook may be utilized.

- A. Rate of Peak Discharge – By design, storm water facilities for the developed site shall maintain or reduce the peak runoff discharge rate following the same rainfall, as compared to predevelopment conditions applicable to the developed site.
- B. Volume of Total Discharge – Any increased volume of water discharged due to earth changes and/or development of the site shall not create adverse impacts to downstream property owners and watercourses. These adverse impacts may include, but are not limited to, flooding, excessive soil saturation, crop damage, erosion, water quality impairment or wildlife habitat damage.
- C. First-Flush from Impervious Surfaces – First flush must be contained within an infiltration or extended detention basin. Border areas, and streets and rights of way immediately adjacent to the development not readily served by proposed onsite storm water runoff collection features may not need to be captured by first flush containment, provided they account for less than 5% of the calculated first-flush runoff.
- D. Detention and Retention Basin Design – All types of detention and retention basins shall be designed to hold runoff in accordance with Section 98-272 2. E. All basins:
  - i. Shall be permanently stabilized to minimize erosion;
  - ii. Shall have an overflow system;
  - iii. Basins and associated berms and landscaping shall be designed to

- protect public safety and to be visually attractive;
- iv. Shall include a forebay depression;
- v. Shall be provided in platted outlots, common areas or open space areas.
- vi. May be below ground.
- E. Design Storm Events - The following National Weather Service rainfall data shall be used when completing runoff calculations for locations within the city:
  - i. 2-year, 24-hour Type II storm = 2.25 inches.
  - ii. 25-year, 24-hour Type II storm = 3.75 inches.
  - iii. 50-year, 24-hr Type II storm = 4.25 inches.
  - iv. 100-year, 24-hour Type II storm = 4.75 inches.
- F. Runoff and Routing Calculation:
  - i. Methods - All existing and proposed storm water runoff calculations shall be completed using the USDA – Natural Resources Conservation Service (NRCS) NEH Part 630 methodology (commonly known as TR-55), or equivalent methodology. Equivalent methodology can be TR-20, winTR-20 (limited to 2,000 acres) HEC-1, or HEC-HMS (any size basin) which include basin and pond routing. Other methods must be approved in writing by the City before submittals are made.
  - ii. Submittals – To demonstrate compliance with performance standards indicated in Section III A. & B. above, calculations must be supplied for, at a minimum, the four storm events listed in Section III, B. 5) above. Give a brief description of methods used and state all assumptions. Provide flow rates, detention volumes, routing calculations, conveyance capacities, freeboard heights, and any other pertinent calculations.
  - iii. Landscaping and Vegetation

Vegetative materials used must adhere to the city's landscape ordinances.

iv. Proximity to Water Bodies and Wetlands

All shoreline, floodplain and wetland development shall comply with state and federal regulations.

v. Variances

The Zoning Board of Appeals shall have the authority to interpret this ordinance and may grant variances to these requirements provided the variances are consistent with the general purpose and intent of the requirements. In addition to these procedures, when variances are requested from the storm water management ordinance, the applicant shall show that storm water management systems have been provided to the maximum extent feasible within the requirements of this ordinance.

**Sec. 98-273. Maintenance**

1. Responsibility

- A. Responsibility - Maintenance of storm water facilities shall be the responsibility of the person or persons holding title to the property except as listed below. These persons are responsible for the continual operation, maintenance, and repair of storm water facilities and BMPs in accordance with the provisions of this ordinance. Options, other than the property owner, include: Property owner's association which shall include provisions for financing necessary maintenance in deed restrictions or other contractual agreements. Means of permanent maintenance through agreement with the city, or other appropriate governmental agency.
- B. Maintenance plan - A maintenance plan, as specified in Section II, D, shall include specific maintenance activities for each storm water facility and any other elements of the approved storm

water management plan. Provisions must be made for the removal of sediment materials and trash from storm water facilities. The maintenance plan shall be submitted simultaneously for municipal review with all other required elements of the storm water management plan.

- C. Record keeping - Parties responsible for the operation and maintenance of storm water facilities shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five years after the maintenance or repairs are completed. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

2. Access.

When any new storm water facilities are installed on private property, or when any new connection is made between private property and a public drainage system, the property owner shall grant to the City, through an easement, the right to enter the property at reasonable times and in a reasonable manner for the purpose of periodic inspections. This access includes the right to enter a property when the city has reason to believe that a violation of this ordinance is occurring or has occurred, and to enter when necessary for the abatement of a public nuisance or correction of a violation of this ordinance.

3. Easements

- A. Easements - The owner shall provide all easements necessary to implement the storm water management plan and to otherwise comply with this ordinance in form and substance required by the city. The owner shall submit the easement to the city for recording prior to issuance of the permit. The easements shall assure access for proper inspection and maintenance of storm water facilities in perpetuity and shall provide adequate emergency overland flow ways.

- B. Easement widths - Widths will be determined by the city and be situated in such a way as to allow maximum adequate maintenance access. In general, easement widths are 20 feet, but final determination will be as deemed necessary by the city.

**98-274. Enforcement.**

1. Violations

A person who violates any provision of this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in Chapter 51 of the city code.

2. Stop Work Order

- A. Stop work order – Where there is work in progress that causes a violation of any provision of this ordinance, the city is authorized to issue a stop work order to prevent further or continuing violations. All persons to whom the stop work order is directed, or who are involved in any way with the work or matter described in the stop work order shall fully and promptly comply with this order. The city may also undertake or cause to be undertaken any necessary protective measures to prevent violations of this ordinance or to avoid or reduce the effects of noncompliance. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.
- B. Emergency measures - When emergency measures are necessary to moderate a nuisance, to protect public safety, health and welfare, or to prevent loss of life, injury or damage to property, the city is authorized, but not required, to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such measures made necessary as a result of a violation

of this ordinance, and shall promptly reimburse the city for all such costs.

3. Restoration

Any violator of this ordinance may be required to restore land to its predevelopment condition and/or repair and stabilize damaged areas. In the event that restoration or repairs are not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which shall become the responsibility of the violator.

4. Fees and Fines, Delinquent

If any billing for fees or fines related to City maintenance of, or noncompliance with requirements of this ordinance shall remain unpaid, the amount unpaid thereof shall constitute a lien on the property to which such service is provided. If any bill remains unpaid for 60 days from the date of issue, then the City shall serve notice, by registered mail with return receipt requested, that if the amount owed is not paid in full within six months of the registered letter, The nonpayment will be certified annually, on January 1, by the City official or officials in charge of the collection, to the Assessor of the local unit the facts of delinquency, who shall place the same on the next tax roll of the local unit. Such charges so assessed shall be collected in the same manner as general taxes of the local unit against such premises are collected and lien there and enforced. In addition, the city may, adopt, by Resolution, and require a security deposit as a protection against possible future delinquencies in an amount not to exceed a reasonable estimate of the previous delinquent payment. The deposit shall be refunded without interest when the development has been clear of fines or fees for a period of two (2) years, or if the city sooner decides the deposit is no longer required.

**Secs. 98-275—98-399 Reserved.**

**ARTICLE 4 – USE STANDARDS**

		98-415	Outdoor sales spaces for automobiles, house trailers, recreation vehicles or boats
98-400	Accessory Dwelling Units	98-416	Drive-in restaurant or drive-thru.
98-401	Churches and schools	98-417	Veterinary hospitals or clinics
98-402	Utility and public service buildings and uses.	98-418	Outdoor sales space for plant materials, nurseries, lawn furniture, playground equipment and garden supplies
98-403	Private noncommercial recreation areas	98-419	Commercially used outdoor recreational space
98-404	Private outdoor swimming pools	98-420	Riding academies or stables
98-405	General hospitals	98-421	Home based business
98-406	Convalescent homes and orphanages	98-422	Medical marihuana dispensaries and medical marihuana nurseries
98-407	Motels and motor inns	98-423	Adult business
98-408	Medical clinics and professional offices	98-424	Solar panels
98-409	Lodge halls and fraternal assembly buildings	98-425	Personal wind generating towers
98-410	Mortuaries and funeral homes	98-426	Wireless communications
98-411	Open-air business		
98-412	Automobile showrooms and service centers		
98-413	Gasoline service stations		
98-414	Recreation resorts		

Use Standards are allowed as provided in the Zoning Districts and subject to their conditions.

**Sec. 98-400. Accessory Dwelling Units** located within the R-1 single-family zoning district require a Special Land Use Permit and must meet the following requirements:

1. An application must be submitted to the zoning administrator that includes the floor plans for the accessory dwelling unit including any alterations needed to the exterior of the primary structure to accommodate the accessory dwelling unit.
2. The existing site and use are substantially in compliance with this Ordinance and the International Property Maintenance Code (Chapter 14).
3. The accessory dwelling unit is allowed only on a parcel having at least 5,000 square feet.
4. Only one Accessory Dwelling Unit per parcel is allowed with a maximum of two dwellings per parcel.
5. The Accessory Dwelling must be fully contained within the structure of the primary dwelling.
6. Only one entrance may be located on the façade of the primary structure facing the street, unless the primary structure contained additional entrances before the accessory dwelling unit was created. An exception to this regulation is entrances that do not have access from the ground such as entrances from balconies or decks.
7. Fire escapes or exterior stairs for access to an upper level accessory dwelling shall not be located on the front of the primary structure.
8. The accessory dwelling unit must have at least 250 square feet of gross floor area.
9. There shall be one hard-surface, off-street parking space provided for the accessory dwelling unit in excess of the required parking for the primary dwelling.
10. At least one owner of record shall occupy either the primary dwelling unit

or the accessory dwelling unit. The owner occupant shall meet the requirements for a principal residence tax exemption.

