



City Hall  
208 North First Avenue  
Alpena, Michigan 49707  
[www.alpena.mi.us](http://www.alpena.mi.us)

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## *Planning, Development, & Zoning*

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### City of Alpena Planning Commission

#### Regular Meeting

Tuesday, June 13th, 2023 @ 6:00 p.m.

This meeting will be held in Council Chambers as well as virtually.

Please join my meeting from your computer, tablet or smartphone.

<https://www.gotomeet.me/CityofAlpena/planning-commission>

You can also dial in using your phone.

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Access Code: 178-564-461

### AGENDA

CALL TO ORDER;

ROLL CALL;

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES – Regular meeting May 9, 2023

PUBLIC HEARING AND COMMISSION ACTION:

1. **Case MAP23-04 – Conditional Rezone from R-2 to R-T (412 South 8<sup>th</sup> St.)**  
Finding of Fact – Appendix A  
Rezone Standards – Appendix B
2. **Case SU23-01 – Special Land Use for Group Child Care (213 Tawas St.)**  
Findings of Fact – Appendix C  
Special Land Use Approval Standards 6.12 – Appendix D  
Supplemental Regulations 7.9 and 7.30 - Appendix E
3. **Case SU23-02 – Special Land Use for a Secondary Dwelling Unit (603 Clinton St.)**  
Findings of Fact – Appendix F  
Supplemental Regulations Section 7.32 – Appendix G

### BUSINESS

- a) **UNFINISHED:** Article 3 – General Provisions
- b) **NEW:** None
- c) **COMMUNICATIONS OR REPORTS:** Articles 6, 8, 9, 10 under review
- d) **CONTINUING EDUCATION:** MSU Exchange Articles – Administrative Decisions

PUBLIC COMMENT

MEMBER COMMENTS

ADJOURNMENT



MINUTES  
City of Alpena Planning Commission  
Regular Meeting (Council Chambers and Virtual)  
May 9, 2023 Alpena, Michigan

CALL TO ORDER:

The regular meeting of the Planning Commission was called to order at 6:00 p.m. by Randy Boboltz, Planning Commission Chairman.

ROLL CALL: PLANNING COMMISSION

PRESENT: Wojda, Peterson, Boboltz, Gilmore, Moses, Kostelic

ABSENT: Sundin, VanWagoner

STAFF: Montiel Birmingham (Planning, Development, and Zoning Director), Kathleen Sauve (Recording Secretary)

PLEDGE OF ALLEGIANCE: Pledge of Allegiance was recited.

APPROVAL OF AGENDA: Agenda was approved as printed.

APPROVAL OF MINUTES: Meeting April 11, 2023, minutes were approved as printed.

PUBLIC HEARING AND COMMISSION ACTION: **Case # MAP 23-03** – Jeff Konczak, owner of the property located at 320 Johnson Street, has requested to rezone the property from OS-1 (Office Service) to B-2 (Commercial Business) to allow development of drive-up restaurant businesses. Restaurants are currently not allowed in the OS-1 district but are allowed by right in the B-2 district.

Birmingham presented the Finding of Fact report (see Appendix A) and Rezoning Standards (see Appendix B).

FAVOR: Jeff Konczak, property owner and owner of BCubed Manufacturing, explained that they manufacture modular drive through facilities and ship them all over the country from Alpena, Michigan. He said that they are on the fiftieth Biggby Coffee facility out of that plant. He stated that he made a commitment as they were growing BCubed, to try to bring businesses to Alpena; they have exclusive agreements with Biggby Coffee, Quiznos, and Taco Del Mar, which currently there is not another one closer than North Dakota right now, as they are mostly Pacific Northwest. Konczak stated that they have specific arrangements with those companies to build their buildings for them in lots of places. He said they just had a franchisee sign for

thirty Quiznos operations in Arizona, however, he would like to do prototypes for new buildings for Alpena because [we] need those services and restaurants, particularly in that location with the hospital adjacent, the college, US-23 and the ice rink. This was meant to be a prototype park. He said he knows people are going to ask if Alpena needs another Biggby Coffee, but this one will be the new Biggby XL, which is a larger version for higher traffic. He said the idea is to go through the existing curb cut and choose which one you want to eat.

OPPOSITION: None.

Gilmore said that he is glad the land is being utilized for something other than the jail, and he was worried that it would sit there for years and years.

Boboltz stated that in the future, as they continue to re-write the Zoning Ordinance, he would like to look at the OS-1 designation and possibly others and see if it makes sense to not have restaurant type facilities in those districts as a matter of right. Also, he said he is excited about the prospect of this food court going into that location with all the hospital employees, college employees, car dealerships; a lot of people who want to use the facilities will literally be able to walk or bike to it from the immediate vicinity.

Wojda asked if the facilities would be drive through only or walk up. Konczak said that they will be walk up also. He also said that in the back corner of the property, they have a pavilion planned so that people who are walking or riding bikes will have a place to sit and eat outside.

Moses said that he feels that side of town really needs something like this, and it will help take some of the pressure off of the main drag where the other fast food places are located. He also felt that the way the drive through is set up, it would alleviate any problem of traffic snaking out to the street like McDonald's sometimes does.

FAVOR: Diane Bauer, appeared just before the public hearing closing, said she is in favor of the project and is excited about Taco Del Mar.

Boboltz closed the public hearing at 6:12 pm.

Wojda ***motioned*** to adopt the factual findings as contained in Appendix A of the packet and based upon those findings, approve the Rezone of 320 Johnson Street from OS-1 to B-2.

Peterson ***seconded*** the motion.

Motion ***approved*** by unanimous vote.

NEW BUSINESS: Article 3 Review – General Provisions – Denise Cline, NEMCOG, explained that the goal was to make things less restrictive, as that has been the trend in most communities and all over our region. She and [Birmingham] asked themselves why the Zoning Ordinance says what it says, what they were hoping to accomplish and what would be the consequence if they removed some language. She said that there were more changes than they had anticipated and were probably just as extensive as when the Ordinance was changed back in 2009-2011. Boboltz referenced page numbers and asked members to speak up if there were any comments or questions.

Pages 3-1 through 3-4: No comments.

Page 3-5: Boboltz asked for clarification on the definition of recreational vehicle and why the others were struck out. Cline explained that all of the previous types of recreational vehicles were combined into the definition of recreational vehicle.

Page 3-6: Birmingham explained that the language about the demolition permit requirements was struck out to expedite the process of development.

Page 3-7: Birmingham explained under Section A that accessory structures which are 200 square feet or less would require a Zoning Permit, and structures 201 square feet or greater would require a Building Permit. Boboltz asked under Section C.2, why there is a difference in setbacks for an attached garage versus detached garage. Birmingham said that when an accessory structure is detached, it must be at least six feet away from the primary structure and six feet away from the side and rear lot lines; as soon as it is attached to the primary structure, it then has to meet the rear setback of 20-25 feet, depending on what kind of lot they have. Conversation went back and forth about why it is possibly worded like that. Peterson said that if they could minimize the complex nature of this and have a universal setback expectation, it would be more friendly to the homeowners and the historic homes as well as being mindful of having some continuity with practices. Birmingham stated that they are also trying to avoid having people go to the Zoning Board of Appeals. All were in consensus that they should keep thinking on that subject for possible solutions. Under Section C.3, Birmingham explained that the State of Michigan Building Code requirement for a side or rear setback is five feet and one inch to avoid additional requirements for fire related concerns, and her suggestion would be to keep that as it is, at six feet.

Page 3-8: Cline asked why, under Section C.5.a, is the side setback on a corner lot ten feet. After discussion, consensus was to keep thinking on that one and come back to it at a later time.

Pages 3-9: No comments.

Page 3-10: Under Section E.1, Cline said that if the goal of the City is to increase housing and density, then this section should be removed because it would restrict single-story houses from having a garage with a dwelling above. Wojda said that there are currently many non-



conforming homes with accessory dwellings within the City. All conceded that the current nonconformities within the City are not offensive. Moses said that anything that would help to increase the housing in our area is a good idea.

Page 3-11: Cline said a provision will be made to allow temporary moving pods.

Page 3-12: Birmingham explained more about temporary storage structures on Commercial or Industrial lots.

Page 3-13: Birmingham said that the Overnight Camping section is also located in the Municipal Code. She asked if it should be in both places. Wojda said that he thinks it would fit better under the Municipal Code rather than the Zoning Ordinance. Boboltz said that allowing only seven days of camping was not enough, especially if someone has family from across the country coming to stay in their motor home.

Page 3-14: Boboltz asked about vehicles used for demolition derbys and wondered if the language is too strong pertaining to the requirements of how they are stored. Wojda said that language was meant to be strong to minimize the amount of blight type conditions and junk vehicles.

Page 3-15: Boboltz questioned the maximum height of four feet above the roof line for Roof Mounted Accessory Solar Panels. Birmingham stated that language was in there before.

Page 3-16 through 3-17: No comments.

Pages 3-18 and 3-19: Birmingham explained that the clear vision triangle had been changed from twenty-five feet to fifteen feet which was consistent with what they did for signs; the height went from three feet to four feet because fences generally are four feet and there have been a lot of issues with people trying to do a fence on a corner lot and they can't utilize their yard because of the difference between a three and four foot fence. She also said that Engineering was in favor of it in some areas and would discuss further with them.

Page 3-20: No comments.

Page 3-21: Boboltz said the issue of manufactured homes could come up quickly. Cline said that right now the City allows stand-alone accessory dwelling units, so there is nothing stopping someone right now from putting a mobile home in their yard with their primary residence as an accessory dwelling unit because there is no size standard. She said that right now, a tiny home could go on a lot as an accessory dwelling unit; would a ratio be a good thing to prevent single wide trailers from being used as a tiny home. Cline also said that she thinks a majority of residents are unaware that accessory dwelling units are allowed in the City. Birmingham stated that there is a size requirement for an Accessory Dwelling Unit which they will talk about when they get to Article 7.

Pages 3-22 through 3-28: No comments.

Pages 3-29 through 3-31: Birmingham explained that the verbiage is trying to promote a dark sky environment. She said light level ratings were removed, as they were likely never measured in the past.

Page 3-32: Fences - Cline explained that only the simplified table is shown because it got too complicated showing the previous and new versions combined. Boboltz asked Birmingham when a fence is installed on the property line, who is responsible for the upkeep of the opposite side. Birmingham said that typically it is encouraged to get approval from the neighbor to put the fence on the property line and whoever obtained the permit is responsible for the maintenance.

Page 3-33: No comments.

Pages 3-34 through 3-50: No comments.

Page 3-51: Kostelic asked if there are a lot of landscape calls. Birmingham said yes, people call to ask what they are allowed to do. She stated that the Ordinance was extremely confusing which is why it is now much more simplified.

Pages 3-52 through 3-53: No comments.

Pages 3-54 and 3-55: Boboltz asked to have Balsam added to the table and asked why the Burning Bush was on the list of prohibited plant material. Birmingham said that there was discussion between Huron Pines and the Wildlife Sanctuary Board, and it was suggested that they could be somewhat invasive and prolific. She also stated that she is waiting for a response from Huron Pines to review this section.

Pages 3-56 through 3-68: No comments.

Page 3-69: Birmingham explained the new table for parking requirements. Cline explained that there is movement all over the country, getting rid of parking minimums; the RRC also encourages communities to not require parking minimums. Boboltz said it is a fantastic idea to allow the property owner to participate in the process of those decisions. Cline said that there is a website that shows what communities have gone through with this; Alpena will be the first community [in Northern Michigan] that is going through with doing this. She also said that she has received phone calls from other communities asking if anybody has done this yet and they are watching how it goes to possibly do the same in the future.

Pages 3-70 through 3-83: No comments.

Page 3-84: Cline asked if there should be an Administrative deviation for setbacks on a non-conforming lot before kicking it up to the ZBA. She also suggested eliminating section F.2 because it prevents increasing density within the City. Peterson agreed. Wojda said that they should build in a reasonable Administrative Deviation consistent to what they have done throughout the section's 86 pages to build in a little bit of flexibility and to give an opportunity to look at things and make a reasonable decision. If it is a bigger deviation, then they could

send it to the ZBA to figure it out. Birmingham explained that the current minimum lot width is seventy or eighty feet, depending on the district. Most of the lots in the traditional older parts of the City are only 66 feet or 33 feet, so the majority of houses are non-conforming.

Pages 3-85 and 3-86: No comments.

Page 3-77: Birmingham went back and requested that they take a look at Table 3.31(D) and consider possibly eliminating or modifying it to gain a greater degree of flexibility.

COMMISSIONER DISCUSSION: Boboltz asked what it means when people say, “We don’t want to be like Traverse City”. He suggested that traffic congestion is one possible reason, along with crazy home prices, housing shortages, parking meters, parking structures, bike-ability, among other things. He said that there are a bunch of other things to think about as they continue to work on the Zoning Ordinances; if Traverse City clearly has issues that they can identify, is it possible with Zoning to facilitate that not happening here. Gilmore said that going back 45 or 50 years, there was a great expansion and growth that unfettered the City Planning for a bit until they could get their hands around it. Moses said that it is the unfettered growth that scares him, and he feels that [Alpena] is a step ahead by discussing the fact that they need to control growth because it could happen here very quickly. Birmingham suggested that they reach out to the public and ask for input.