11. If the accessory dwelling unit is to be rented, a rental license is required in accordance with Chapter 14. The Accessory Dwelling Unit shall not be leased for a period of less than six (6) months at a time.

**Sec. 98-401. Churches and schools** and other facilities normally incidental thereto, when located in a residential district shall have at least one property line abutting a major street or state or federal highway as designated on the Act 51 road map.

**Sec. 98-402. Utility and public service buildings and uses** (without storage yards) are only allowed in residential districts when operating requirements necessitate the locating of the building within the district to serve the immediate vicinity.

**Sec. 98-403. Private noncommercial recreation areas, and institutional or community recreation centers,** are subject to the following conditions:

1. The proposed site for uses permitted in this article which would serve areas beyond the immediate neighborhood shall have primary access from a major street, or a state or federal highway as designated on the Act 51 road map.
2. Front, side and rear yards required for the district shall be landscaped. There shall be no parking or structures permitted in these yards except walls or fences used to obscure the use from abutting residential districts.

**Sec. 98-404. Private outdoor swimming pools** shall be permitted as an accessory use within the rear yard only, provided they meet the following.

1. There shall be a distance of not less than four feet between the outside pool wall and

any building located on the same lot, 35 feet from any front lot line and ten feet from any property line.

2. All swimming pools shall be enclosed by a fence not less than five feet in height. The gate shall be of a self-closing and latching type, with the latch on the inside of the gate to protect children. Gates shall be capable of being securely locked. Raised pools may be exempted by the zoning administrator whenever a fence may not be practical.

**Sec. 98-405. General hospitals** will have no maximum height restrictions when the following conditions are met:

1. All such hospitals shall be developed only on sites consisting of at least two acres in area.
2. All access to the site shall be from a major street or state or federal highway as indicated on the Act 51 road plan.

**Sec. 98-406. Convalescent homes and orphanages** shall provide not less than 1,000 square feet of open space for each bed in the home. The 1,000 square feet of land area shall provide for landscaping, off-street parking, drives, loading space, and accessory uses, but shall not include the area covered by main or accessory buildings.

**Sec. 98-407. Motels and motor inns**, when located in an R-3 zoning district, must have a minimum lot width of 150 feet and direct access to a major street as designated on the city's Act 51 road plan.

**Sec. 98-408. Medical clinics and professional offices** (except veterinarian clinics and animal hospitals), when located in an R-3 zoning district, must have a minimum lot width of 150 feet and direct access to a major street as designated on the city's Act 51 road plan.

**Sec. 98-409. Lodge halls and fraternal assembly buildings** must be located on lots which contain at least 100 feet of width and have

direct access to a major street as designated on the city's Act 51 road plan.

**Sec. 98-410. Mortuaries and funeral homes**, when located in an R-3 zoning district must have a minimum lot width of 100 feet and direct access to a major street as designated on the city's Act 51 road plan.

**Sec. 98-411. Open-air business** uses when developed in planned relationship with the B-2 district, to include retail sales of plant material and sales of lawn furniture, playground equipment, sporting goods and garden supplies.

**Sec. 98-412. Automobile showrooms and service centers** when developed and planned as a part of a larger retail center and designed so as to integrate the automobile service center with adjacent stores so that pedestrian access routes to retail specialty shops and general merchandise stores are not interrupted by the establishment, extension or expansion of automotive service centers.

**Sec. 98-413. Gasoline service stations, engine and body repair, tire shops, steam cleaning and undercoating.**

1. Must be conducted within a completely enclosed building.
2. Are limited to activities whose external effects will not adversely extend beyond the property line.
3. No vehicles, pumps or appurtenances shall be stored or located nearer than ten feet from the front lot line.
4. Wrecked vehicles shall be obscured from public view and shall not be stored in the open for a period longer than 15 days.
5. Ingress-egress points to the lot shall be at least 30 feet from the intersection of any two streets.

**Sec. 98-414. Recreation resorts.** Public or private outdoor recreational facilities of a resort character may be permitted in any district by the board of appeals, after a hearing, provided:

1. The use occupies a total site area of at least 40 acres.
2. The site has physical characteristics readily adapted for the proposed use with minimum disturbance to natural site features.
3. There is no conflict with the comprehensive land use plan relative to neighborhood units and industrial park areas.
4. All principal site uses and facilities are set back at least 100 feet from the property line.

**Sec. 98-415. Outdoor sales space for automobiles, house trailers, recreation vehicles or boats** subject to the following:

1. Ingress and egress to the outdoor sales area shall be at least 30 feet from a street intersection.
2. No major repair or major refinishing shall be done except in an enclosed building.
3. Dust and surface water runoff shall be controlled.

**Sec. 98-416. Drive-in restaurant or drive-thru** subject to the following:

1. A setback of at least 30 feet from the right-of-way line of an existing street is maintained.
2. Ingress and egress points shall be located at least 30 feet from a street intersection.

**Sec. 98-417. Veterinary hospitals or clinics** must conduct all activities within a completely enclosed main building. All buildings must be set back at least 200 feet from a residential district boundary.

**Sec. 98-418. Outdoor sales space for plant materials, nurseries, lawn furniture, playground equipment and garden supplies** must meet the following conditions:

1. All storage and/or display shall meet all setback requirements for a structure or 20 feet, whichever is greater.

2. Soil fertilizer, or other loose or unpackaged materials shall be contained so as to prevent any nuisance effects on adjacent uses.

**Sec. 98-419. Commercially used outdoor recreational space** subject to the following:

1. Parking areas shall be provided off the road right-of-way.
2. Children's amusement facilities must be fenced on all sides with a minimum five-foot wall or fence.
3. All manufacturer's safety specifications are complied with as well as any additional safety measures that may be prescribed as necessary by this Code.
4. When discontinued or abandoned, the site shall be left in a reusable condition free from hazards, dangerous excavations and abandoned structures.

**Sec. 98-420. Riding academies or stables.**

Facilities for horseback riding, accessory trails and stables may be allowed by the board of appeals in RSV, B-3, and I districts, or on farms in unplatted areas, provided that animal housing facilities or enclosures are located at least 300 feet from any off-premises residential structure. Under a temporary permit basis, riding trails may extend into the rugged and/or undeveloped portions of any district.

**Sec. 98-421. Home Based Business.** Home based businesses in an R-1, R-3, R-4 zoning district require a Special Land Use Permit and are subject to the following conditions:

1. The business shall not occupy more than 25% of the floor area of the dwelling unit or a maximum of 500 square feet, whichever is smaller.
2. There will not be more than one person who is not a member of the household employed by the business.
3. Only one person other than residents of the dwelling unit and the one employee shall visit the business at a time.



4. There shall be no signs used to indicate the presence of the business on the premises.
5. There shall be no equipment used, the operation of which can be sensed outside of the dwelling unit.
6. No activity related to the business shall be conducted in an accessory building.
7. Approval of a home based business shall vest only in the person making the application, and shall not be transferable to another person.
8. Application for approval of a home based business shall include a signature indicating approval of the property owner if that person is different from the applicant.
9. The business shall not constitute a retail store. No goods other than those produced or processed on the premises shall be sold.
10. The business shall not necessitate the use of commercial vehicles.
11. There shall be one designated hard surface parking space for visitors of the business supplied on the property.

**Sec. 98-422. Medical marihuana dispensaries and medical marihuana nurseries, and provisioning centers.**

It is the intent of this ordinance to authorize the establishment of certain Medical Marihuana Dispensaries and Medical Marihuana Nurseries under the Michigan Medical Marihuana Act, MCL § 333.26421 et seq., and certain Provisioning Centers under the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq., in the City and to provide for the adoption of reasonable restrictions to protect the public health, safety, and general welfare of the community at large; retain the characteristics of neighborhoods; and mitigate potential impacts on surrounding properties and persons. Nothing in this ordinance is intended to grant immunity from criminal or civil prosecution, or sanction for the cultivation, manufacture, possession, use, sale, or distribution of marihuana, in any form, that is not in compliance with Michigan law, including but

not limited to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. and Michigan Medical Marihuana Act, MCL § 333.26421. As of the effective date of this ordinance, marihuana remains classified as a Schedule 1 controlled substance under the Federal Controlled Substances Act, 21 U.S.C. § 801 et seq., which makes it unlawful to manufacture, distribute, or dispense marihuana. Nothing in this ordinance is intended to grant immunity from any criminal prosecution under federal laws. Medical Marihuana Dispensaries, Medical Marihuana Nurseries, and Provisioning Center shall be allowed in the B-3 district subject to the following conditions and standards:

1. Words used herein shall have the definitions as provided in Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. and Michigan Medical Marihuana Act, MCL § 333.26421, both as may be amended. To the extent that the foregoing definitions conflict with the definitions found in Sec. 98-7, the definitions found in the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. and Michigan Medical Marihuana Act, MCL § 333.26421 shall apply. “Provisioning Center” shall mean a commercial entity located in Michigan that purchase marihuana from a grower or processor and sells supplies, or provides marihuana to registered qualifying patients directly or through the patient’s registered primary caregivers. Provisioning Centers include any commercial property where marihuana is sold at a retail to registered qualifying parties or registered primary caregivers. A noncommercial location used by a primary caregiver, in accordance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., is not a provisioning center for purposes of this article.
2. The City shall not grant any permits or licenses for the operation of any of the following Medical Marihuana Facilities,

as defined in the Medical Marihuana Facilities Licensing Act:

- A. Growers;
  - B. Processors;
  - C. Safety Compliance Facilities;
  - D. Secure Transports
3. No Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center operated under this Sec. shall be located within 1,000 feet of any other Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center nor within 1,000 feet of any of the following uses:
- A. Any church synagogue, mosque or any house of worship.
  - B. Any school, public or private, that has a curriculum including kindergarten or any one or more of the grades one through twelve.
  - C. Any nursery school or child care center.
  - D. Any public park.
  - E. Any public library.
  - F. Any residentially zoned district or residential use.
  - G. Any community college, university or professional school.
4. There shall be no more than one (1) Provisioning Center operated in the City and no more than one Provisioning Center license granted at any time.
5. Medical Marihuana Dispensaries and Medical Marihuana Nurseries shall only be operated after obtaining a special land use permit under Sec. 98-109.
6. Provisioning Centers shall not be operated without a license issued by the City pursuant to the provisions of this ordinance.
- A. Every applicant for a license to operate a Provisioning Center shall file an application with the Houghton City Clerk or other designee of the City Council.
  - B. Upon receipt of a complete application, including the initial

annual fee outlined below and any necessary documents required by the application, the application shall be time and date stamped. Complete applications shall be considered for authorization in consecutive time and date stamped order.

Upon consideration, if the facility type authorization is available within the number specified in this Ordinance, then the applicant shall receive conditional authorization to operate the Provisioning Center.

Once the limit on the number of the Provisioning Centers is conditionally reached, then any additional complete applications shall be held in consecutive time and date stamped order for future conditional authorization. Any applicant waiting for future conditional authorization may withdraw their submission by written notice to the Clerk at any time and receive refund of the initial annual fee submitted.

- C. A conditional authorization means only that the applicant has submitted a valid application for a Provisioning Center license. The applicant shall not locate or operate a Provisioning Center without first obtaining a license from the City as provided herein, and all other permits and approvals as required by all other applicable ordinances and regulation of the City, including a special land use permit under 98-109.
- D. Within thirty (30) days of the applicant receiving the conditional authorization from the City, the conditionally authorized applicant must submit proof to the Clerk that the applicant has applied for a prequalification for a state

- operating license or has submitted a full application for such license. If the applicant fails to submit such proof, then such conditional authorization shall be cancelled by the Clerk and the conditional authorization shall be available to the next applicant in consecutive time and date stamped order as provided for herein.
- E. If a conditionally authorized applicant is denied prequalification for a state operating license or is denied on full application for a state operating license, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next application in consecutive time and date stamped order as provided herein. Applicant shall provide City notice of any denial of (1) prequalification for a state operating license or (2) full application for a state operating license.
  - F. Within thirty (30) days from the applicant submitting proof of obtaining a state operating license and completing all other required permits and approvals required by the City, the Clerk shall approve the Provisioning Center license.
  - G. If a conditionally authorized applicant fails to obtain full authorization from the City within one year from the date of the conditional authorization, then such conditional authorization shall be canceled by the Clerk and the conditional authorization shall be available to the next application in consecutive time and date stamped order as provided herein.
  - H. A valid Provisioning Center license may be renewed on an annual basis by submitting a renewal application upon a form provided by the City and payment of the annual license fee. Application to renew a marihuana facility license shall be filed at least thirty (30) days prior to the date of its expiration.
7. A Provisioning Center shall only be operated by the holder of a state operating license issued pursuant to the Medical Marihuana Facilities Licensing Act, MCL § 333.27101 et seq. Prior to operating a provisioning Center the facility must comply with all zoning, construction, building or any other Ordinance of the City. The Provisioning Center shall only be operated as long as it remains in compliance with Michigan law and all ordinance regulations. An authorized Provisioning Center shall consent to inspection of the Provisioning Center by City officials and/or by the Houghton City Police, upon reasonable notice, to verify compliance with this ordinance. If at any time an authorized Provisioning Center violates any Michigan law or ordinance, the City Council may request that the state revoke or refrain from renewing the Provisioning Center's state operating license. Once such state operating license is revoked or fails to be renewed, the Clerk shall cancel the City's license and a conditional authorization shall be available to the next application in consecutive time and date stamped order as provided herein.
  8. It is hereby expressly declared that nothing in this ordinance shall be held or construed to give or grant to any Medical Marihuana Dispensaries, Medical Marihuana Nurseries, or Provisioning Center a vested right, license, privilege or permit to continue authorization from the City for operations within the City. The City expressly reserves the right to amend or repeal this ordinance in any

- way including, but not limited to, complete elimination of or reduction in the type and/or number of authorized Medical Marihuana Dispensaries, Medical Marihuana Nurseries, and Provisioning Center.
9. Application and renewal fees for Provisioning Centers, if any, will be set by Resolution.
  10. All activity related to a Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center including but not limited to growing, shall be done indoors in a locked structure.
  11. Medical Marihuana Dispensaries and Medical Marihuana Nurseries shall be operated in compliance with the provisions of the Michigan Medical Marihuana Act MCL 333.26421 et seq.
  12. Smoking, inhalation, or consumption of medical marihuana shall not be allowed on the site of the Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center.
  13. No qualifying patients under the age of 18 (eighteen) shall be permitted in Medical Marihuana Dispensaries, Medical Marihuana Nurseries, or Provisioning Centers at any time except in the presence of qualifying patient's parent or legal guardian or their primary caregiver.
  14. No retail sale of drug paraphernalia is permitted at Medical Marihuana Dispensaries, Medical Marihuana Nurseries, or Provisioning Centers, except to qualifying patients or their primary caregivers.
  15. Each Medical Marihuana Dispensary, Medical Marihuana Nursery, and Provisioning Center shall display in a manner legible and visible to its clientele:
    - A. Notice that qualifying Patients under the age of eighteen (18) are not allowed in the Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center except in the presence of his/her parent or legal guardian;
    - B. No smoking, inhalation or consumption of medical marihuana shall occur within the vicinity of the Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center.
  16. Only operators and their employees, qualifying patients, parents or guardians of qualifying patients under 18 years of age, and their primary caregiver may be permitted to enter a Medical Marihuana Dispensary, Medical Marihuana Nursery, or Provisioning Center for the purpose of obtaining medical marihuana or other goods or products associated with its use.
  17. Medical Marihuana Nurseries can grow a maximum of 72 marihuana plants, unless otherwise limited by Michigan law.
  18. Primary caregivers and/or qualified patients at the facility must be legally registered by the Michigan Department of Community Health (MDCH) in accordance with the Michigan Medical Marihuana Act, as amended and/or the Medical Marihuana Facilities Licensing Act.
  19. A Medical Marihuana Dispensary, Medical Marihuana Nursery, and Provisioning Center shall open no earlier than 8:00 a.m. and close no later than 8:00 p.m., and no patients shall be allowed in the facility after hours.
  20. Any person who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction and subject to the payment of a civil fine of not more than \$50.00 plus costs. Each day a violation of this Ordinance continues to exist constitutes a separate violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies and judicial orders as are authorized under Michigan law. A violation of this Ordinance is deemed to be a nuisance

per se. In addition to any other remedy available at law, the City may bring an action for an injunction or other process against a person to restrain, prevent, or abate any violation of this Ordinance. This Ordinance shall be enforced and administered by the Zoning Administrator or such other city official as may be designated from time to time by resolution of the council.

21. In the event that any one or more sections, provisions, phrases or words of this Ordinance shall be found to be invalid by a court of competent jurisdiction, such holding shall not affect the validity or the enforceability of the remaining sections, provisions, phrases or words of this Ordinance.

**Sec. 98-423. Adult Business.**

Allowed in the B-3 district subject to the following conditions and standards:

1. No Adult Business shall be located within 1,000 feet of any other Adult Business Use nor within 1,000 feet of any of the following uses:
  - A. Any church synagogue, mosque or any house of worship.
  - B. Any school, public or private, that has a curriculum including kindergarten or any one or more of the grades one through twelve.
  - C. Any nursery school or child care center.
  - D. Any public park.
  - E. Any public library.
  - F. Any residentially zoned district or residential use.
  - G. Any community college, university or professional school.
2. Persons operating an Adult Business shall not permit any person under the age of eighteen to be on the premises of said adult business either as an employee or as a customer.

3. The maximum hours of operation of the Adult Business shall be from 8:00 a.m. to 12:00 midnight.
4. Sexually oriented products or services or any picture or other representation thereof, shall not be displayed so as to be visible from the exterior of the building.

**Sec. 98-424. Solar Panels**

Solar panels are permitted within any zoning district, but cannot exceed the maximum structure height permitted within the zoning district. Solar panels are not permitted in the front yard, but are permitted in a side or rear yard. Solar panels are not allowed in the minimum required setback for the zoning district in which it is located. Solar panels must be removed when not active for a continuous twelve (12) month period.

**Sec. 98-425. Personal Wind Generating Towers** are permitted within any zoning district, but cannot exceed the maximum structure height permitted within the zoning district. Towers are not permitted in the front yard, but are permitted in a side or rear yard. Towers are not allowed in the minimum required setback for the zoning district in which it is located. Towers must be placed on the property so that the height of the tower does not exceed the distance from the tower base to the property line.

**Sec. 98-426. Wireless communications.** Wireless communications are permitted subject to the following criteria:

1. Administrative Review. The zoning administrator may administratively approve any wireless communication facility for which all support equipment is screened from view and which complies with one of the following criteria:
  - A. A roof-mounted antenna not exceeding ten feet in height and located on a nonresidential structure.
  - B. Antennas which are architecturally integrated with a building or

structure so as not to be recognized as antennas.