Boboltz suggested that the City of Alpena Planning Commission should consider coordinating a joint session with the Township Planning Commission to try to figure out how they line up with one another in terms of things they want to do.

Boboltz informed the Commission that he took a class that offered a lot of information on Accessory Dwelling Units, and he found out that there are some other communities that have plan books. The public could choose an ADU from the plan book that they want to build, and it would be approved right away, in order to help facilitate the need for housing. Peterson suggested adopting something with modifications tailored to our community so that they would not be rewriting everything. Kostelic’s concern with that is that crazy growth and handing out site plans for someone to just be approved, does not necessarily go hand in hand in her mind. Peterson said that Alpena needs to have its own identity and if they can identify that, that is the draw. Moses said that he doesn’t think there will be the pressure of the unfettered growth in Alpena due to Covid, brick and mortar stores closing and more people working from home, but there is an opportunity to maintain that small town feel of beautiful downtown and the harbor, which makes the downtown unique in Northern Michigan. He said that they need to work hard to preserve that. Boboltz said that rather than trying to control growth, they need to manage it and that is what zoning is all about as far as how and where that growth occurs.

COMMUNICATIONS OR REPORTS: None.

CONTINUING EDUCATION: None.

PUBLIC COMMENT: Diane Bauer said she came to the meeting to hear the conversation about not wanting to be like Traverse City. She spent the last six weeks in a local and state government class, and they talked about how they don't want to be like Traverse City. She said two groups presented their ideas to Mayor Waligora and Mike Mahler. She suggested the idea of more public input is a good one, especially hearing from the youth. Bauer said that what we do not want like Traverse City is houselessness, as their homeless population is increasing dramatically, as is ours. She suggested that the Commissioners read the most recent housing report as there are some very telling things in it as it relates to her age group.

Kevin Ginter says it is interesting that Alpena is the model for the area; in different towns that he has lived in, the death nail of the downtown was the commercial suburban growth. He said that Grand Rapids is a good example of how the downtown was vibrant and then the suburban growth came in and for the last 15-25 years they seem to be getting more and more things that bring people back to the core of the downtown area. He thought it important for Alpena to take the lead, both the Planning Commission and City Council, to take what they can do in nine square miles and be the leader of what draws [people]. Many people travel elsewhere for [things not offered in Alpena]. Having Alpena be more of a destination city for the unique things we have here such as the lakeshore and water, shipwrecks; he couldn't believe that there isn't a company having fifty people per week going diving on the shipwrecks but maybe it just isn't something that has materialized itself. He said he is impressed by the thoughtful review of the content covered at the meeting. He thought that their ideas of how to manage the future and keeping stuff in Alpena were good.

MEMBERS' COMMENTS: Moses said that if they don't increase the housing opportunities, business growth isn't going to matter because they're not going to get anybody to bring a business up here if they don't have a place to live. Gilmore said that ten years ago when he ran for City Council, he walked around knocking on doors and he noticed that there were a lot of empty houses. Moses agreed. Boboltz said that there are also a lot of vacant lots.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:07 p.m., by Boboltz, Planning Commission Chairman.

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Clayton C. VanWagoner, Secretary

## Planning, Development, & Zoning

### FINDINGS OF FACT CONDITIONAL MAP AMENDMENT

**APPLICANT:** JEREMY JOHNSON  
**PROPOSED USE:** DUPLEX – 412 SOUTH 8TH  
**DISTRICT:** R-2  
**REVIEW DATE:** 5/15/2023  
**REPORT:** MAP23-04

**Summary of Request:** Owner requests to conditionally rezone 412 South 8<sup>th</sup> St. from R-2 to R-T to convert property from single family to a duplex consisting of two one-bedroom apartments.



### REZONING STANDARDS: SECTION 10.2

The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request.

**A. Consistency with Comprehensive Plan**

A goal of the Comprehensive Plan is to allow suitable housing opportunities for all income levels, age groups, household types, and resident types (year-round/seasonal). The Future Land Use map incorporates Single (R-1, R-2) and Two-Family (R-T) Residential districts into the same zone (Single & Two Family Residential).

**B. Consistency of Use in Proposed District with Surrounding Properties**

Home is surrounded by R-2 on all sides. While the proposed use is not Single-Family, it is residential and aligns with the future land use map.

**C. Adverse Physical Impact on Surrounding Properties**

This property currently has an open Blight enforcement due to exterior condition of home. Current owner has worked with staff to clean up yard area.

A curb cut and driveway will be requested through Engineering. Requirement is 4 parking spaces (two per dwelling unit) and must be a hard surface. Two spaces exist on alley side (not yet paved); two additional spaces can be added to new curb cut area off of 8<sup>th</sup> if approved by Engineering.

**D. Changes in Land Use to Immediate Area**

None to note

**E. Creation of a Deterrent**

No deterrent to the improvement or development of adjacent property is anticipated.

**F. Special Privilege**

There are multiple duplexes already within a two-block radius that are part of the rental registration program; see list below.

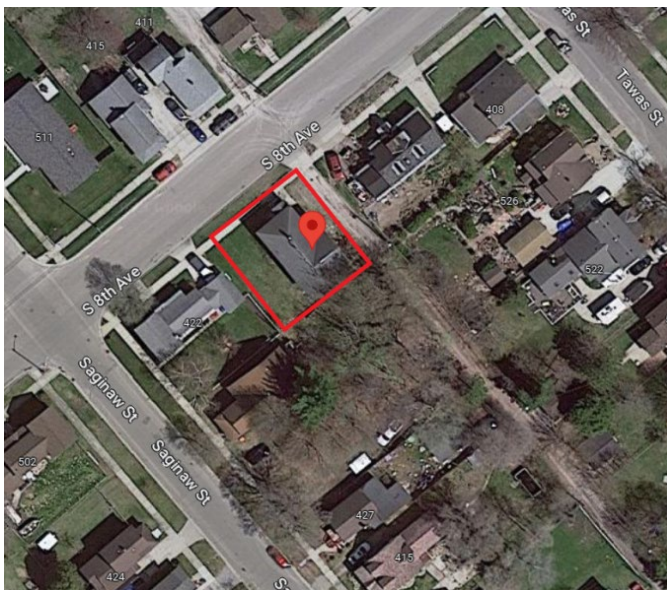
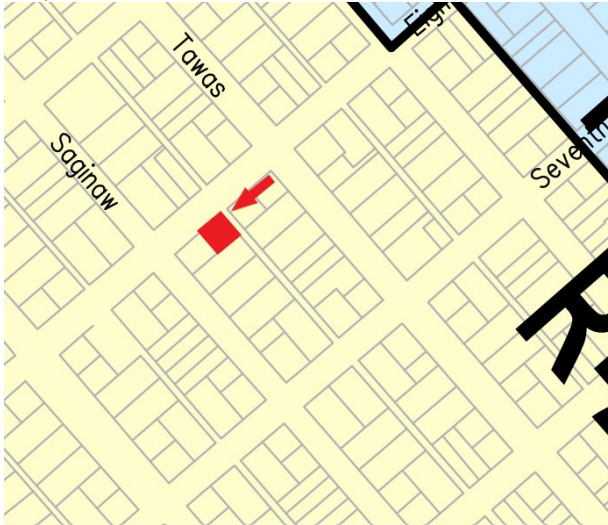
**G. Public Facilities**

The lot is served by existing public facilities; utilities will be upgraded during the renovation process and subject to Planning Commission approval of conversion.

## ADDITIONAL NOTES

1. Must meet all building code requirements, including fire separation. Applicant is planning the following upgrades: new siding, new roof, new furnace, upgraded utilities, new hot water heater, new parking areas. Exterior renovation this summer/fall. Interior renovations starting this winter.
2. If approved, property must be registered through the Rental Registration program and recertified every 3 years.
3. Applicant's Statement of Conditions: *Convert from single family to duplex; two one-bedroom apartments.*
4. Objections received from property owners within 300': 1 opposition letter received on 6/7/2023

### Map/Photos:







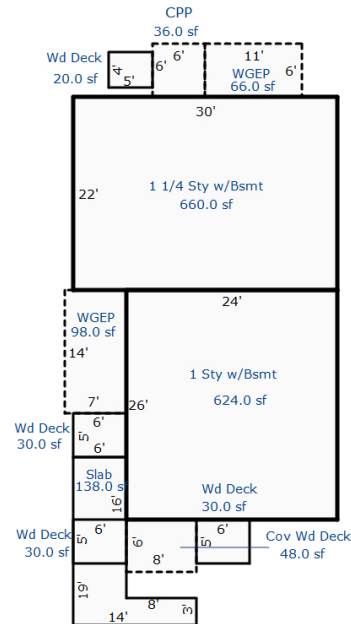
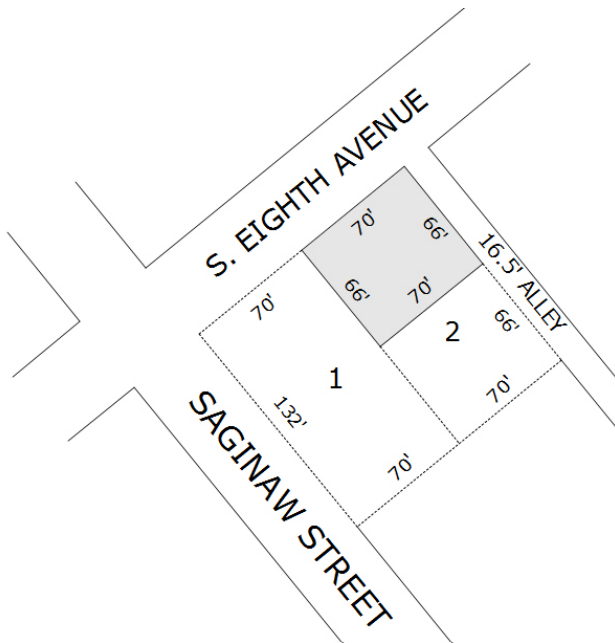






*Planning, Development, & Zoning*

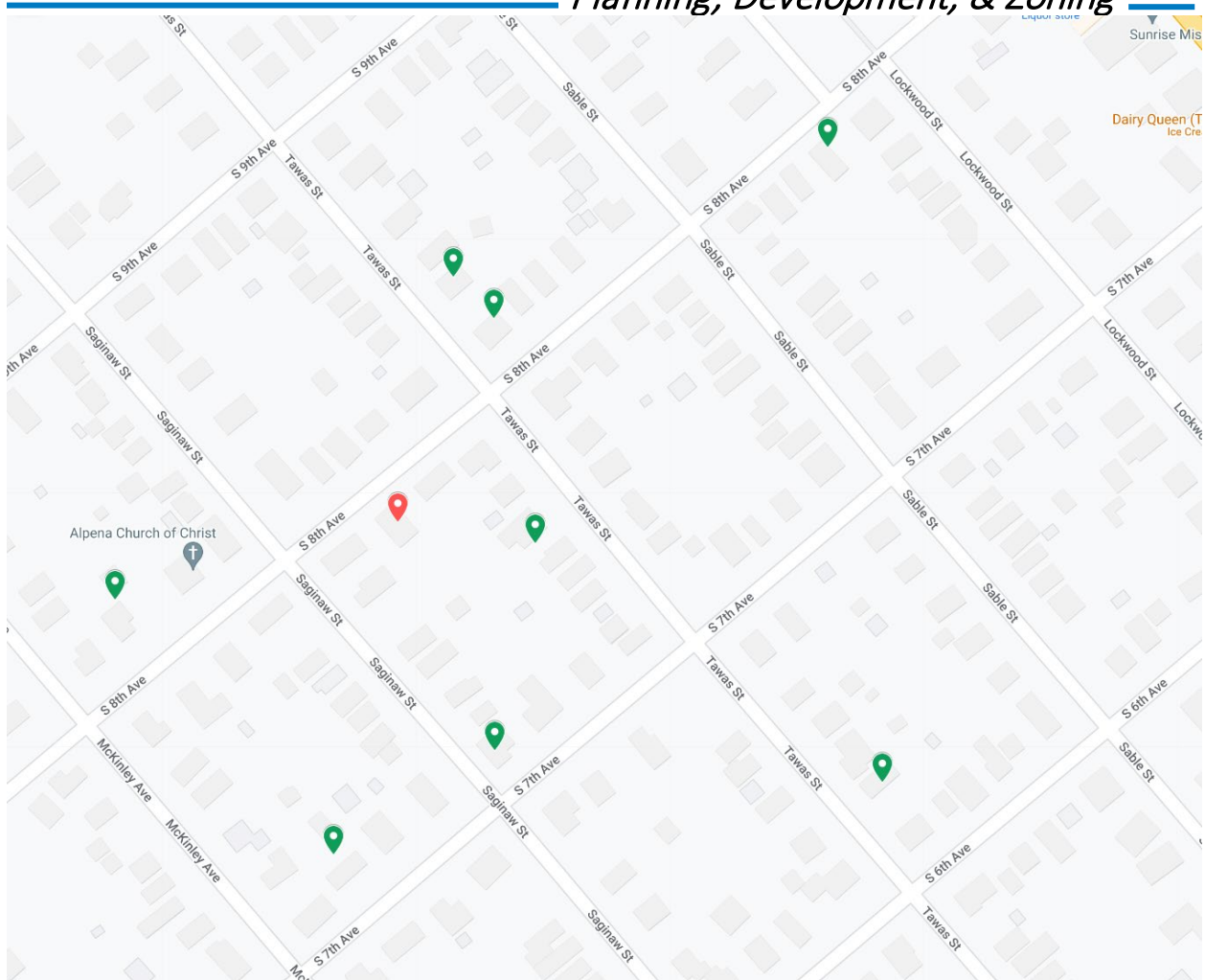




412 South 8<sup>th</sup> (red) – other legal duplexes (green)

- 412 S 8th Ave
- 212 S 8th Ave
- 515 S 8th Ave
- 323 S 8th Ave
- 520 Tawas St
- 631 Tawas St
- 435 Tawas St
- 423 S 7th Ave
- 515 S 7th Ave