- C. Up to three whip antennas with a maximum height of 20 feet.
2. However, if any such wireless communication antenna is to be located on property owned by the city, and if the antenna would be located within 300 feet of any residential use the following provisions shall apply.
- A. The zoning administrator shall send via first class mail notice of the application to all owners and occupants of all residential properties which lie within 300 feet of the proposed antenna. The notice shall identify the proposed location and describe the intended installation. The notice shall indicate that written protests in opposition to the application may be submitted to the planning and zoning administrator's office within 30 days of the mailing.
  - B. If no protest is received, the zoning administrator may approve as an administrative matter.
  - C. If a written protest in opposition to the application is submitted within the 30-day period by any property owner or occupant within the notice area, the planning and zoning administrator shall forward the application to the council for action. The council shall consider the application at a public hearing. Notice of the hearing shall be sent via first class mail to the owners and occupants of all residential properties which lie within 300 feet of the proposed antenna.
  - D. Following the public hearing, the council may act to approve the application, or approve the application with conditions necessary to mitigate adverse impacts of the application, or it may reject the application if it finds that

the proposed antenna installation would be detrimental to the residential neighborhood due to visual impacts, noise, traffic, loss of privacy or safety or security concerns.

- 3. Special Land Use Permit. All other wireless communication facilities shall be new monopoles or similar support structures and shall be subject to the granting of special land use permit in accordance with article 6, division 2 of this chapter and the following standards.
  - A. Locational criteria.
  - B. Facilities shall be sited to provide the least intensive impact as is reasonably possible to minimize views from residential areas or the public right-of-way.
  - C. Support structures will be limited in all geographic areas to avoid excessive visual impacts.
  - D. Monopoles and similar support structures are prohibited in all residential zones. Wireless communication facilities are permitted in the B-2, B-3, I or unplatted RSV districts.
  - E. Monopoles and similar support structures are prohibited in parks, schoolgrounds or other areas heavily trafficked by children.
- 4. Development and design standards.
  - A. Setbacks
    - i. Wireless communications employing guy anchors shall be sited so that the guy anchors for the structure meet the minimum setback requirements of the zoning district where they are located and do not cross into another zoning district.
    - ii. Separation requirements for towers shall comply with the following minimum standards:

Off-site Use/Designated Area	Separation Distance
Residential Dwellings	200 feet or 300%

(single-family or multi-family)	height of tower, whichever is greater
Residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower, whichever is greater
Vacant, unplatted residentially zoned land	100 feet or 100% height of tower, whichever is greater
Non-residentially zoned lands or nonresidential uses	Non, only setbacks apply

- B. Mounted wireless communication facilities shall meet the required setbacks for the structure upon which they are located and shall be situated to provide for maximum safety on the site.
- C. Height. Height of the support structure must be the minimum necessary to support the required coverage; however, in no case shall the antenna or its support structure exceed: For a single user, 100 feet. For two users, 150 feet. For three or more users, 200 feet.
- D. Color. Support structures shall be painted in unobtrusive colors, unless in accordance with any other statutory or regulatory requirements.
- E. Equipment buildings. Where an equipment building accompanying the support structure is erected, it shall be designed to be compatible with the adjacent architecture.
- F. Landscaping and visual impact requirements.
  - i. Landscaping shall be provided in sufficient quantity around the perimeter of the required security fencing, as well as adjacent to any buildings and anchors. Site access entrances shall also be landscaped. This

information shall be presented on a landscape plan.

- ii. When located on an otherwise undeveloped site, the existing natural vegetation of the property shall be maintained to the greatest extent possible. The applicants shall provide information on a landscape plan regarding existing vegetation which is proposed to be removed and methods for replacement. In no case shall an entire site be graded and/or cleared for installation of a wireless communication tower.
- iii. Whether a freestanding or mounted wireless communications facility is proposed, the applicants shall demonstrate how the accessory building's design will limit adverse visual impacts to neighboring property owners.
- iv. Lighting at the facility and accessory structures shall be designed so not to adversely affect adjacent property owners and shall be in compliance with FAA standards.

- G. Prevention of unauthorized climbing. Support structures shall be designed to prevent unauthorized climbing.

5. Safety and security requirements.

- A. All new wireless communication facilities shall be designed within the applicable ANSI/EIA standards (RSA-22, Revision E), and so as not to be in conflict with existing airport locations and flight patterns.
- B. The application shall, in conjunction with the application, submit a statement that is certified and sealed by a licensed architect or engineer indicating that the proposed wireless communication

- facility is in compliance with all Federal Communications Commission (FCC) regulations and all building and code requirements.
- C. All wireless communication facilities shall maintain appropriate liability insurance and supply the city with proof of same prior to construction.
  - D. Security fencing shall be installed completely around freestanding facilities, any accessory utility structures and guy anchors. Access shall be provided only by a locked gate. Security fencing shall not be required for mounted facilities.
  - E. All wireless communication facilities shall receive regular and routine care and maintenance.
6. Co-location.
- A. In order to maximize the efficiency of the provision of wireless communication services, while also minimizing the impact of such facilities on the community, co-locating (the provision of more than one facility at a single location and on a single tower) shall be encouraged. All applicants for wireless communication facilities shall be required to provide information regarding the feasibility of co-location at proposed or existing sites. Furthermore, all applicants shall be required to provide a notarized letter of intent to lease excess space on the proposed facility and commit itself to the following:
    - i. Respond to any requests for information from another potential shared use applicant;
    - ii. Negotiate in good faith and allow for leased shared use if an applicant demonstrates that it is technically feasible; and make no more than a reasonable charge for a shared use lease.
  - B. Should co-location be proposed at a wireless communication facility, accessory mechanical buildings shall either be situated directly adjacent to or abutting each other and separated by a firewall, shall be placed underground, or shall be designed in a manner which limits the number and size of the building(s) on the site. On-site constraints, such as existing topographical and other natural features, may be considered when reviewing a proposed co-location design. Accessory mechanical buildings shall be designed to be consistent in design, style and exterior appearance. Review and approval of accessory mechanical building(s) at a co-location site shall be made by the zoning administrator.
7. Abandonment. Wireless communication facilities which have been abandoned or are unused or disconnected from the network for a period of 12 months shall be immediately removed from the site at the cost of the facility applicant, or their successor(s). Upon removal from the site of a tower, the foundation shall also be removed to a depth of at least six feet. Additionally, the fencing and accessory structure(s) shall be demolished and removed from the site at the cost of the facility applicant, or their successor(s).
8. Application requirements. Applications for a special land use permit as set forth in in the section shall contain the following:
- A. An explanation of the need of the applicant's clientele for this communications capacity;
  - B. Site and landscape plans drawn to scale;
  - C. A report including a description of the tower with technical reasons for its design;
  - D. Documentation establishing the structural integrity for the tower's proposed uses;



- E. The general capacity of the tower, and information necessary to assure the ANSI standards are met;
- F. A statement of intent on whether excess space will be leased;
- G. Proof of ownership or authorization to utilize the proposed site;
- H. Copies of any easements necessary;
- I. An analysis of the area containing existing topographical contours;
- J. A presentation size map which shows an inventory of existing and proposed cell site installations within the city and within one mile of the border thereof, including specific information about the location, height and design of each tower. The zoning administrator may share such information with other applicants applying for administrative approvals or seeking special land use permits under this chapter or other organizations seeking to locate antennas within the city, provided, however, that the zoning administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

**Secs. 98-428 – 98-499 Reserved.**

## ARTICLE 5 – SIGNS

### Sec. 98-500. General objectives.

The general objectives of this article are to:

1. Regulate and encourage private signs and lights which do not overload the public's capacity to receive information, which do not violate privacy, or which do not increase the probability of accidents by distracting attention or obstructing vision.
2. Encourage signing and lighting and other private communications which aid orientation, identify activities, express local history and character, or serve other educational purposes.
3. Provide guidelines for individuals and groups to express themselves in the public environment.
4. Reduce conflict among private signs and between private and public information systems.
5. Enhance the overall visual appearance of the city.

### Sec. 98-501. Administration.

1. No sign, except those specifically exempted by this article, shall be erected without a permit issued by the zoning administrator, application for which shall contain the following:
  - A. Name, address and telephone number of the applicant.
  - B. Type of sign or sign structure.
  - C. Sketch showing sign size, height, type of support (if applicable), zoning district in which the sign is located, location of the sign on property including front and side yard setback distances, and any other information required in this article.
  - D. Street address of the property upon which the sign is proposed to be located.
  - E. The name of the sign contractor who shall erect the sign and/or sign structure.
  - F. Any other information deemed appropriate by the zoning administrator.
2. Fees for sign permits shall be fixed by the council.

3. Nonconforming signs shall be removed by their owner within ten days of the period set forth in section 98-504, or else the zoning administrator may cause their removal at the expense of the owner.
4. When any sign or advertising device is found by the zoning administrator to be in such condition as to make it immediately dangerous, the administrator is authorized and empowered to abate such nuisance by taking action necessary to protect the public and property, including the authority to take down and remove such signs without notice to the owner.