Planning, Development, & Zoning





**City of Alpena  
Ordinance No. 21-468**

**An ordinance to amend the City of Alpena Zoning Ordinance Article 10 (Adoption and Amendments).**

City of Alpena, Alpena County, Michigan ordains:

**SECTION 1: AMENDMENT TO THE CITY OF ALPENA ZONING ORDINANCE**

That the City of Alpena Zoning Ordinance, Article 10 (Adoption and Amendments) is hereby amended to read as follows:

**Section 10.2 Rezoning Standards**

The Planning Commission shall review and apply the following standards and factors in the consideration of any rezoning request:

- A. Is the proposed rezoning consistent with goals and objectives of the current Comprehensive Plan?
- B. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses?
- C. Will there be an adverse physical impact on surrounding properties?
- D. Have there been changes in land use or other conditions in the immediate area or in the community in general which justify rezoning?
- E. Will rezoning create a deterrent to the improvement or development of adjacent property in accord with existing regulations?
- F. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?
- G. Is the site served by adequate public facilities or is the petitioner able to provide them?

**Section 10.3 Conditional Rezoning**

**A. Intent.**

It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with Section 405 of the **Michigan Zoning Enabling Act, 2006 PA 110**, 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.

David Helinski  
422 8th Ave.  
Alpena, MI 49707

TRAVERSE CITY MI 49789

5 DAY FIRST CLASS PERMIT



City of Alpena Planning Commission  
208 First Avenue  
Alpena, Michigan 49707

RECEIVED

JUN 07 2023

CITY OF ALPENA  
CLERK/TREAS/FIN DIRECTOR

49707-286401



I live at 422-8TH AVE  
412 is next to my house  
I don't want the rezoning  
of 412-8TH AVE  
There is no room for parking  
This would hurt the sale  
of my house.

David Helinski  
422 8th Ave.  
Alpena, MI 49707

## Planning, Development, & Zoning

### FINDINGS OF FACT SPECIAL LAND USE

**APPLICANT:** SHERRY GARLANGER  
**PROPOSED USE:** GROUP DAY CARE AND ROOM RENTAL  
**DISTRICT:** R-2  
**REVIEW DATE:** 5/15/2023  
**REPORT:** SU23-01



**Summary of Request:** Owner requests to operate group child care out of her home, located at 213 Tawas. Applicant also requests to rent a bedroom out of the home, which is currently defined as a Rooming & Boarding House within the ordinance.

### SPECIAL LAND USE APPROVAL STANDARDS: SECTION 6.12

The Planning Commission shall review and apply the following standards and factors in the consideration of any Special Land Use request.

Special Land Use permits are required for proposed activities which are essentially compatible with other uses, or activities permitted in a zoning district, but which possess characteristics or locational qualities which require individual review. The purpose of this individual review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with the standards set forth in this Ordinance. Special Land Uses shall be subject to the general provisions and supplemental site development standards of this Ordinance as well as to the provisions of the zoning district where it is located. Each use shall be considered on an individual basis.

#### A. Allowed Special Land Use

The property subject to the application is located in a zoning district in which the proposed Special Land Uses are allowed (R-2).

#### B. Compatibility with Adjacent Uses

1. Group child care and Rooming & Boarding houses have supplemental regulations, outlined below
2. Known exterior effects are limited to traffic, parking, and outside play
3. Days/Hours of operation of daycare: Monday – Saturday 7:30am – 6:30pm, Closed on Sunday
4. Rooming & Boarding House anticipated length of stay: long term

#### C. Public Services

1. Essential public services (fire, police, etc.) are available

#### D. Economic Well Being of the Community

1. No direct public costs are anticipated because there is no need for street, sidewalk or water/sewer improvements
2. Additional Child care and housing are needs within the area

#### E. Compatibility with Natural Environment

1. No changes proposed

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## *Planning, Development, & Zoning*

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### F. Impact of Traffic on Street System

1. Traffic to accommodate up to 14 children and any additional staff. Local street with direct access off Washington Ave. 3-4 parking spaces in driveway, as well as on-street parking and one spot off alley.

### G. Non-Detrimental Standards

1. None known

### H. Consistent with Zoning Ordinance and Comprehensive Plan

Housing: Objective A: Encourage the development of a mixture of quality housing within the City.

Housing: Objective C: Protect the neighborhood character of residential areas.

Economic Development Objective B.(4) Encourage the development of home-based businesses.

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## SUPPLEMENTAL REGULATIONS: SECTIONS 7.9 AND 7.30

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The Planning Commission shall review and apply the following standards and factors in the consideration of a Special Land Use for a Group Day Care and Rooming & Boarding House.

### **GROUP CHILD CARE :**

#### Section 7.9 (Group Child Care Home)

- 2,000 square feet of outdoor play area required –2,600 square feet exists
- 4' high enclosed fence in rear/side yard exists
- No group child care shall be located closer than 400' to another child care use permitted unless located on a different side of the street or different block – 309 Tawas closest in-home day care and is on a different block

### **ROOM RENTAL :**

#### Section 7.30 (Rooming & Boarding Houses)

- Will be owner occupied at all times
- Minimum 80 square foot of room space per occupant – 136.5 square feet, not including closet
- No separate cooking areas
- 3 Spaces of off-street parking required (1 for each bed & 2 for owners) – Extra space located in rear off of alley
- At least two exits to outdoors exist
- Does not alter residential character of building or structure

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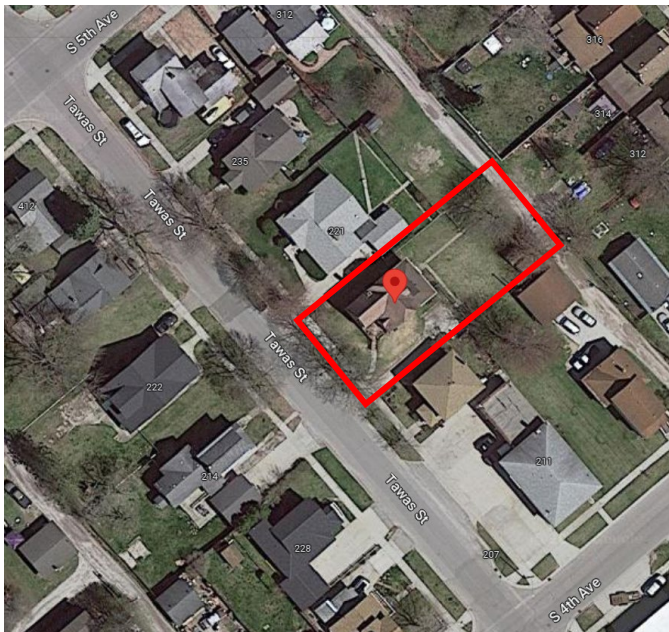
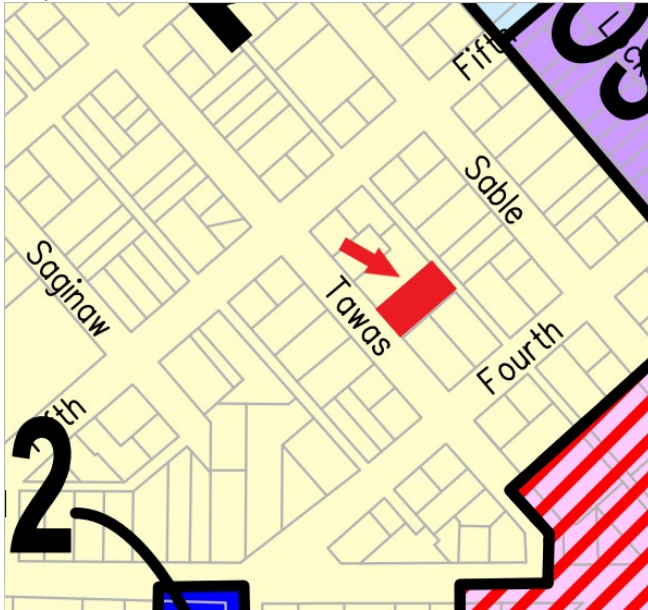
## ADDITIONAL NOTES

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1. House was previously a single-family rental; rental registration timeline will continue as previously scheduled if approved.
2. Owner must follow all State of Michigan child care licensing requirements. Applicant will be filing application with the State of Michigan based on Planning Commission approval for a Group Child Care license of 7-12 (+2) per State requirements. Local zoning approval is required with the State of Michigan.
3. Objections received from property owners within 300': None
4. Recommend two separate motions (1) Childcare (2) Rooming & Boarding House – 1 room only



Map/Photos:





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## SPECIAL LAND USE APPROVAL STANDARDS

## SECTION 6.12 SPECIAL LAND USE APPROVAL STANDARDS

After the required public hearing, the Planning Commission shall approve, or approve with conditions, an application for a Special Land Use permit only upon finding that the proposed Special Land Use complies with all the following standards A - I. Uses which also require a site plan shall also adhere to the site plan requirements and approval standards in §6.5 – §6.10.

**A. Allowed Special Land Use:** The property subject to the application is located in a zoning district in which the proposed Special Land Use is allowed.

**B. Compatibility with Adjacent Uses:** The proposed Special Land Use shall be designed, constructed, operated and maintained to be harmonious, compatible and appropriate in appearance with existing or planned uses and the intended character of the area and the surrounding land, and shall not change the essential character of the area in which it is proposed to be located. The use shall not be hazardous or disturbing to existing or future nearby uses. In determining whether a Special Land Use will be compatible and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the Special Land Use may have on adjacent property, as compared with the expected value to the community. The following types of impacts shall be considered:

1. Use activities, processes, materials, equipment, or conditions of operation;
2. Vehicular circulation and parking areas;
3. Outdoor activity, storage and work areas;
4. Hours of operation;
5. Production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light;
6. The relative ease by which the impacts above will be mitigated.

**C. Public Services:**

1. The proposed Special Land Use will not place demands on fire, police, or other public resources in excess of current capacity.
2. The proposed Special Land Uses will be adequately served by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility.

**D. Economic Well-Being of the Community:** The proposed Special Land Use shall not be detrimental to the economic well-being of the surrounding residents, businesses, landowners, and the community as a whole. The use will not create excessive additional public costs and will not be detrimental to the economic welfare of the City.

**E. Compatibility with Natural Environment:** The proposed Special Land Use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the City or the natural environment as a whole. Natural features of the landscape, including but not limited to, ponds, streams, hills, and wooded areas, shall be retained where they afford a barrier or buffer from adjoining properties. The landscape shall be preserved in its

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natural state, as far as practical, by minimizing tree and soil removal, and any grade or slope changes shall be in keeping with the general appearances of the neighborhood.

- F. **Impact of Traffic on Street System:** The location and design of the proposed Special Land Use shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation (i.e. volume), types of traffic, access location and design, circulation and parking design, street and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. The proposed Special Land Use shall not cause traffic congestion, conflict or movement in greater proportion to that normally prevailing for the use in the particular zoning district.
- G. **Non-Detrimental Standards:** The proposed Special Land Use shall not involve uses, activities, processes, materials, equipment or conditions of operation that will be hazardous or detrimental to any persons, property, or the general welfare by reason of noxious or offensive production of noise, smoke, fumes, glare, vibration, odor or traffic. The proposed Special Land Use shall comply with [§3.33 Performance Standards](#).
- H. **Consistent with Zoning Ordinance and Comprehensive Plan:** The use will be consistent with the intent and purposes of this Ordinance and meet the goals and objectives of the *City of Alpena Comprehensive Plan*.
- I. **Compliance with Supplemental Site Development Standards:** The proposed Special Land Use complies with all applicable supplemental site development standards as contained in [Article 7](#) of this Ordinance.