### Sec. 98-502. Allowed signs.

Signs are allowed as follows:

1. Unless excepted, signs are allowed on private property if the subject matter relates to a business located in the city.
2. Each building may have a sign oriented to each street or to the Portage Waterway if the building has frontage on the waterway.
3. With the exceptions given in this Article, the total surface area of all signs oriented to any street shall not exceed 15 times the square root of street frontage on that street, and the combined area of all signs shall not exceed 15 times the square root of the combined street frontage:

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

4. Sign size exceptions are as follows:

- A. No sign on a structure shall exceed two square feet in an R-1 zone, and the total area in an R-2, R-3, and R-4 zone shall not exceed 50 percent of the total allowable area stated in 3 above.
- B. No free standing sign shall exceed a total of 150 square feet on each face.
- C. The following are allowed in addition to signs as limited by section 98-502:
  - i. Names of buildings, date of erection, monumental citations, and commemorative tablets up to 32 square feet in area, when made a permanent and integral part of the building.
  - ii. Building directories, up to 20 square feet in area if located outside.
  - iii. Traffic control and guidance signs, in conformance with public traffic sign standards, but located on private property, and orientational signs up to two square feet in area, displayed for purposes of direction or convenience, including signs identifying restrooms, freight entrances and the like.
- D. Within the traditional downtown business district (Montezuma Avenue to the Portage Waterway and between Franklin Street and Bridge Street) projecting signs are allowed as follows:
  - i. Where a business does not front on state trunkline highway; a projecting sign may be a maximum of 33 percent larger in area than the prescribed area of the 30 inches x 30 inches maximum size for a projecting sign (see 98-502. 7.) provided that the sign meets all other requirements of the ordinance and provided that it blocks existing signs as little as possible.
  - ii. A projecting sign of not more than 20 square feet on a side may be permitted provided that it meets all of the following criteria:
    - a. The sign is being done as part of a comprehensive historic/façade

renovation project, or part of a past historic renovation;

- b. The main, permanent lettering identifies the building itself or the generic type of business located within; not the specific business name (franchise, trademark name, logo, etc.);
- c. The specific business or proper name may be identified on the sign, but shall be constructed in such a way that it can be removed/changed separately from the identifying lettering described in b. above;
- d. The type, size, scale, and overall shape can be clearly demonstrated to emulate a sign that was historically associated with the building as shown in photographs or other historical documentation for the historic period which is represented by the overall period to which downtown façade renovation(s) are being, or were, performed;
- e. It can project no more than 32 inches from the building;
- f. Maximum height, including bracket, shall be 18 feet above sidewalk;
- g. The area of this sign will not be subtracted from the total allowed signage.
- iii. Provided that the sign meets all other requirements (projection width, bottom height, lighting, etc.) of the ordinance not specifically addressed above.

5. Illumination shall be regulated as follows:

- A. Signs shall be illuminated only by steady, stationary, shielded light sources directed solely at the sign, or internal to it, without causing glare for motorists, pedestrians or neighboring premises.
- B. Signs shall not be illuminated between the hours of midnight and 7:00 a.m.

- unless related to an establishment operating during those hours.
- C. All permanent outdoor lights such as those used for area lighting or building floodlighting shall be steady, stationary, shielded sources directed so as to avoid causing glare for motorists, pedestrians or neighboring premises.
6. Temporary signs are regulated as follows. No permit is required.
- A. Temporary signs are not permitted on public property unless placed by a public institution.
- B. Except for sandwich board signs, temporary signs are not allowed in the public right-of-way.
- C. Up to two (2) temporary signs at a time are permitted on a parcel of land.
- D. Temporary signs are not to exceed the size of 4 square feet per side in a residential zoned district.
- E. Temporary signs are not to exceed the size of 25 square feet per side on a parcel of land in a business or industrial zoned district.
- F. Temporary signs are not to be illuminated and must have a fixed message.
- G. Temporary signs promoting an event must be removed within 5 days following the event.
7. Projecting signs shall not be larger than 30 inches by 30 inches and shall not project more than 42 inches from the building. Mounting brackets shall not extend more than six inches beyond the sign and shall be of appropriate size. The bottom of the sign shall be mounted a minimum of 8 feet above the sidewalk. The top of the sign shall not be more than 13 feet above the sidewalk.
8. Sandwich Board sign: Signs are allowed in areas zoned “business” with the following conditions:
- A. One sign is allowed in front of a business. This sign can advertise the business it is located in front of or a different business in the city with permission of the owner of the business it is located in front of.
- B. The sign may only be displayed when the business it is advertising is open and only between the hours of 7:00 a.m. to midnight.
- C. There must be at least five feet of unimpeded sidewalk width maintained and not obstructed at the location of the sign.
9. Height restrictions are as follows:
- A. No freestanding sign shall be more than six feet above grade in residential areas.
- B. The maximum height of a free standing sign is 25 feet.
- C. Signs above foot traffic areas have to be at least 7 feet above the walking surface.
10. Strip Mall Signs (A strip mall is defined as having three or more stores with a common wall between each store and a common, on site, parking lot).
- A. Each store front in a strip mall may have a sign with the allowable square footage to be determined by the length of the store front, using the size formula set forth in 98-502. 3. The end stores with one side facing a street and one side facing a parking lot may not exceed the square footage limitations of the sign on the front of the store.
- B. In addition to the signs for each store, there may be additional signage not exceeding 100 square feet for the name of the mall.
11. Electronic Message Board Signs.
- A. Shall be permitted only in the B-3 zone within the TIFA district.
- B. Shall be no more than 4’ x 8’ in size.

- C. Shall be a stationary message that can change no more frequently than every eight seconds, but not flash, scroll, or have animation.
- D. Must employ automatic brightness controls.

**Sec. 98-503. Prohibited signs or devices.**

- 1. Flashing lights.
- 2. Roof signs.
- 3. Billboard signs.
- 4. Banners as permanent signage.
- 5. Signs with lights that move, flash or make noise except as provided in 11 above.
- 6. Colored lights and illuminated signs employing colors in use in traffic signal lights are prohibited within view of any signalized intersection.
- 7. Any imitation of official traffic signs or signals and the use of such words as "stop," "look," "danger," "go slow," "caution," or "warning" are prohibited.

**Sec. 98-504. Nonconforming signs.**

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

- 1. Be changed to another nonconforming sign.
- 2. Have any changes made in the words or symbols or the message displayed on the sign unless the sign is designed for periodic change of message.
- 3. Be structurally altered so as to prolong the life of the sign or so as to change the shape, size, type or design of the sign.

- 4. Have the face or faces changed when such sign is of a type of construction to permit such a complete change of face.
- 5. Be reestablished after the activity, business or usage to which it relates has been discontinued.
- 6. Require other than normal maintenance.

**Sec. 98-505. Abandoned Signs.**

All abandoned signs including frames, brackets, and supports must be removed within 30 days after meeting the abandoned sign definition. If the owner of the abandoned sign does not remove it after the time stated above, the city may remove the abandoned sign and bill the owner for removal.

**Secs. 98-506 – 98-599 Reserved.**

## **ARTICLE 6 – DEVELOPMENT PROCEDURES**

### **DIVISION 1 – SITE PLAN REVIEW**

#### **Sec. 98-600. Intent**

It is recognized by this ordinance that there is a value to the public in establishing a safe, orderly, and beneficial development pattern; there is value in encouraging a harmonious relationship of buildings and uses both within a site and in relation to adjacent uses; further that there are benefits to the public in conserving natural resources. Toward this end, this ordinance requires site plan review and approval by the planning commission for certain buildings, structures and projects that can be expected to have a significant impact on natural resources, traffic patterns, on adjacent land usage, and on the character of future development. It is important that consultation and cooperation between the applicant and the planning commission take place in order that applicant may accomplish their objectives in the utilization of their land and the public interest is upheld.

#### **Sec. 98-601. Buildings, structures and uses requiring site plan review**

A site plan shall be submitted for review and approval to the planning commission for the following uses:

1. An apartment building containing two (2) or more dwelling units.
2. More than one multiple-family building on a lot, parcel or tract of land, or a combination of lots under single ownership.
3. Mobile Home Park
4. Subdivision consisting of four or more dwellings.
5. Any commercial, office, industrial, business, recreational or institutional structures/uses including any changes in exterior material, landscaping, parking, and new additions to buildings.

6. All other uses requiring site plan review and approval as required by this Ordinance.
7. Any earthwork greater than 40,000 sf.

#### **Sec. 98-602. Application procedure.**

An application for site plan review shall be made to the zoning administrator along with a fee, if any, as mentioned in Appendix A. The application shall, at a minimum, contain the following information:

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

The zoning administrator, upon receipt of the application and related materials, drawings, other necessary data, and payment of required fee, shall forthwith transmit the copies to the planning commission.

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

#### **Sec. 98-603. Site plan content**

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

1. Vicinity map illustrating the location of the site within the city.
2. Date site plan was prepared.
3. Name, address or preparer. Professional seal of preparer if available.
4. North arrow.
5. Legal description based upon most current survey.
6. Existing and proposed topographic elevations at two (2) foot intervals on the site and to a distance of ten (10) feet outside the boundary lines of the site.
7. Direction of storm water drainage and how storm water runoff will be handled.
8. Location of existing and proposed buildings, their intended use, the length, width and height of each building and the square footage of each building.
9. Location of abutting streets, rights-of-way, service drives, curb cuts, and access easements serving the site, as well as driveways opposite the site and driveways within 100 feet of the site.
10. Location and size of all water and sanitary sewer lines and storm drainage lines as well as fire hydrants and catch basins, and location of septic tanks and drain fields and utility easements.
11. Location of all sidewalks, bike paths, and other walkways.
12. Location and size of any walls, fences or other screening provisions.
13. Location of all proposed landscape materials, including size and type of planting. Location of significant trees and other important landscape features on the site.
14. Location of all proposed accessory structures, including light poles or fixtures, flagpoles, storage sheds, transformers, dumpsters and recycle areas, signs, and existing and proposed utility poles.
15. Proposed parking areas for both automobiles and bicycles plus access drives showing number and size of spaces, aisles, and loading areas.
16. Location and type of significant existing vegetation, water courses and water bodies including county drains and manmade surface drainage ways, and wetlands.
17. Statement of FEMA floodplain map of flood hazard to include FEMA Flood insurance rate map number.
18. Zoning of the site.
19. Zoning of adjacent sites.
20. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, hazardous materials as well as any containment structures or clear zones required by this Ordinance or any other state or federal agencies.
21. Building Elevations - Building Elevation Plan showing all sides of the building including material and color of all sides. Elevation drawings may be submitted at a later date, but must still be approved by the planning commission prior to the issuance of a building permit.