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**SECTION 7.9 CHILD CARE CENTERS; NURSERY SCHOOLS; DAY CARE HOMES****A. CHILD CARE CENTERS, NURSERY SCHOOLS, AND GROUP CHILD CARE HOMES** (not including dormitories) shall meet the following conditions:

1. An outdoor play area shall be provided for all facilities caring for one or more children who individually receive care for more than four (4) hours per day. Play areas shall have a minimum area of not less than two thousand (2,000) square feet; be enclosed by a fence of at least four feet (4') in height and capable of containing children within the play area; and located in the side or rear yard area.
2. No group child care use shall be located closer than four hundred feet (400') to another child care use permitted under this section unless located on different sides of the street or block.

**B. FAMILY CHILD CARE HOMES** shall meet the following conditions:

1. Play areas shall have a minimum area of not less than one hundred fifty (150) square feet per child; be enclosed by a fence of at least four feet (4') in height and capable of containing children within the play area; and located in the side or rear yard area.

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## RETAIL STORAGE/ROOMING &amp; BOARDING

## SECTION 7.29 RETAIL USES WITH OUTDOOR STORAGE

**B-3****I-1**

Major retail uses of a general merchandising character with a usable floor area of no less than ten thousand (10,000) square feet may have an outdoor storage area located no further than five feet (5') from the front face of the principal structure at a rate of one square foot of display area per one hundred (100) square feet of usable floor area.

## SECTION 7.30 ROOMING &amp; BOARDING HOUSES

**R-2****R-T****RM-1****RM-2**

- A. This use shall be considered as an accessory use; board or lodging shall not be furnished to more than five (5) persons in addition to the family.
- B. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.
- C. In the case of renting rooms, such convenience shall not be furnished unless there shall be provided at least eighty (80) square feet of floor area per guest in that part of the building directly occupied by such guests for rooming purposes.
- D. Boarding and the renting of rooms shall not include the operating of what is normally termed a restaurant or similar use where meals are served to transient guests. No separate cooking areas shall be allowed in guestrooms.
- E. Board shall not be provided to other than those rooming in the residence.
- F. Off-street parking shall be required in accord with [§3.30](#).
- G. The establishment shall have at least two (2) exits to the outdoors.
- H. The boarding house shall not alter the residential character of the building or structure.



## Planning, Development, & Zoning

### FINDINGS OF FACT SPECIAL LAND USE

**APPLICANT:** GARY RUSSELL SANDERSON  
**PROPOSED USE:** ACCESSORY DWELLING UNIT  
**DISTRICT:** R-2  
**REVIEW DATE:** 5/16/2023  
**REPORT:** SU23-02

**Summary of Request:** Owner requests to add living space within his new garage. Owner intends to live in it temporarily while his current home is demolished and his new home is being built. However, current home will not be demolished for a few years.



### SPECIAL LAND USE APPROVAL STANDARDS: SECTION 6.12

The Planning Commission shall review and apply the following standards and factors in the consideration of any Special Land Use request.

Special Land Use permits are required for proposed activities which are essentially compatible with other uses, or activities permitted in a zoning district, but which possess characteristics or locational qualities which require individual review. The purpose of this individual review is to ensure compatibility with the character of the surrounding area, with public services and facilities, with adjacent properties, and to ensure conformance with the standards set forth in this Ordinance. Special Land Uses shall be subject to the general provisions and supplemental site development standards of this Ordinance as well as to the provisions of the zoning district where it is located. Each use shall be considered on an individual basis.

#### A. Allowed Special Land Use

The property subject to the application is located in a zoning district in which the proposed Special Land Uses are allowed (R-2).

#### B. Compatibility with Adjacent Uses

1. Known exterior effects are limited to parking – unit is contained within a garage and won't appear to even have living quarters from the outside.

#### C. Public Services

1. Essential public services (fire, police, etc.) are available

#### D. Economic Well Being of the Community

1. No direct public costs are anticipated. There is no need for street or water/sewer improvements. Needed sidewalk repair is the responsibility of the homeowner.

#### E. Compatibility with Natural Environment

1. No impact

#### F. Impact of Traffic on Street System

1. No impact

#### G. Non-Detrimental Standards

1. None known

#### H. Consistent with Zoning Ordinance and Comprehensive Plan

Lot coverage with garage/ADU: 15.6% and meets lot coverage requirements; setback requirements are also met.

## SUPPLEMENTAL REGULATIONS: SECTION 7.32

The Planning Commission shall review and apply the following standards and factors in the consideration of a Special Land Use for a Secondary Dwelling Unit.

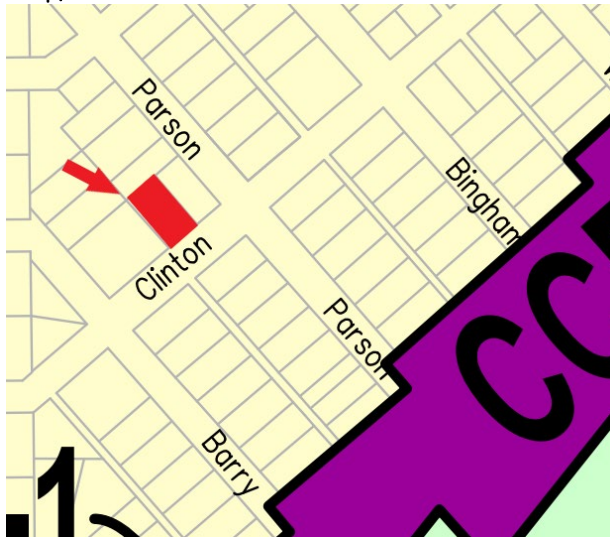
### SECONDARY DWELLING UNIT :

- 1 ADU allowed per lot and long-term rental required if rented
- 384 square feet of space meets criteria
- Electricity, Plumbing, Heat provided
- Only 1 bedroom – one large open space
- Adequate parking exits

## ADDITIONAL NOTES

1. Must conform to all building code requirements and firewall separation
2. If space is rented it must be registered through the rental registration program.
3. Objections received from property owners within 300': None

Map/Photos:



Planning, Development, & Zoning





*Planning, Development, & Zoning*



## SECONDARY DWELLING UNITS

## SECTION 7.32 SECONDARY DWELLING UNITS

**R-1****R-2**

The purpose of this section is to allow a minor amount of space within a dwelling to be rented or leased as separate living quarters for extended family or non-family members in all residential neighborhoods within the City. These provisions are further intended to provide reasonable control in recognition of the high percentage of owner occupied single family homes in the City. The purpose of these standards is also to prevent the undesirable proliferation of permanent two-family units which would, over time, disrupt the character of single family neighborhoods. The following regulations shall apply:

- A. One (1) secondary dwelling unit is allowed per lot.
- B. The secondary dwelling unit shall be rented or leased so the tenants are permanent residents rather than transients.
- C. The secondary unit shall not exceed 600 square feet or twenty-five (25) percent of the total floor area of the home, whichever is less, so that it remains an accessory use to the primary dwelling and does not result in the creation of a duplex or apartment building.
- D. The secondary dwelling unit shall be provided electricity, plumbing, and heat.
- E. The secondary unit shall contain only one (1) bedroom.
- F. The secondary unit shall be a self-contained unit and shall be:
  1. located above a garage, or
  2. attached to the primary dwelling or garage, or
  3. totally within a primary dwelling, or
  4. a detached stand-alone structure.
- G. The secondary unit shall have a separate exterior entrance which shall not be visible from the front yard.
- H. The residents of the primary structure shall maintain the secondary unit and shall ensure that no excessive noise, traffic, or blight occurs on the property.
- I. The secondary unit shall conform to the building code standards adopted by the City.
- J. One and one-half (1 ½ ) parking spaces shall be provided on-site for each dwelling unit.
- K. **Detached Stand-Alone Structures** shall be considered accessory structures. The following regulations shall apply:
  1. Such structures shall be located in the rear yard and shall be consistent in appearance with the principal structure.
  2. Such structures shall be a maximum of six hundred (600) square feet in size with a minimum width of twenty (20) feet.
  3. The property owner must reside on-site.
  4. Separate water and sewer service must be provided.





# Article 3

## General Provisions

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3.0	Purpose		3.14	Intersection & Driveway Visibility	
3.1	Application of Regulations		3.15	Residential Entranceway	
3.2	Conflicting Regulations/ Graphics, Tables & Text		3.16	Essential Services	
3.3	Zoning Lot Occupancy		3.17	Sidewalks	
3.4	Restoration of Unsafe Buildings /Barrier Free Modification		3.18	Manufactured Homes on Individual Lots/Parcels	
3.5	Continued Conformance with Regulations		3.19	Required Water Supply & Sanitary Facilities	
3.6	Unclassified Uses		3.20	Hazardous Substances / Groundwater Protection	
3.7	Construction – Temporary Buildings & Debris		3.21	On-Site Drainage & Runoff	
3.8	Illegal Dwellings		3.22	Storage in Front Yards	
3.9	Relocated Buildings		3.23	Waterfront Setback; Floodplains; High Risk Erosion Areas	
3.10	Demolition of Buildings		3.24	Reserved	
3.11	Accessory Buildings/Structures		3.25	Removal & Dumping of Materials	
3.12	Accessory Uses		3.26	Exterior Site Lighting	
A	Recreational Equipment including Recreational Vehicles		3.27	Fences	
B	Sale/Storage of Vehicles		3.28	Required Buffering & Screening	
C	Solar Energy Panels - Accessory		3.29	Natural Gardens	
D	Permanent Private Pools		3.30	Landscaping	
E	Parking Of Commercial Vehicles		3.31	Circulation & Parking	
F	Outdoor Mechanical Equipment		3.32	Voting Place	
G	Electric Vehicle Charging Stations		3.33	Nonconformities	
3.13	Access to Public Street		3.34	Performance Standards	

### Section 3.0 Purpose

It is the purpose of this Article to provide regulations that apply in all zoning districts to all permitted uses and special uses.

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## Section 3.1 Application of Regulations

Zoning affects every structure and use and extends vertically. The provisions of this Article shall apply to all districts, except as noted herein. The following shall apply to all of the City of Alpena.

- A. In order to carry out the intent of this Ordinance, no use or activity on a piece of land shall be commenced or maintained, no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it is in conformance with this Ordinance, with the provisions and intent of the specific zoning district in which it is located, and the applicable zoning permit or building permit has been obtained. Lawful nonconforming uses or buildings shall be regulated by the provisions of **Section 3.32**.
- B. No building shall hereafter be erected or altered to exceed the height limitations, or to occupy a greater percentage of lot area, or intrude upon the required front ~~setback yard~~, rear ~~setback yard~~, side ~~setback yard or inner or outer courts~~, or so as to accommodate or house a greater number of families, or so as to provide less space per dwelling unit than is specified for the zoning district in which such building is located.
- C. No lot area and no yard, court, parking area or other required space shall be so divided, altered, reduced or diminished as to make said area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by expansion or acquisition of public rights-of-way for streets, roads or highways. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.
- D. No parcel may be divided in a manner which conflicts with the requirements set forth in the **Michigan Land Division Act**, as amended. ~~The Zoning Administrator has the authority to approve all land divisions in the City of Alpena.~~
- E. If any activity, use, building, structure or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this Ordinance, such activity, use, building or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or ceased by any legal means necessary. Such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this Ordinance.
- F. In the event that any lawful use, activity, building or structure which exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconforming use and shall be allowed to remain as such,

including the completion of construction, ~~providing said construction does not require more than two (2) years from the effective date of this Ordinance for completion.~~

## Section 3.2 Conflicting Regulations/Graphics, Tables & Text

### A. When this Ordinance is More Restrictive than Another Law, Ordinance, or Private Deed Restriction.

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

### B. When Another Law, Ordinance, or Private Deed Restriction is More Restrictive than this Ordinance.

Whenever the provisions of any other law, ordinance **or deed restriction** impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such ordinance, **law, or deed restriction** shall govern.

### C. Conflicting Provisions within this Ordinance.

1. Where any provision of this Ordinance differs from any other provision of this Ordinance, the more restrictive requirement shall prevail.
2. The graphics, tables and text used throughout this Ordinance are regulatory. In case of a conflict, text shall control over tables or graphics; tables shall control over graphics. Photographs and illustrations marked "example" or text marked "commentary" is not regulatory and is provided for illustrative purposes only. If a conflict exists between **Section 5.26 (Use Matrix)** and the individual Use Tables found in each district section in **Article 5**, the individual Use Tables shall control.

## Section 3.3 Zoning Lot Occupancy

A. Hereafter, every building erected, altered or moved shall be located on a zoning lot. In the R-1, R-2, and RT Districts, there shall be no more than one (1) principal building and its permitted accessory structures located on each lot.

~~B. Multiple principal uses on a zoning lot.~~

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- ~~1. Multiple uses shall be restricted to zoning lots in nonresidential districts.~~
- ~~2. Multiple uses shall not be allowed on a zoning lot occupied by a non-conforming use.~~
- ~~3. Off-street parking required by ordinance shall be provided in common to create a single, compact, orderly system and so designed as to minimize points of access along major thoroughfares; facilitate safety and ease in circulation of vehicles and pedestrians, and promote more efficient use of available parking spaces.~~

## Section 3.4 Restoration of Unsafe Buildings/Barrier Free Modification

- A. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Zoning Administrator, Building Inspector, or Public Health Inspector.
- B. Nothing in this Ordinance shall prevent the unlimited modification of a building only as may be necessary to comply with barrier-free requirements and the Americans with Disabilities Act. **A variance may be required.**

## Section 3.5 Continued Conformance with Regulations

The maintenance of **setbacks** yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or property or use is located.