**Sec. 98-604. Standards**

The planning commission shall review each site plan according to the standards for site plan review and any other applicable regulations of this ordinance. In addition, the planning commission is empowered to seek the review and recommendations of appropriate county, state or federal agencies, city departments, other professionals, consultants, or agencies, as the planning commission deems necessary to assist it in its review in establishing a safe, orderly and beneficial development pattern. The planning commission shall review the site plan for compliance with the requirements of this ordinance and conformance with the following general standards:

1. All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property, and the type and size of buildings. The site shall be developed to not impede the normal and orderly development or improvement of

surrounding property for uses permitted in this ordinance.

2. Electric, telephone and cable television lines on site shall be underground where practicable. Any utility installations remaining aboveground shall be located so as to have a harmonious relationship to neighboring properties and the site.
3. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications that result in greatest harmony with adjacent areas. Landscape must also comply with Article 3, Division 2.
4. Site drainage must comply with Article 3, Division 6.
5. The site plan shall provide reasonable, visual, and sound privacy for all dwelling units located herein. Fences, walks, barriers, and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
6. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access.
7. All site plans should provide information on where snow that is removed from parking areas and walkways will be stored and/or how it will be removed from the site.
8. Every structure or dwelling unit shall have access to a public street, walkway, or other area dedicated to common use.
9. There shall be provided a pedestrian circulation system that is insulated as completely as reasonably possible from vehicular circulation system.
10. All loading and unloading areas and outside storage areas including areas for the storage of trash shall be screened by a vertical buffer consisting of structural and/or plant materials no less than six (6) feet in height.
11. Exterior lighting must comply with Article 3, Division 5.
12. All streets shall be constructed in accordance with the requirements and

specifications of the Houghton County Road Commission.

13. Site plans shall conform to all applicable requirements of state and federal statutes and approval may be conditioned on the applicant receiving necessary State and Federal permits before final approval is granted.
14. Site plans shall conform to the city master plan.

#### **Sec. 98-605. Expiration of site plan**

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

#### **Sec. 98-606. Revocation of site plan approval**

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

#### **98-607. Penalty**

If it has been determined that a development has not been completed in accordance with an approved site plan, the zoning administrator may issue a civil infraction against the owner of the property until the original site plan approval is amended or until the owner complies with the original site plan as approved.

If it has been determined that a development has been, or is being, developed without an approved



site plan, the zoning administrator may issue a civil infraction against the owner of the property until the owner applies for and receives an approved site plan.

#### **98-608. Amendment of an approved site plan**

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

1. The owner of property for which a site plan has been approved shall notify the zoning administrator of any desired change to the approved site plan. Minor changes may be approved by the zoning administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
  - A. Reduction of the size of any building and/or sign.
  - B. Movement of buildings and/or signs by no more than ten (10) feet.
  - C. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
  - D. Changes in floor plans that do not exceed five (5%) percent of the total floor area and which do not alter the character of the use or increase the amount of any required parking.
  - E. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
2. All amendments to a site plan approved by the zoning administrator shall be in writing. After approval by the zoning administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the zoning

administrator to sign and date all approved amendments.

#### **Secs. 98-609 – 98-629 Reserved.**

### **DIVISION 2 – SPECIAL LAND USE PERMITS**

#### **Sec. 98-630. Special Land Use Permits.**

This section shall govern issuance of Special Land Use Permits only where the use is specifically authorized in the zoning ordinance.

#### **Sec. 98-631. Application.**

A person desiring a special land use permit shall provide an application along with all supporting documentation for a special land use permit to the clerk. The fee for the special land use permit, if any, will be set in Appendix A. The application shall contain:

1. Parcel number(s) of site.
2. Zoning district.
3. Proposed use described in detail including, but not limited to, the proposed manner of operation, hours of operation, occupancy loads, and adequacy of parking.
4. Detailed listing of how any applicable standards will be met.
5. Site and floor plans.

When the clerk receives a complete application and supporting materials, the clerk will supply this information to the planning commission.

#### **Sec. 98-632. Planning Commission Review.**

Upon receipt of an application, the planning commission shall hold at least one public hearing, notice of which shall be given pursuant to the requirements of the Michigan Zoning Enabling Act, Public Act 100 of 2006, as amended.

Following the public hearing, the planning commission shall review the proposed application in accordance with the Administrative Standards listed in Section 98-

772. The planning commission shall also consider if the site area of the property is of sufficient size to prevent nuisance to neighboring uses and if the special land use will not be injurious to the spirit of this ordinance, the intent of the district, or detrimental to the neighborhood or public health and welfare. The planning commission may prescribe appropriate conditions and safeguards on a special land use permit.

After the public hearing and review by the planning commission, the commission may recommend approval, approval with conditions, or deny an application.

A vote by the planning commission on the proposed application shall be a roll-call vote. An affirmative vote by a majority of the membership of the planning commission is required to recommend approval of a special land use permit.

After review and if approved, the planning commission shall prepare for the council a statement of findings and conclusions relative to the special land use permit which specifies the basis for the decision and any conditions imposed.

**Sec. 98-633. City Council Review.**

After receipt of the statement of findings from the planning commission, the council shall consider the special land use permit based upon the statement of findings.

The council may recommend approval, approval with conditions, or deny an application.

A vote of the council shall be a roll-call vote. The special land use permit shall only be approved by an affirmative vote of a majority of the membership of the council.

**Sec. 98-634. Time Limit.**

If action is not taken by the petitioner to implement a special land use permit within one year of the date of approval by the council, said

permit shall expire. The planning commission, upon application made before said expiration, may grant an extension of not more than one year from the expiration date. Only one extension may be granted.

**Sec. 98-635. Alterations.**

No alterations to a special land use permit shall be made without approval by the planning commission following another public hearing.

**Sec. 98-636. Violations.**

Violation of any of the conditions or safeguards made as part of the terms of the permit shall be deemed a violation of this ordinance and subject to a municipal civil infraction.

**Sec. 98-637. Appeals.**

An appeal of a decision of the council can be made to the circuit court.

**Secs. 98-638 – 98-649 Reserved.**

**DIVISION 3 – PLANNED UNIT DEVELOPMENT**

**Sec. 98-650. Intent.**

Planned unit or cluster development under the terms of this chapter may be initiated in terms of land and/or buildings. When land clustering is contemplated, the development shall be in accord with section 98-652.

All intended open space subdivisions or planned unit developments shall be subject to approval by the council after first having received the review recommendation of the city planning commission. Prior to any review, a detailed site plan of before and after site conditions shall be required; and it shall include topography, vegetation, structures, services, open spaces, access routes, and other items as may apply to the particular site.

Final approvals granted for any open space or cluster development plan shall be valid for a

period of 24 months. Failure to start and proceed with the plan shall void all prior approvals; except that agreed-upon time extensions may be granted upon formal request to the council, and bonds or other guarantees may be required to assure that all development proceeds in strict accordance with the approved site plan.

**Sec. 98-651. Subdivision open space plan.**

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

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

Allowable Lot Reductions:

District	Area (percent)	Width (percent)	Gross Density in Dwellings per Acre
R-1	15	10	5

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

2. Rear yards may be reduced to 50 feet when such lots border on land dedicated for open space purposes, provided the adjoining dedicated open space land shall not be less than 100 feet across.
3. The area to be dedicated on the plat for subdivision open space purposes shall be in a location and shape approved by the planning commission. To the consideration of reasonable use, the dedicated open space shall not include bodies of water, swamps or land with

excessive grades. The entire open area may, however, be located in a floodplain.

**Sec. 98-652. Planned unit construction.**

Planned unit construction in this chapter shall refer to housing construction programs involving the cluster concept, wherein certain side yards may be eliminated for the purpose of consolidating building masses and open space resources in order to achieve the most effective use of lands in the city.

Planned unit construction is regulated in accordance with the following situations:

1. Situation 1. Essentially open land.
  - A. In any R-1, R-2 or R-3 district, interior side yards between any four single-family units may be eliminated for the purpose of clustering, attaching or semi-attaching residential units.
  - B. Individual dwellings may be attached with 100 percent wall overlap (e.g. share a common party wall), provided the walls are entirely without openings, and enclose nonliving space, such as garages, utility rooms or similar service areas.
  - C. Party walls which enclose living areas may overlap 50 percent of their surface area if the walls are of soundproof and fireproof construction, and are entirely without openings (doors, windows, etc.)
  - D. In clustering dwelling units, the overall density shall not be more than 15 percent higher than if the entire parcel were developed according to conventional individual lot techniques. Each dwelling shall have a prescribed yard area, and yards on the exterior sides of any cluster of units shall be provided with minimum side yards of 15 feet.

2. Situation 2. Essentially built-up areas.
  - A. Cluster housing developments in situation 2 concern community areas which are predominantly developed and may involve dwelling units which are of advanced age, on small or limited lots, are obsolete, and/or are considered blighted. This section encourages the developer to acquire properties and redevelop the site at a higher density to enhance economic feasibility.
  - B. In areas zoned R-1 or R-2 and which encompass a minimum parcel of 20,000 square feet:
    - i. Each dwelling shall contain not less than two bedrooms.
    - ii. All side yards, except exterior yards, may be eliminated, to allow the construction of townhouses or rowhouses.
    - iii. Density shall not be less than 2,000 square feet of land area per bedroom.
    - iv. The plan for development shall include and dedicate common open space in the ratio of not less than 1,000 square feet per dwelling unit, exclusive of parking areas.