## Section 3.6 Unclassified Uses

When a use is not expressly mentioned in the Zoning Ordinance, the Planning Director or Planning Commission at the request of the Planning Director shall **classify the use based on similar uses in the district** ~~make an interpretation as to what district or districts should accommodate the use.~~ ~~The decision shall be based on the intent of each district and similar uses allowed in the district.~~ The decision of the Planning Director or Planning Commission regarding unclassified uses may be appealed to the Zoning Board of Appeals. **If no similar use can be found, then the use may be added to the Ordinance only by a zoning amendment.**

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## Section 3.7 Construction – Temporary Buildings & Debris

### A. Temporary Construction Buildings.

Temporary buildings may be utilized during construction for the storage of construction materials and for construction offices during a construction period as permitted herein. Temporary buildings for use incidental to construction work shall be removed within thirty (30) days after the completion or abandonment of the work.

### B. Temporary Dwellings During Construction.

Temporary dwellings shall be permitted to be used during periods of construction provided an open building permit exists and progress is being approved by the building official. ~~No structures shall be used for temporary dwelling purposes that do not~~ Such temporary dwellings shall comply with the requirements of this Ordinance or any applicable building codes, provided the ~~Zoning Board of Appeals~~ Zoning Administrator may allow variances on the size of temporary dwelling units. No garage or other accessory building or structure, recreational vehicle travel trailer, basement, tent, barn, partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling purposes unless authorized by the issuance of a zoning permit by the Zoning Administrator. Proper sanitary facilities to address water and sewage shall be provided. Temporary dwellings during construction shall be removed within thirty (30) days after the completion or abandonment of the work except in the case where the temporary dwelling will remain on the property as an accessory building or a recreational vehicle.

### C. Construction Debris.

All construction debris shall be removed from the site within thirty (30) days after the completion or abandonment of the work. Failure or refusal to remove a temporary building and/or construction debris within thirty (30) days after the completion or abandonment of work constitutes a violation of this Ordinance.

## Section 3.8 Illegal Dwellings

The use of any portion of a basement or partially completed structure for dwelling purposes shall not be permitted unless a temporary certificate of occupancy has been issued. Garages, accessory buildings, motor homes, recreational vehicles travel trailers, trucks, buses, or other such portable structures shall not be occupied for dwelling purposes except as otherwise allowed in this Ordinance.

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## Section 3.9 Relocated Buildings

The relocation of a building to a different site shall be considered the same as erection of a new building. All provisions, regulations, or requirements relative to the erection of a new building shall be applicable to a structure that is relocated. No building shall be moved onto a lot into the City of Alpena without first obtaining a zoning permit from the Zoning Administrator.

## Section 3.10 Demolition of Buildings

No structure shall be demolished until an inspection has been completed by the City of Alpena Building Department and a Demolition Permit issued by the Department. The demolition shall be completed within such reasonable time period as shall be prescribed by the City of Alpena and under conditions that may be specified by the City of Alpena as necessary to protect the public health, safety and welfare. The demolition of structures within the City of Alpena shall comply with the following:

- A. An application for a Demolition Permit shall include the reasons for the demolition and the intended use of the property following demolition if known. If the intended use is not permitted under the property's current zoning, a request to rezone the property is required and is subject to approval of the Planning Commission and City Council prior to construction; approval is not guaranteed. ~~a Demolition Permit shall be withheld until such time as approval for the new use is obtained, unless the property is deemed a hazard or attractive nuisance to the general public by the Building Official, in which case a Demolition Permit may be issued.~~
- B. If the structure is more than fifty (50) years old and is not deemed to be a threat to the public health or safety, the Building Official may withhold the approval of a Demolition Permit for up to sixty (60) days to permit a review of the historical significance of the structure, determine possible adaptive reuses of the property and possible funding for rehabilitation/preservation/ or re-location. Such information shall be provided to the owner. In the event the owner still wishes to demolish the structure a Demolition Permit shall be issued.
- C. Following demolition of the structure and the removal of all required debris, any excavation or foundation shall be backfilled with clean fill and the site graded to meet existing grades at the property lines and prevent drainage of surface water onto abutting properties.
- D. Following grading all non-paved areas shall be top dressed with a minimum two (2) inches of topsoil, seeded with an appropriate grass seed, and properly maintained in accordance with the City Code of Ordinances.

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- E. An accessory building remaining on a property following the demolition of the principal structure shall be maintained in good condition.

## Section 3.11 Accessory Buildings/Structures

Residential and non-residential accessory buildings/structures, except as otherwise permitted in this Ordinance, shall be subject to the following regulations (this section shall not apply to decks and porches which are addressed in **Article 5 Section 3.31.E**):

- A. No accessory structure shall be erected, constructed or placed upon a lot without a principal structure. Accessory structures two hundred (200) square feet or less require a zoning permit. Accessory structures greater than two hundred (200) square feet require a building permit (no zoning permit is required).

**B. Attached Accessory Buildings/Structures.**

Where any accessory building or structure is attached to a principal building, such accessory building or structure shall be considered part of the principal building and shall be subject to and must conform to all regulations of this Ordinance applicable to the main building regardless of whether the accessory building was constructed as a detached building and then attached.

**C. Placement On Lot.**

1. **Location in Yards.** All accessory buildings/structures shall be located in the rear or side yard of the lot except when attached to the main building in one- and two-family dwellings.
2. **Relationship to Main Building.** No detached accessory building/structure shall be located closer than six (6) feet to any main building, except amateur radio support structures/antennas as defined in this Ordinance and other telecommunication structures seventy-five (75) feet or less in height, upon approval of the Building Official. The Zoning Administrator may allow an accessory building/structure closer than six (6) feet to the main building if a firewall is used in the accessory building/structure.
3. **Accessory Building/Structure Setback for Rear and Interior Side Lot Lines.** No detached accessory building/structure shall be located closer than six (6) feet to any interior side or rear lot line.

*Options to consider:*

<b>1</b> Purpose	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> Signs	<b>5</b> District Regulations
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*#1 – only allow accessory buildings under a specific square footage 6 feet from the side or rear lot line (i.e. 200 square feet or less). All others shall meet the setbacks of the main building. Or, all others shall be 10 feet (just an example) from the side or rear lot line.*

*#2 – allow all accessory buildings – even attached garages - 6 feet from the side or rear lot line.*

*#3 – Keep the 6 feet for detached, and add a zoning administrator departure to allow attached accessory buildings to be 6 feet from the side or rear lot line.*

4. ~~Detached Accessory Building/Structure Setback – Alleys.~~ Where the rear lot line is coterminous with ~~abutting~~ an alley right-of-way, a detached accessory building shall not be closer than six (6) ~~feet~~ to such rear lot line. In no instance shall an accessory building be located within a dedicated easement right of way.

5. **Detached Accessory Building/Structure Side Setback on Corner Lot.**

- a. When an accessory building is located on a corner lot, the side setback for said building shall be ten (10) feet (**Figure 3.11.A**). *For a regular corner lot (rear yard backs against rear yard), why a 10 foot setback? Montiel will look for examples.*
- b. When an accessory building is located on a reversed corner lot, the side lot line of which is substantially a continuation of the front lot line on the lot to its rear, the side setback for said building shall be equal to setback of the residence/building of the adjoining lot or the front yard setback of the district, whichever is less.

Figure 3.11.A

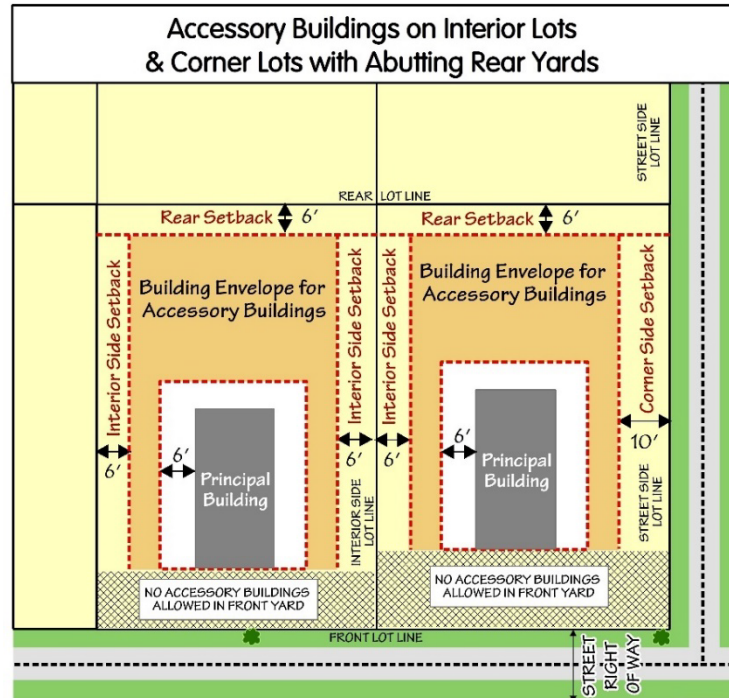
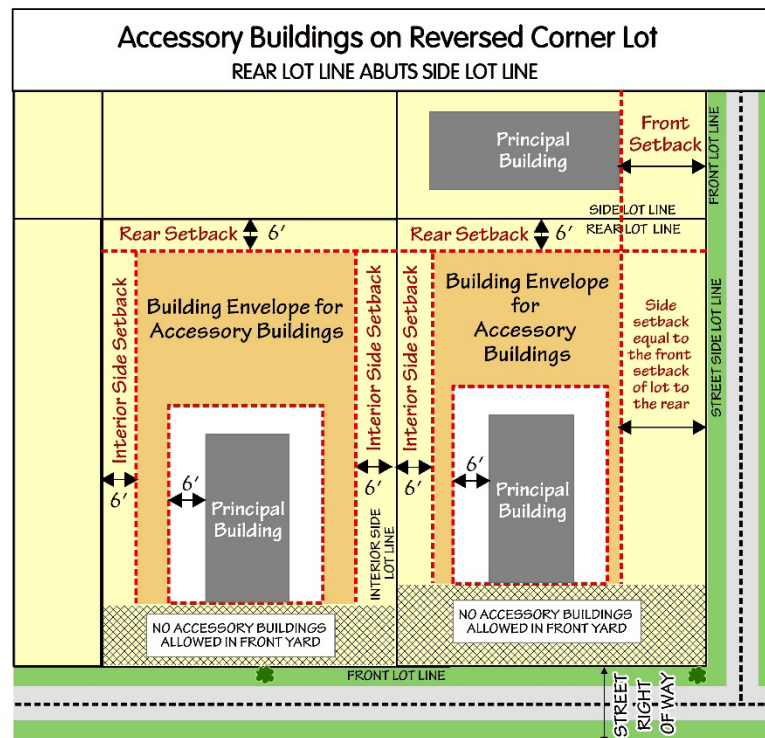


Figure 3.11.B

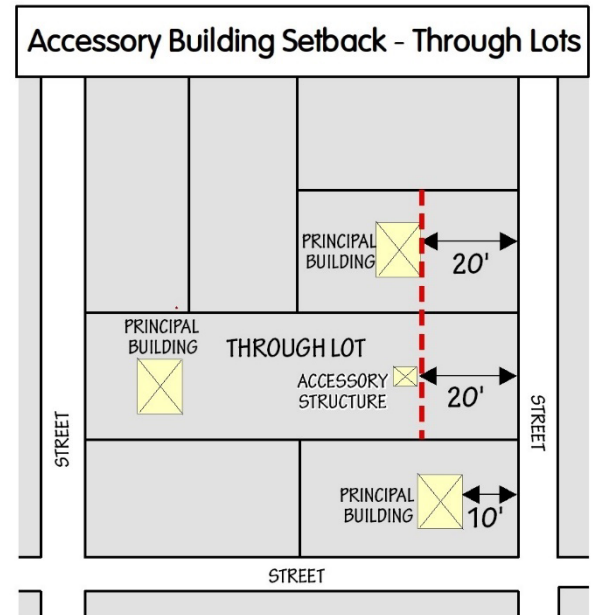
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**6. Accessory Building/Structure on Waterfront Lots.**

- a. Accessory buildings/structures on waterfront lots shall adhere to the requirements in **Section 3.23** pertaining to waterfront setbacks.
- b. Detached garages are permitted in the front yard (street side) of waterfront lots and shall adhere to the setbacks of the district.

**Figure 3.11.C**

7. **Accessory Building/Structure on Through Lots.** When a through lot contains a principal building facing a different street than at least one (1) of the abutting lots, the setback of an accessory building on a that through lot shall be equal to the largest setback of the principal building structure of each adjoining lot (facing the opposite street) along a common street or equal to the setback of the district in which it is located, whichever is less. See **Figure 3.11.C**.

**D. Accessory Building/Structure Size.**

~~Residential~~ Accessory buildings ~~on residential lots~~ shall not occupy more than twenty five (25) percent of a required rear ~~principal dwelling's required rear setback~~ yard.

In a residential district, the combined ~~ground floor~~ area of all ~~any one~~ accessory buildings on a zoning lot shall not exceed the ground floor area of the principal building or a maximum square footage of twelve hundred (1,200) square feet, whichever is less.

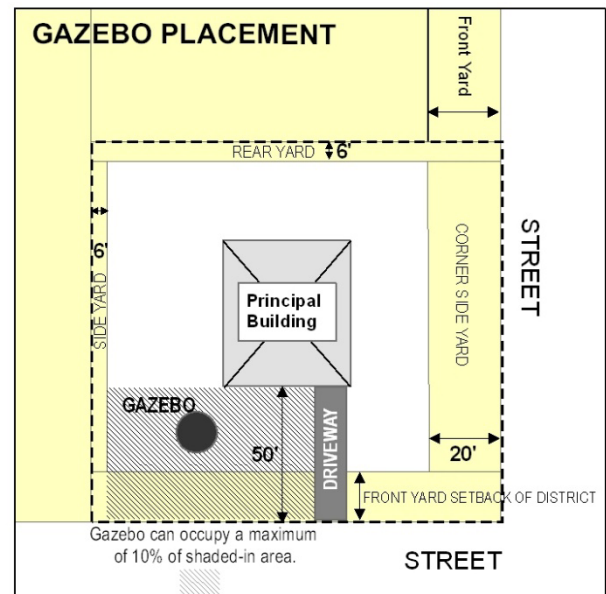
**E. Accessory Building/Structure Height.**

1. No detached accessory building in R 1, R 2, RT, RM 1, RM 2, ~~and OS 1~~ Districts shall exceed the allowable height of the principal buildings in the Zoning District. ~~P-1 is limited to one story or fourteen (14) feet.~~

**F. Gazebos in Front Yards.**

1. A gazebo must be an open (“see-through”) structure with no length or width dimension exceeding fifteen (15) feet; the height must not exceed fifteen (15) feet. A screen is considered “see through.”
2. Gazebos are permitted in the front yard, rear, or side yards and must meet the side and rear setback requirements in **Section 3.11.D**. Gazebos must meet the front setback requirements for a primary structure of the district in which it is located.
3. ~~A minimum total front yard depth of fifty (50) feet is required for a gazebo to be placed in the front yard. The gazebo shall not occupy more than ten (10) percent of a contiguous yard which is not separated by a driveway.~~

Figure 3.11.D



#### G. Nontraditional Storage Facilities.

1. Truck bodies, school bus bodies, mobile manufactured homes, travel trailers recreational vehicles, or other items built and intended for other uses shall not be used as permanent accessory buildings on any lot in the city.
2. No permanent or temporary shipping containers shall be allowed on residential lots. Temporary storage containers designed for the express purpose of storing the resident's items when the resident is moving into or out of the residence shall be allowed for a maximum of thirty (30) days.
3. **Temporary Storage Structures on Commercial and Industrial Lots.** Structures such as but not limited to semi-trailers and shipping containers may be used as temporary storage for commercial and industrial uses in the commercial and industrial districts in the rear yard only.
  - a. The applicant shall provide a plot plan showing the location of structure(s). Plot plans for such temporary structures require review and approval by the Zoning Administrator.

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- b. Such structures shall be placed only in the rear yard and shall be placed as far out of the line of sight of the right-of-way as possible.
- c. If any portion of the structure is visible from the right-of-way, the structure should be painted one uniform color. This shall not apply to semi-trailers that have wheels and are intended to function as vehicles.
- d. The structure shall be placed on a compacted well-draining gravel base.
- e. Stacking of structures may be allowed on a case-by-case basis.
- f. The structure shall not be modified in any way that renders it un-movable or permanent.
- g. The Zoning Administrator may require screening on a case-by-case basis.
- h. A time limit for temporary use of the structure shall be indicated on the zoning permit. In no instance shall the temporary use of such as structure exceed six (6) months.
- i. ~~In a commercial zone, semi-trailers and shipping containers used as temporary storage must be screened from visibility from all public rights-of-way including streets or alleys.~~

#### H. Accessory Building as a Dwelling.

~~Accessory buildings may be used as a dwelling if permitted in Section 5.26 and Section 7.32. No detached accessory building or structure shall be used for dwelling purposes unless otherwise permitted in this Ordinance.~~

- I. Accessory buildings shall be architecturally consistent with the primary structure on the lot.

## Section 3.12 Accessory Uses

### A. Recreational Equipment **including Recreational Vehicles.**

1. **Storage.** Recreational equipment owned by residents of the City may be stored on their individual lots and shall be stored only within the confines of the rear yard and shall further respect the placement requirements of **Section 3.11.C** applicable to Accessory

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Buildings/Structures. All recreational equipment parked or stored shall not be connected to sanitary facilities and shall not be used for permanent dwelling purposes. In those instances where the rear yard is not accessible by means of a driveway or alley or has insufficient side yard clearance for the passage of recreational equipment, the Zoning Administrator may allow the parking or storage of such recreational equipment in the ~~side or front yard. In those instances where recreational equipment is to be parked or stored in a front yard, only the driveway portion of such yard shall be utilized~~ and in no instance shall such recreational equipment be parked or stored closer than ten (10) feet to the front property line. Storage of recreational equipment on a lot without a principal structure shall only occur if the lot upon which the recreational equipment is stored is adjacent to another lot which is under the same ownership and contains a principal structure. Said lots shall not be separated by a public right-of-way.

2. **Overnight Camping.** ~~See Section x.xx of the City of Alpena Municipal Code. Overnight camping in a recreation vehicle on a lot in the city shall be permitted in all residential districts providing that the recreational vehicle shall be occupied for no more than a week in any thirty (30) day period but not longer than thirty (30) days in a calendar year. The Zoning Administrator shall have the authority to increase the length of stay up to an additional seven (7) days in any thirty (30) day period. However, the additional seven (7) days shall not increase the total stay of not longer than thirty (30) days in a calendar year. Overnight camping in a recreational vehicle shall only occur on a lot with a principal structure or on a lot which is adjacent to another lot which is under the same ownership and contains a principal structure. Said lots shall not be separated by a public right-of-way.~~

#### B. Sale/Storage of Vehicles.

1. A resident of a dwelling unit ~~may~~ **shall** not have more than two (2) motorized vehicles for sale on the site of such dwelling unit at any time and in no instance shall vacant residential lots or parcels be utilized for the sale of vehicles.
2. A resident may repair vehicles of the resident on the property of the resident's dwelling unit; however, in no instance shall a resident repair the vehicles of other than a resident of the dwelling unit on said property.
3. In no instance shall vehicles for sale be displayed in a front yard other than in the driveway.

4. No more than one (1) inoperable vehicle may be stored outside the dwelling or the garage of the dwelling. Any such inoperable vehicle stored outside the dwelling or garage of the dwelling shall not be stored in the front yard and ~~must~~ shall be properly covered with a car cover which is manufactured for that purpose.
5. Vehicles utilized for demolition derbies, bump and runs, or similar events:
  - a. Shall not be stored or repaired in a front or side yard.
  - b. Shall only be stored or repaired in a rear yard.
  - c. Shall be screened from view of neighboring property or rights-of-way or shall be kept in an accessory building or attached garage.
  - d. Shall only be stored/repared on a solid foundation made of concrete or a similar impermeable material (not soil or grass).

C. **Solar Energy Panels - Accessory.**

1. Freestanding solar panels shall be considered an accessory structure and shall be subject to the requirements for such, together with all other applicable building codes and ordinances. All accessory solar energy panels require a building permit (no zoning permit is required).
2. **General Standards.** ~~Roof or wall-mounted panels shall be installed as follows:~~
  - a. **Roof-Mounted Accessory Solar Panels.** ~~Roof-mounted accessory solar panels shall not exceed four (4) feet above the finished roof and are exempt from any rooftop equipment or mechanical system screening requirements.~~  
~~Located on a pitched roof (4:12 or greater) shall be installed flat against the roof deck.~~  
  
~~Located on a pitched (less than 4:12) or flat roof May be installed at an angle with the top edge a maximum of four (4) feet above the eave line of the building.~~
  - b. **Wall-Mounted Accessory Solar Panels.** Panels shall be installed either flat against or angled so that the top edge abuts the building and the bottom edge is a maximum of two (2) feet out from the base of the wall.

c. **Ground-Mounted Panels.**

- (1) Ground-mounted accessory solar energy panels shall adhere to setbacks and location established for detached accessory buildings pursuant to **Section 3.11.C**. Setbacks are measured from the lot line to the nearest portion of the structure when oriented at minimum tilt. If no solar access is available in the location required, the Planning Commission may approve ground-mounted solar energy panels in an alternate location on a case-by-case basis. Screening from the road or neighboring property may be required.
- (2) Ground-mounted accessory solar energy panels shall not exceed **twenty (20) feet** in height when oriented at maximum tilt measured from the ground to the top of the system.
- (3) **Glare**. Panels shall not result in glare onto adjoining properties or public rights-of-way.

~~All electrical equipment and battery storage shall be located within a locked panel or building (principal or accessory structure) so as not to be readily accessible. A small sign shall be placed on the panel or building with emergency contact information. A Manufacturers Materials Safety Data Sheet(s) for all coolants, lubricants, batteries (acid), etc. shall be provided to the City prior to installation, and updated or amended sheets provided as may be required.~~

- (4) **Lot Coverage**. Ground-mounted accessory solar energy panels shall not count toward the lot coverage limits in **Article 5**.

**d. Nonconformities.**

- a. A building-mounted accessory solar energy panel installed on a nonconforming building or nonconforming use shall not be considered an expansion of the nonconformity.
- b. Ground-mounted accessory solar energy panels installed on a nonconforming lot or nonconforming use shall not be considered an expansion of the nonconformity.

- D. ~~Permanent~~ **Private Pools**. Private pools shall be permitted as an accessory use within the rear and side yard only. **Pools with a depth of twenty-four (24) inches or greater shall, provided they meet the following requirements:**

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1. ~~There shall be a minimum distance of not less than six (6) feet between the adjoining property line or alley right of way and the outside of the pool wall. Setbacks for a reversed corner lot shall be the same as for accessory buildings. All pools shall meet the accessory structure setbacks as required in Section 3.11.C.~~

~~There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.~~

2. For the protection of the general public, all yards containing permanent swimming pools shall be completely enclosed by a privacy fence not less than ~~six (6)~~ four (4) feet in height. Gates shall be of a self-closing and latching type ~~with the latch on the inside of the gate not readily available for children to open.~~ Gates shall be capable of being securely locked when the pool is not in use for extended periods.

~~Portable pools of a depth of twenty four (24) inches or greater shall conform to the requirements of the current Building Code used by the City of Alpena Building Department.~~

- E. **Parking Of Commercial Vehicles.** A commercial vehicle may be parked on residentially-zoned property if all of the following conditions are met:

1. The vehicle is used as the principal means of transportation for a resident in the conduct of his employment or profession or is the resident's sole means of motor vehicle transportation.
2. The vehicle is not a dump truck, stake truck, flatbed truck, or semi tractor which exceeds 5,000 pounds empty weight.
3. The vehicle does not exceed ten thousand (10,000) pounds, empty weight, as defined in 1949 PA300, as amended. (Ord. No. 95-247).

- F. **Outdoor Mechanical Equipment.** The following regulations shall apply to outdoor mechanical equipment (such as air conditioning units) on residential property or commercial property which abuts a residential use:

1. Shall not be located in the front yard.
2. Shall be located so as to create the least disturbance to neighboring properties.

- G. **Electric Vehicle Charging Stations.**

**1. General.**

- a. **Accessory Use.** Electric vehicle charging stations are permitted by right in all zoning districts. Freestanding electric vehicle charging stations are accessory structures. Electric vehicle charging stations which are available for use by the public or customers of an establishment, when not the primary use of the parcel, require Zoning Administrator approval via a zoning permit. An electrical permit is also required for all charging stations.
- b. **Principal Use.** If the principal use of a parcel is the retail charging of electric vehicle batteries, then the use shall be considered a gas station for zoning purposes. Installation of charging stations shall be subject to Special Land Use approval and located in zoning districts which permit gas stations.
- c. All electric vehicle charging stations available to the public must be operable and kept in good repair.
- d. Electric vehicle charging stations located on a residential lot shall not be open to the public or used for commercial activity.
- e. Sites with four (4) or more electric vehicle charging stations shall provide at least one (1) barrier-free electric vehicle charging space.
- f. The property owner may determine if non-electric vehicles will be permitted or barred from parking spaces dedicated to electric vehicle charging stations.