In R-3 general residence areas, one-family homes with common party walls may be approved and developed as provided for in the R-1 and R-2 districts. Multiple-family units may be constructed at the densities provided for in the R-3 multi-family district.

**Secs. 98-653 – 98-699 Reserved.**

**ARTICLE 7 – ADMINISTRATION,  
APPEALS, AMENDMENTS**

**DIVISION 1 - ADMINISTRATION**

**Sec. 98-700. Duties of Zoning Administrator.**

1. The zoning administrator shall have the power to grant zoning compliance and occupancy permits and to make inspections of buildings or premises necessary to carry out the duty of enforcing this chapter.
2. The zoning administrator shall record all nonconforming uses existing at the effective date of the ordinance from which this chapter derives for carrying out the provisions of Article 7, Division 5.
3. The zoning administrator shall not refuse to issue a permit when conditions imposed by this chapter are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of the permit.

**Sec. 98-701. Designation of planning commission.**

The planning commission is designated as the commission specified in the Michigan Zoning Enabling Act, Public Act No 110 of 2006, as amended, and shall perform the zoning duties of that commission as provided in the statute in connection with the amendment of this chapter.

**Secs. 98-702 – 98-709 Reserved.**

**DIVISION 2 - PERMITS**

**Sec. 98-710. Permits.**

The following shall apply in the issuance of any permit:

1. Permits for new use of land. No vacant land shall be used or an existing use of land be changed to a use of a different

class or type unless a certificate of occupancy is first obtained for the new or different use.

2. Permits for new use of buildings. No building or structure shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
3. Building Permits. No building or structure shall be erected, altered, moved or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the city building code, housing law, or this chapter, except for minor repairs or changes not involving any of the aforesaid features.
  - A. The zoning administrator shall require that all applications for building permits shall be accompanied by plans and specifications, including a plot plan, drawn to scale, showing the following:
    - i. The actual shape, location and dimensions of the lot.
    - ii. The dimensions and location of all structures existing or to be erected, altered or moved on the lot.
    - iii. The existing and intended uses of the lot, including, in residential areas, the number of dwelling units.
    - iv. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
4. Demolition Permits. No building or structure shall be demolished in whole or in part unless a demolition permit shall have been first issued for such work.

**Sec. 98-712. Certificates of occupancy.**

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

1. Certificates required. No building or structure in a B zoning district which is erected or altered, and no store front that has been renovated, shall be occupied or used, until a certificate of occupancy shall have been issued for such building or structure. Alteration and renovation shall include, but shall not be limited to, painting, residing and installation of new windows.
2. Certificates including zoning. Certificates of occupancy as required by the city building code for new buildings or structures or for alterations to or changes of use of existing buildings or structures shall also constitute certificates of occupancy as required by this article.
3. Certificates for existing buildings. Certificates of occupancy shall be issued for existing buildings or structures or existing uses of land if, after inspection, it is found that such buildings or structures or such use of land are in conformity with the provisions of this chapter.
4. Record of certificates. A record of all certificates issued may be kept on file in the office of the zoning administrator, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.
5. Certificates for dwelling accessory buildings. Buildings or structures accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

6. Application for certificates.

- A. Application for certificates of occupancy shall be made in writing to the zoning administrator on forms furnished by his office, and such certificates shall be issued within five days after receipt of such application if it is found that the building or structure or the use of land is in accordance with the provisions of this chapter.
- B. If such certificate is refused for cause, the applicant shall be notified of such refusal and the cause of the refusal within the five-day period.

**Sec. 98-713. Final inspection.**

The holder of every building permit for the construction, erection, alteration, repair or moving of any building or structure shall notify the zoning administrator immediately upon the completion of the work authorized by such permit, for a final inspection.

**Sec. 98-714. Fees.**

Fees for inspection and the issuance of permits or certificates or copies required or issued under the provisions of this chapter may be collected by the zoning administrator in advance of issuance. The amount of such fees shall be established by resolution of the council.

**Secs. 98-715 – 98-724 Reserved.**

**DIVISION 3 – ENFORCEMENT AND PENALTIES**

**Sec. 98-725. Authorized City Official.**

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

**Sec. 98-726. Enforcement.**

The provisions of this chapter shall be enforced by the police department.

**Sec. 98-727. Public nuisance per se.**

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

**Sec. 98-728. Municipal Civil Infraction.**

A person who violates any provision of this Chapter is responsible for a municipal civil infraction, subject to a payment of a civil fine of not less than \$50 plus costs and other sanctions, for each infraction. Repeated offenses under this Chapter shall be subject to increased fines as provided by Chapter 51 of this Code.

**Sec. 98-729. Each day a separate offense.**

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

**Secs. 98-730 – 98-739 Reserved.**

**DIVISION 4 – BOARD OF APPEALS**

**Sec. 98-740. Zoning exceptions and variances.**

Exception. An exception is a use permitted only after review of an application by the board of appeals or a commission other than the zoning administrator, such review being necessary because the provisions of this chapter covering conditions, precedent or subsequent, are not precise enough to all applications without interpretation, and such review is required by this chapter. Exceptions do not involve undue hardship.

Variance. A variance is a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

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

1. Large site area.
2. Infrequent occurrence.
3. Unusual amounts of traffic.
4. Obnoxious or hazardous character.
5. Public safety or convenience need.

**Sec. 98-741. Creation and membership.**

There is established a board of zoning appeals, which shall perform its duties and exercise its powers as provided in Article VI, Section 125.3601 of Public Act No. 110 of 2006, and in such a way that the objectives of this chapter shall be observed, public safety secured, and substantial justice done. The board shall consist of five members. These five members will be the five regular members of the council. The board shall have two alternate members. Alternate Number 1 shall be the Mayor.

Alternate Number 2 shall be the Mayor Pro-Tem. An alternate member may be called to serve as a member if a regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which a member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.

**Sec. 98-742. Meetings.**

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

**Sec. 98-743. Appeal.**

An appeal may be taken to the board of appeals by anyone affected by a decision of the zoning administrator. Such appeal shall be taken within such time as shall be prescribed by the board of appeals by general rule, by filing with the zoning administrator and with the board of appeals a notice of appeal, specifying the grounds of the appeal.

The zoning administrator shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of appeals after notice of appeal has been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order, which may be granted by a court of record.

The board shall select a reasonable time and place for the hearing of the appeal and give due notice to the parties and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing,

either in person or by duly authorized agent or attorney.

**Sec. 98-744. Fees.**

The council may prescribe and amend by resolution a reasonable schedule of fees and manner of payment to be charged to applicants for appeals to the board of appeals.

**Sec. 98-745. Jurisdiction.**

The board of appeals shall have the following powers, and it shall be its duty to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made in the enforcement of this chapter.

In hearing and deciding appeals, the board of appeals shall have the authority to grant such variances as may be in harmony with the general purpose and intent of this chapter, public safety and welfare secured, and substantial justice done, including:

1. Interpreting the provisions of this chapter in such a way to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, where street layout actually on the ground varies from the street layout as shown on the map.
2. Permitting the erection and use of a building or use of premises for municipal or public utility purposes and making exceptions to the height and bulk requirements which the board considers necessary for the public convenience or welfare.
3. Permitting the modification of the automobile parking space or loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements.
4. Permitting such modification of the height and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or so located with relation to



surrounding development or physical characteristics that it cannot otherwise be appropriately improved without such modification.

5. Permitting temporary buildings and uses for periods not to exceed 12 months, provided adequate conditions of performance are required to assure public safety and compatibility with surrounding uses or properties.

Where, owing to special conditions, a literal enforcement of the use provisions of this chapter would involve practical difficulties or cause unnecessary hardships within the meaning of this chapter, the board shall have power upon appeal in specific cases to authorize such variation or modification as may be in harmony with the spirit of this chapter, so that public safety and welfare are secured and substantial justice done. No such variance or modification of the use provisions of this chapter shall be granted unless it appears beyond a reasonable doubt that all the following facts and conditions exist:

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property or its use that do not apply generally to other properties or uses in the same district.
2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.
3. That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the district in which the property is located.
4. That the granting of such variance will not adversely affect the purposes or objectives of the zoning plan of the city.

Nothing contained in this section shall be construed to give or grant to the board the power or authority to alter or change this chapter or the zoning map, such power and authority being

reserved to the council in the manner provided by law.

In consideration of all appeals and all proposed variances to this chapter, the board shall first determine that the proposed variance will not:

1. Impair an adequate supply of light and air to adjacent property;
2. Unreasonably increase congestion in public streets;
3. Increase the danger of fire or endanger the public safety;
4. Unreasonably diminish or impair established property values within the surrounding area; or
5. In any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the city.

The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the zoning administrator or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision.

#### **Sec. 98-746. Orders.**

In exercising its powers, the board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the zoning administrator from whom the appeal is taken.

#### **Sec. 98-747. Notice.**

The board of appeals shall make no recommendation except in a specific case and after a public hearing conducted by the board. The public hearing shall be noticed pursuant to the requirements of the Michigan Zoning Enabling Act, Public Act 100 of 2006, as amended. It shall determine the interested parties who, in the opinion of the board, may be affected by any matter brought before it, which shall in all cases include all owners of record of property

within 300 feet of the premises and occupants of single- and two-family dwellings within 300 feet of the premises in question, such notices to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. The board may require any party applying to the board for relief to give such notice to other interested parties as it shall prescribe.