**2. Locational Standards for Electric Vehicle Charging Stations.**

- a. Where possible, electric vehicle charging stations should be located adjacent to each other to reduce the amount of electrical infrastructure necessary to serve them. In non-residential districts, electrical infrastructure shall be located underground.
- b. In non-residential districts where electric vehicle charging stations are installed, adequate site lighting shall be provided.
- c. Adequate charging station equipment protection, such as concrete filled steel bollards, shall be used. Non-mountable curbing may be used in lieu of bollards if the charging station is set back a minimum of twenty-four inches (24) from the face of the curb.

3. **Usage Fees.** An owner of a charging station is not prohibited from collecting a fee for the use of a charging station, in accordance with applicable state and federal regulations. Fees shall be prominently displayed on the charging station.

4. **Signage.**

a. Electric vehicle charging station voltage and amperage levels, ~~time of use,~~ fees, and safety information shall be displayed on charging station equipment.

b. Signs may be free standing or placed on accessory structures pursuant to **Article 4**.

## Section 3.13 Access to Public Street

In every Zoning District, every use, building or structure established after the effective date of this Ordinance shall be located on a parcel which abuts a public street or a private street or easement which provides access to a public street, such private street or easement being at least ~~forty (40)~~ **fifteen (15)** feet in width, unless a lesser width was duly established of record prior to the effective date of this Ordinance. ~~or as part of a Planned Unit Development, provided that private easements in all cases shall be at least twenty (20) feet in width.~~

## Section 3.14 Intersection & Driveway Visibility

### A. Intersection Visibility **Triangle Requirements.**

A clear vision area shall be kept in the triangle formed by the intersecting street right-of-way lines where the two (2) sides of the triangle are formed by measuring fifteen (15) feet along the street right-of-way line from their points of intersection, and the third side is a diagonal line connecting the points. No fence, wall, screen, hedge, sign, or other structure or planting shall obstruct vision in this clear vision area. *Montiel is reviewing optional distances in different areas with Engineering.*

~~On any corner lot, a clear vision area shall be established where no fence, wall, screen, hedge, sign or other structure or planting shall obstruct vision between the heights of three (3') ~~four (4)~~ feet and ten (10) feet within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines and twenty five (25) ~~fifteen (15)~~ feet distant from their point of intersection. Such heights of clear vision areas shall be measured from the elevation of the street centerlines at the point of intersection. Driveways and alleys shall not be located within the intersection visibility triangle.~~

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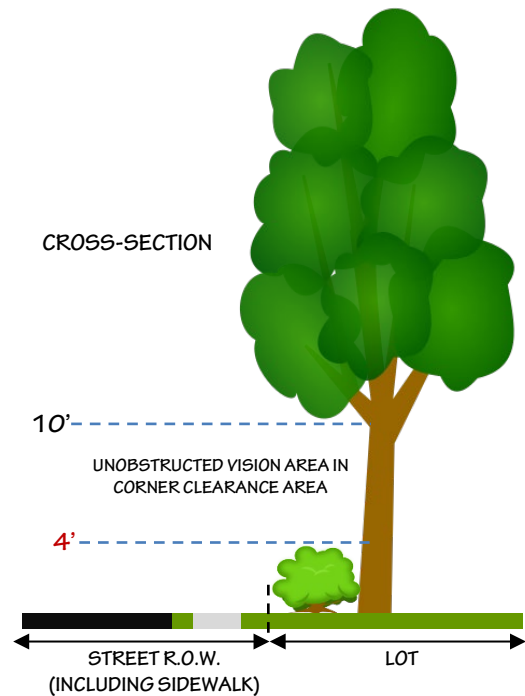
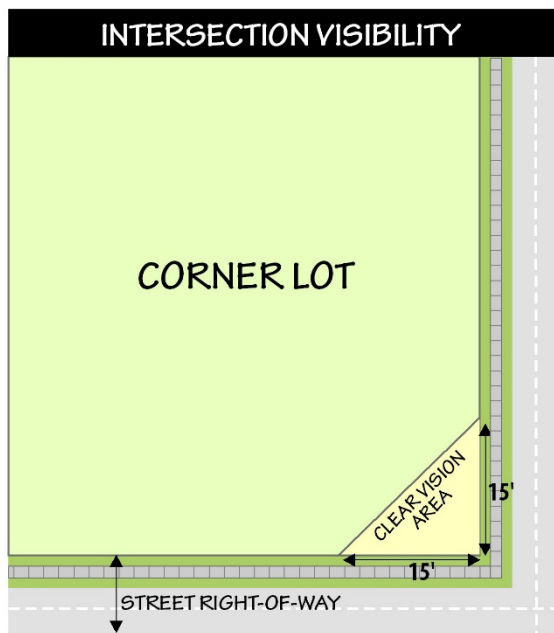
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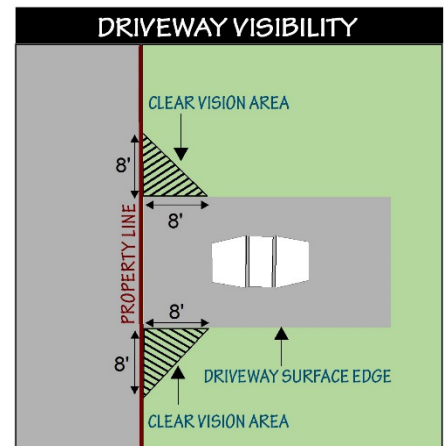
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#### B. Driveway and Alley Visibility Triangle Requirements.

At intersections of driveways and alleys with streets, no fence, hedge, wall, sign or other structure shall be erected, placed or allowed to grow, and no motor vehicle or recreational vehicle may be placed in such a manner as to impede vision between a height of three (3) feet and ten (10) feet above the established driveway or alley grade level in the area bounded by the driveway or alley lines and lot lines and a line joining points along the lines (eight) 8 feet from the point of intersection of the driveway or alley lines and such lot lines. A clear vision area shall be kept in the triangle formed by the intersection of a driveway and a street or alley where the two (2) sides of the triangle are formed by measuring eight (8) feet in length along the surface edge of the driveway and along the property line abutting the street or alley, and the third side is a diagonal line connecting the points. Nothing shall impede vision within this clear vision area between a height of four (4) and ten (10) feet.



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## Section 3.15 Residential Entranceway

In all ~~Residential~~ districts, entranceway structures, including but not limited to, walls, columns, and gates marking entrances to single family subdivisions, **planned unit developments, site condominium developments** multiple-family housing projects, commercial developments, industrial developments, mixed-use developments, or similar uses may be permitted and may be located in a **front or side setback required yard**, except as provided in **Section 3.14** (Intersection Visibility), provided that such entrance way structures shall comply to all codes of the City of Alpena, and shall be approved by the Building Department and a permit issued.

## Section 3.16 Essential Services

~~The erection, construction, alteration, maintenance, and operation by public utilities or municipal departments or commissions, of essential services shall be permitted as authorized or regulated by law and other Ordinances of the City of Alpena in any use District, provided that the above meet the setback and dimensional requirements of the respective districts and the Zoning Administrator is notified at least sixty (60) days prior to any major construction, and provided a Zoning Permit is obtained. Electrical substations shall comply with the fencing provisions of §3.28 of this Ordinance.~~

**Essential services shall be permitted as authorized and regulated by law and other ordinances of the City, it being the intention hereof to exempt such essential services from the application of this Ordinance. Utility facilities, including transformers, pump stations, substations, and buildings necessary to house utility equipment (“Utility Improvements”), shall be a permitted use in any district when the locating of such Utility Improvements are necessary for the furnishing of adequate service by such utilities or municipal departments for the general public health, safety, or welfare. When this is the case, this Section shall supersede the **Tables of Permitted and Special Land Uses in Article 5**. Utility Improvements shall undergo site plan review pursuant to **Article 6** and shall adhere to setback requirements of the district in which they are proposed to be located. Screening may be required pursuant to **Section 3.28**. This Section shall not apply to storage yards and office buildings which shall follow the procedure in this Ordinance to approval of office buildings and storage facilities.**

~~Telecommunication towers~~ **Wireless facilities**, alternative tower structures, antennas, **solar facilities**, wind turbines ~~generators~~, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

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## Section 3.17 Sidewalks

For new construction, sidewalks shall be required in accordance with City standards in all City streets. The standard shall not apply to industrial parks and in those situations specifically exempted by the Planning Commission.

## Section 3.18 Manufactured Homes on Individual Lots/Parcels

*Discussion question was – how do you limit mobile homes? You can't discriminate based on how a building is built. So, the only way is by setting standards on the width allowed. So, you could say the minimum width is 20', so that no single-wide trailer can meet it. In order to allow tiny homes, then you'd have to only allow a width less than 20' if the total ratio was no less than 1:2 or 1:3. So, you basically say you are looking for something that is more of a square than a long rectangle. (A mobile home is about a 1:4). Discuss this issue again in Article 5/7*

A manufactured home newly sited on an individual lot shall meet the standards for minimum lot size, ~~yard~~ setbacks, and minimum floor area for the district in which it is located and shall meet the following additional standards:

- A. Manufactured homes shall be attached to an approved permanent foundation or basement and shall be anchored using a system that meets the Michigan Manufactured Housing Commission requirements.
- B. The wheels, axles and towing assembly shall be removed from a manufactured home before the unit is attached to the foundation. Additionally, no manufactured home shall have any exposed undercarriage or chassis.
- C. Manufactured homes shall be installed according to the United States Department of Housing and Urban Development (HUD) regulations entitled "Manufactured Home Installation Standards", and the construction of the unit shall comply with the United States Department of Housing and Urban Development (HUD) regulations entitled "Manufactured Home Construction and Safety Standards", being 24 CFR part 3280, as amended.
- D. Manufactured homes shall not be attached to each other. Additions, new roofs and accessory buildings may be attached to a manufactured home.
- E. No manufactured home shall be located or placed in the City of Alpena without prior completion of site preparation to include electric, water, sewage disposal and foundation to meet the current HUD rules and regulations and District Health Department regulations.

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F. Manufactured homes shall not be used as accessory storage buildings.

### Section 3.19 Required Water Supply & Sanitary Facilities

Buildings hereafter erected, altered or moved upon any premises and used in whole or in part as either year-round or seasonal dwellings or for recreational, business, commercial or industrial purposes, including religious institutions, schools, and other buildings in which persons customarily congregate, shall have adequate water and sanitary facilities as determined by the District Health Department.

### Section 3.20 Hazardous Substances/Groundwater Protection

These provisions apply to persons, businesses or entities that use, generate or store hazardous substances in quantities greater than twenty-five (25) gallons or two hundred twenty (220) pounds per month. All storage and containment facilities shall be designed in conformance with all current US EPA and/or ~~MDNR~~ State of Michigan standards and applicable sections of the Michigan Building Code, as adopted. Stamped engineered drawings certifying that the facilities are in compliance with those standards shall be submitted to the City Building Official as part of the site and plan review process.

- A. Sites at which hazardous substances and polluting material are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, surface water and wetlands.
- B. Secondary containment for aboveground areas where hazardous substances and polluting materials are stored or used shall be provided and maintained. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
- C. General purpose floor drains shall be allowed only if they are connected to a public sanitary sewer system, an on-site holding tank, or a system authorized through a state groundwater discharge permit.
- D. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

The Planning Commission may require a performance bond or similar assurance for safeguards prior to approval. The Planning Commission may also require site plan review at five (5) year intervals.

## Section 3.21 On-Site Drainage & Runoff

- A. No premises shall be filled or graded so as to discharge surface runoff onto abutting premises or in such a manner that will cause inconvenience or damage to adjacent properties. When property is developed adjacent to existing properties previously developed, existing grades have priority.
- B. Uses other than Single-Family and Two-Family Dwellings.**
1. The property owner or developer is required to retain on site all stormwater drainage in excess of natural conditions. This provision may require stormwater retention ponds where appropriate. An exception can be made for water leaving the site via an existing stormwater pipe or through other stormwater facilities which will be developed at the same time as the proposed new use. All stormwater facilities, including detention or retention ponds, shall be designed at minimum to handle a storm with the projected frequency of once every ten (10) years (ten-year design storm).
  2. Storm water management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to storm water runoff and soil erosion from the proposed development.
  3. The use of swales, rain gardens, and vegetated buffer strips is encouraged in cases where the Planning Commission deems it to be safe and otherwise appropriate as a method of storm water conveyance so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants. Such systems shall be permitted within required setbacks.
  4. Green roofs and rainwater collection systems on roofs may be utilized to fulfill some stormwater management requirements.
  5. Permeable parking lots may be utilized to fulfill some stormwater management requirements. A gravel parking lot is not permitted to be used to fulfill stormwater management requirements.



## Section 3.22 Storage in Front Yards

The storage of goods or materials shall not be allowed in a front yard in any district unless otherwise allowed by this Ordinance.

## Section 3.23 Waterfront Setback; Floodplains; High Risk Erosion Areas

### A. Waterfront Setback.

To provide minimum setback standards in the Zoning Ordinance to protect surface water resources and flood plains from adverse construction or alteration, these measures are deemed to be the minimum necessary in order to:

- Avoid structural encroachment of the natural waters and waterways, except in the situation of uses traditionally depending upon direct water access.
- Promote high water quality through the encouragement of an undisturbed natural area to trap nutrients and sediment from entering natural waters, and to prevent erosion.
- Protect the natural environment of streams and lakes for wildlife habitat purposes and to preserve, to the extent practical, the natural image of landscapes.