**Sec. 98-748. Time limitations.**

No order of the board of appeals permitting the erection of a building shall be valid for a period longer than one year unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

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

**Secs. 98-749 – 98-759 Reserved.**

**Division 5 - NONCONFORMITIES**

**Sec. 98-760. Intent.**

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

It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival.

**Sec. 98-761. Board of appeals variance.**

Although it is the intent of this chapter to restrict the expansion and perpetuation of nonconforming uses of land and/or buildings, the board of appeals, subject to a hearing, may allow an expansion or enlargement provided that it is conclusively shown that such extension or enlargement will:

1. Not further reduce the value or otherwise limit the lawful use of adjacent premises.
2. Essentially retain the character and environment of abutting premises.
3. Not materially increase or perpetuate the nuisance aspects of the use upon adjacent uses (noise, glare, traffic congestion, land overcrowding, vibration, signs, hours of operation and related).
4. Be limited to the minimum requirements in Article 2.

**Sec. 98-762. Nonconforming lots.**

A permitted single-family dwelling and customary accessory building may be erected on any single lot on record at the effective date of adoption or amendment of this chapter, even though such lot may fail to meet the district requirements for area or width, or both. Yard dimensions and other requirements not involving area or width, or both, shall conform to the regulations of the district in which such lot is located. Variance to yard requirements shall be obtained through the board of appeals.

**Sec. 98-763. Nonconforming use of land and/or structures.**

1. No nonconforming use of land shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of the ordinance from which this chapter derives.
2. No nonconforming use of land or building shall be moved in whole or in

part to any other portion of the lot or parcel occupied.

3. No nonconforming structure may be enlarged or altered in a way which increases its nonconformity.
4. Should a nonconforming structure be destroyed by any means to an extent of more than 60 percent of the usable cubic space above the floor area, it shall not be reconstructed except in conformity with the provisions of this chapter.
5. Any nonconforming use may be carried on throughout any parts of a building which were manifestly arranged or designed for such use, but no such use shall be extended to occupy any land outside such building.
6. Any nonconforming use of a structure, land, or structure and land may be changed to another nonconforming use provided that the proposed use is equally or more appropriate to the district than the existing nonconforming use as determined by the zoning board of appeals.
7. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district in which such structure is located; and the nonconforming use may not thereafter be resumed. There may be changes in tenancy and ownership of nonconforming premises.
8. When a nonconforming use of land, structure, or structure and land in combination is discontinued or ceases to exist for 12 consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
9. Removal or destruction of the use and/or structure shall eliminate the nonconforming status of the land (premises).

#### **Sec. 98-764. Repairs and maintenance.**

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **Sec. 98-765. Uses under exception provisions not nonconforming uses.**

Any use for which a general exception or special condition is permitted as provided in this chapter shall not be deemed a nonconforming use but shall without further action be deemed a conforming use in such district.

#### **Secs. 98-766 – 98-769 Reserved.**

### **DIVISION 6 – ZONING AMENDMENTS**

#### **Sec. 98-770. Initiation.**

Initiation of Amendments. Amendments may be initiated by the council, planning commission, or by petition of one or more persons having an interest in the property to be affected by the proposed amendment. Each petition for amendment shall be submitted to the zoning administrator who shall refer it for recommendation action to the planning commission. Amendments will be regulated by the provisions of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended.

Fees. The council may establish, by resolution, fees for zoning amendment petitions. Such fees, if any, shall be listed in Appendix A of the code.

#### **Sec. 98-771. Procedures.**

1. Upon receipt of a petition for amendment, the planning commission shall hold at least one public hearing, notice of which shall be given pursuant to the requirements of the Michigan Zoning Enabling Act, Public Act 100 of 2006, as amended.
2. Following the public hearing, the planning commission shall review the

proposed amendment in accordance with the Administrative Standards listed in Section 98-772.

3. A vote by the planning commission on the proposed amendment shall be a roll-call vote. The amendment shall be considered recommended if it receives a majority vote of the membership of the planning commission.
4. After review and if approved, the planning commission shall prepare a summary report for the council with the following items included:
  - A. The proposed zoning ordinance.
  - B. A summary of the comments received at the public hearing.
  - C. Detailed findings concerning the amendment based on planning and zoning criteria and concerns raised at the hearing.
  - D. A recommendation supported by the Administrative Standards listed in 98-772.
5. Following recommendation of the planning commission, the council may hold one public hearing if it chooses, notice of which shall be given pursuant to the requirements of the Michigan Zoning Enabling Act, Public Act 100 of 2006, as amended. Following the public hearing, the council shall consider the proposed amendment based on the following:
  - A. Comments received at the public hearing.
  - B. The summary report provided by the planning commission.
  - C. The Administrative Standards listed in Section 98-772.
6. A vote of the council for an amendment shall be a roll-call vote. The amendment shall be approved by a majority of vote of the membership of the council.
7. Pursuant to the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended, the council shall make no change in the proposed amendment without first referring the petition back to the planning commission which shall have thirty (30) days from such referral

to make a further recommendation to the council. If the petition is referred back to the planning commission, the council shall make specific mention of their objections to the planning commission's findings and recommendations.

#### **98-772. Administrative Standards.**

For the purpose of administering this ordinance, the zoning administrator, the planning commission, the council, and any other reviewing body or official, shall consider each petition for amendment as an individual case. Consideration shall be given to the location, size, and character of a use to determine if the use will promote public health, safety, and general welfare, and be in harmony with the intent and appropriate and orderly development of the district in which it is situated, and will not be detrimental to the orderly development of adjacent districts.

Consideration may be given to the following factors:

1. Is the proposed amendment generally compatible with the existing use of the property surrounding the proposed site?
2. Will the proposed amendment result in traffic congestion on the adjacent streets or create a safety problem?
3. Will the proposed amendment have a significant adverse effect on property values in the adjacent area?
4. Will the proposed amendment significantly increase noise in the area?
5. Will the proposed amendment satisfy a need in the community?
6. Is the proposed amendment compatible with the master plan for that area?
7. Does the amendment comply with the intent of the Zoning District?
8. Is the proposed location an appropriate location for all of the uses which would be permitted under the requested district?
9. Are the physical characteristics of the site appropriate for the proposed amendment?

10. Are there public services available to meet the demands of the proposed amendment?
11. Will the proposed amendment increase the taxable value of the property?
12. Will the rezoning constitute a spot zone granting a special privilege to one landowner not available to others?
13. Are adequate sites available elsewhere that are already properly zoned to accommodate the proposed uses?
14. Has there been a change of conditions in the area supporting the proposed amendment?
15. Is the proposed amendment precedent setting?
16. Will the proposed amendment conserve natural resources such as aesthetics and historic, old growth trees?
17. Are there any other factors considered pertinent to the proposed amendment?

When considering a Conditional Rezoning request, the conditions restricting the use or development of the property should be considered by the planning commission and council when considering all of the above factors.

**Sec. 98-773 Conditional Rezoning.**

Intent: It is recognized that there are certain instances where it would be in the best interests of the city, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 125.3405 of the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

**Sec. 98-774. Application and Offer of Conditions.**

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
7. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

8. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the council provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.

**Sec. 98-775 Planning Commission Review.**

The planning commission, after public hearing and consideration of the factors for rezoning set forth in Section 98-772 of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

**Sec. 98-776 City Council Review.**

After receipt of the planning commission's recommendation, the council shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The council's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Section 98-772 of this Ordinance. Should the council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the council shall refer such amendments to the planning commission for a report thereon within a time specified by the council and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

**Sec. 98-777 Approval.**

1. If the council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the council to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - A. Be in a form recordable with the Houghton County Register of Deeds, or, in the alternative, be accompanied by a recordable Affidavit of Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the council.
  - B. Contain a legal description of the land to which it pertains.
  - C. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successive owners of the land.
  - D. Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions, if any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - E. Contain a statement acknowledging that the Statement of Conditions or an Affidavit of Memorandum giving notice thereof may be recorded by the city with the Houghton County Register of Deeds.
  - F. Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer

and consent to the provisions contained within the Statement of Conditions.

3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The city clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
4. The approved Statement of Conditions or an Affidavit of Memorandum giving notice thereof shall be filed by the city with the Houghton County Register of Deeds. The council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the city or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

**Sec. 98-778 Compliance with Conditions.**

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

development that is contrary to an applicable Statement of Conditions.

**Sec. 98-779. Time Period for Establishing Development or Use.**

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the council if (1) it is demonstrated to the council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and (2) the council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

**Sec. 98-780 Reversion of Zoning.**

If approved development and/or use of the rezoned land does not occur within the time frame specified under 98-779 above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the council requesting that the planning commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

**Sec. 98-781 Subsequent Rezoning of Land.**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions; whether as a result of a reversion of zoning pursuant to 98-780 above or otherwise, the Statement of Conditions imposed under the

former zoning classification shall cease to be in effect. The city clerk shall record with the Houghton County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

**Sec. 98-782     Amendment of Conditions.**

1. During the time period for commencement of an approved development or use specified pursuant to 98-779 above or during any extension thereof granted by the council, the city shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

**Sec. 98-783     City Right to Rezone.**

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act, Public Act 110 of 2006 as amended.

**Sec. 98-784     Failure to Offer Conditions.**

The City shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

**Secs. 98-785 - 98-799 Reserved.**



**ARTICLE 8 – ZONING MAP**