With the exception of property located within the Waterfront Development (WD) District, any property which borders on Lake Huron or the Thunder Bay River shall be subject to waterfront setbacks for buildings and uses, as follows:

1. Principal structures shall observe a minimum setback of thirty-five (35) feet from the documented Ordinary High Water Mark in all Districts.
2. Accessory structures, parking lots, and other impervious surfaces, except boat docks, boat houses, boat slips, ramps, or marinas, pumphouses, or other water-dependent uses, shall observe a minimum setback of fifteen (15) feet from the documented Ordinary High Water Mark in all Districts. Except for a potential interference in floodways, the setbacks of this paragraph shall not apply to drains or intermittent streams. An intermittent stream is one which holds water at some time during each year, but for not more that eight (8) months.
3. Decks and patios shall not extend beyond the Ordinary High Water Mark.

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4. Docks, boat slips, ramps, and other water-dependent structures shall observe the side setback applicable to accessory structures. These types of structures do NOT need a zoning permit.
5. **Other Environmental Rules.** Any filling or construction within flood plains or wetlands, or other environmental areas protected by State Law, or other laws, shall require appropriate permits from the government unit or agency having jurisdiction.

#### B. Floodplains.

Datum utilized in conjunction with the Federal Emergency Management Agency Flood Insurance Rate Map Number 2600100005 B, as amended, shall control all construction in accord with standards established to minimize flood hazards. For construction within the 100-year floodplain, the lowest floor of the structure must be elevated one (1) foot above the 100-year flood elevation.

### Section 3.24 Animals Reserved

~~Animals are addressed in the municipal code, so this section can be reserved for a future amendment.~~

- ~~A. The keeping, housing, raising, use, or medical care of domestic, farm or exotic animals, other than up to three (3) domestic pets six (6) months of age or older and belonging to an occupant of the premises, is prohibited in all Residential Districts within this ordinance. Kennels and veterinary hospitals shall be permitted by right or by Special Land Use only as set forth in Article 5 hereof.~~

~~All animals shall be kept in compliance with the currently adopted Generally Accepted Agricultural Management Practices (GAAMPS).~~

### Section 3.25 Removal & Dumping of Materials

- A. **Soil, Sand, Clay, Gravel or Similar Materials; Removal; Filling (Not Including Mining as a Special Use).**
1. From and after the effective date of this Ordinance, it shall be unlawful for any person, firm, corporation, partnership or any other organization or entity to strip any topsoil, sand, clay, gravel, or similar material, or to use lands for filling within the area of the City without first obtaining ~~permission~~ a zoning permit from the Zoning Administrator. City Engineering Department.

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**2. Exceptions.**

- a. Excavations for building construction purposes pursuant to a duly issued building permit.
  - b. Where the moving, grading or leveling of the aforesaid materials is carried on by the land owner for the immediate use or development of the land upon which these substances are found and according to a site plan approved by the Zoning Administrator or the Planning Commission.
3. A separate **zoning** permit shall be required for each separate site. Each application for a **zoning** permit shall be made in writing to the City **Engineering Planning, Development, Zoning, and Building Safety** Department and shall contain the following information as a condition precedent to the obligation to consider such request:
- a. Names and addresses of parties of interest in said premises setting forth their legal interest in said premises.
  - b. Full legal description of the premises wherein operations are proposed.
  - c. Detailed proposal as to method of operation, what type of machinery or equipment will be used, and estimated period of time that such operation will cover.
  - d. Detailed statement as to exactly what type of material is proposed to be extracted or deposited.
  - e. Proposed method of filling excavation and/or other means to be used to allow for the reclamation of lands to a usable purpose.
  - f. Such other information as may be reasonably required by the City to base an opinion as to whether a permit should be issued or not.
4. Where, in the opinion of the City there is a reasonable danger involved for persons and/or property, adequate fencing and other measures may be required to insure the keeping of the health, safety and general welfare of City residents.
5. In any permitted filling operation all materials deposited shall be adequately covered with a minimum of six (6) inches of clean fill material and an adequate amount of topsoil to cover those materials below.

6. No approval shall be issued for fill operations which involve the burning of materials or depositing of garbage, offal and other wastes capable of decay, producing odors, attracting vermin, or producing other nuisances. Fill material shall not consist of glass, wire, plastics, metal piping, blacktop, or other man-made items with the exception of concrete or a similar material.
7. If concrete or similar material is used for fill, the size of the material shall be of no greater size than two (2) square feet.
8. Any excavating or filling within five hundred (500) feet of a lake or stream must first have a permit from the soil erosion and sedimentation control officer.
9. No excavation or fill operation shall be of a duration of over ninety (90) days without written approval from the City.
10. Material to be placed on the site shall be of such a composition as not to create potential contamination of the natural environment including groundwater, vegetation, soils and surface waters. No dumping of soil, sand, clay or similar material shall be undertaken that appreciably increases the surface runoff reaching adjacent or surrounding property. Surface runoff shall be dissipated by retention on the development parcel, percolation into the soil, evaporation, or by transport by natural drainage way or conduit to any appropriate point of discharge.

#### **B. Dumping of Waste Materials.**

The dumping of garbage is prohibited in the City. Garbage must be collected and hauled away by a licensed sanitation company and deposited in a certified landfill. The collection, accumulation, storage or disposal of waste material, used construction material, junk, or debris, is prohibited, except under the following circumstances as properly sealed and adequately concealed materials:

1. Such practices occur in a junk yard or recycling facility authorized under this Ordinance and are included in the approved site plan.
2. Such practices are a necessary accessory use to a commercial or industrial use authorized under this Ordinance and are included in the approved site plan.

#### **C. Temporary Storage of Used Materials.**

<b>1</b> Purpose	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> Signs	<b>5</b> District Regulations
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The temporary storage, collection or placing of used or discarded material, such as lumber, scrap iron, slag, ashes or other such matter shall be allowed only during demolition and or construction periods, not to exceed six (6) months. Temporary storage must comply with all Federal and State Regulations. After six (6) months, the Zoning Administrator shall require the removal of such material. Such removal shall take place in a time frame at the discretion of the Zoning Administrator after written notice is sent by the Zoning Administrator to the person or persons responsible for said storage, notifying him/her that such material must be removed and stating the date on which such materials must be removed from the premises.

## Section 3.26 Exterior Site Lighting

### A. Intent and Purpose.

The purpose of exterior lighting standards is to create and maintain safe nighttime environments for both pedestrians and drivers on public roadways and rights-of-way by minimizing brightly lighted surfaces and lighting glare; conserve energy and resources; to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow” **to facilitate the preservation of a dark sky environment**; and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. More light does not result in better safety or security; the right amount of light, in the right place, at the right time, is most effective. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this Zoning Ordinance.

### B. General Standards.

1. **Exempted Areas and Types.** The following types of outdoor lighting shall not be covered by this Ordinance:
  - a. Residential decorative lighting such as porch or entry lights, low level lawn and driveway lights, and special seasonal lights such as Christmas decorations.
  - b. Lights located within the public right-of-way or easement.
2. **Regulated Lighting.** The following types of lighting shall be regulated by this Ordinance:
  - a. Parking lot lighting and site lighting for commercial, industrial and institutional developments.
  - b. Multiple-family development parking lot lighting and site lighting.

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- c. Privately-owned street lighting.
  - d. Building facade lighting.
  - e. Security lighting, spotlights, and floodlights.
  - f. Other forms of outdoor lighting which, in the judgment of the Zoning Administrator or Planning Director, is similar in character, luminosity and/or glare to the foregoing.
  - g. Standards related to the lighting of signs are contained in **Article 4**.
3. **Standards.** Lighting shall be designed and constructed as per the following requirements:
- a. To minimize the harmful effects of light pollution, lighting should:
    - (1) Only be on when needed.
    - (2) Only light the area that needs it.
    - (3) Be no brighter than necessary.
    - (4) Minimize blue light emissions.
    - (5) Eliminate upward-directed light.
  - b. All exterior lighting shall be designed in a consistent and coordinated manner for the entire site. All lighting structures within a property or planned development shall be of uniform design and materials and shall be harmonious to the scale of the property and its surroundings. Parking lot and street lights shall also be of uniform height. *Discreet lighting recessed within eaves is preferred.*
  - c. Direct or directly reflected light shall be confined to the development site and pedestrian pathways and shall not negatively affect adjoining property.
  - d. Except for diffused globe-style walkway lights, lighting for sporting events, and *upward directional* lighting addressed in **subsection B.3.e**, the following shall apply: all outdoor lighting in all districts shall be directed toward and confined to the ground areas of lawns or parking lots. Exterior lighting shall be shielded, hooded and/or louvered to provide a glare-free area beyond the property line unless the light source is not directly visible from beyond the boundary of the site. Lighting fixtures shall have one hundred (100) percent cut off above the horizontal plane at the lowest part

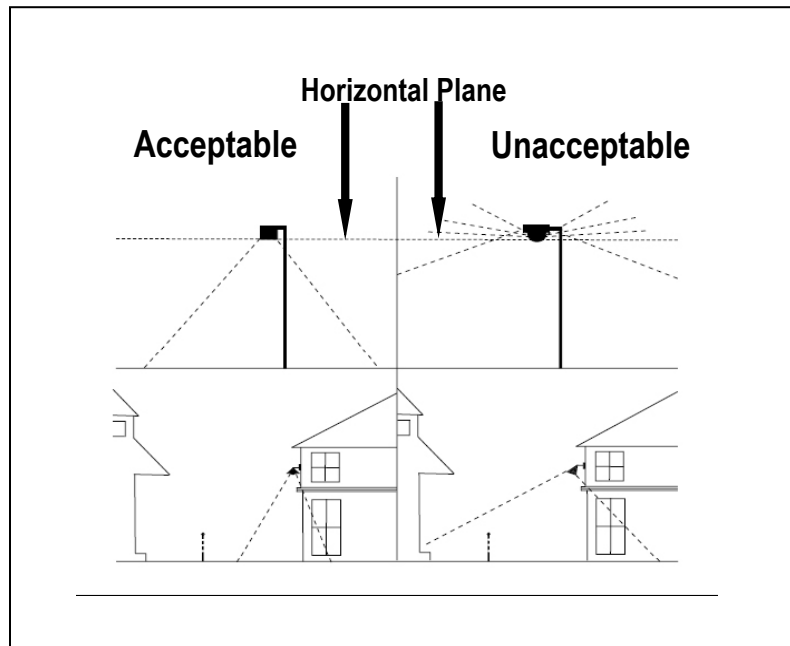
of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. See **Figure 3.27**.

- e. All lighting used for the external illumination of buildings and flags with lights directed in an upward direction so as to feature said buildings and flags, shall be placed and shielded so as not to interfere with the vision of persons on adjacent streets or adjacent property.
- f. ~~The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle. Site lighting shall not exceed twenty (20) foot candles as measured three (3) feet above the ground surface, directly under the fixture.~~
- g. ~~Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.~~ For exterior recreational facilities, sufficient information must be submitted that demonstrates that the location, selection, and aiming of all lighting fixtures will focus light on the playing areas, minimize glare and visibility from adjacent and nearby properties and roadways, and minimize sky glow. A written explanation and statements shall be supplied explaining why locations, fixtures types, intensities, orientation of fixtures and other decisions were made.
- h. Pedestrian lighting shall be no more than sixteen (16) feet in height. Parking lot lighting and lighting for public and private streets shall be no more than twenty-five (25) feet in height. The **Zoning Administrator or** Planning Commission may permit taller fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or bulk of light fixtures; not adversely impact neighboring properties; and permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. The **Zoning Administrator or** Planning Commission may require shorter fixtures.
- i. Lighting poles and structures shall be located within landscaped areas where possible.
- j. All illumination of any outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. Beacon, strobe and search lights are not permitted.

- k. No colored lights shall be used at any location where it may be confused with or construed as traffic control devices.
- l. Ceiling lights in gas pump island canopies shall be recessed.

Visit [www.darksky.org](http://www.darksky.org) for more information.

**Figure 3.26: Lighting Direction**



**Table 3.27 Administrative Departures**

<b>Administrative Departures</b>	<ol style="list-style-type: none"> <li>Greater intensities <b>Lighting which does not meet the standards of this Section</b> may be allowed where additional security may be needed.</li> <li>Higher fixtures may be permitted for pole lighting if the fixture is located at least two hundred (200) feet from a Residential District or use.</li> </ol>
<b>Planning Commission Departures</b>	<ol style="list-style-type: none"> <li>Greater intensities <b>Lighting which does not meet the standards of this Section</b> may be allowed where additional security may be needed.</li> <li>Higher fixtures may be permitted for pole lighting if the fixture is located at least two hundred (200) feet from a Residential District or use.</li> </ol>

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## Section 3.27 Fences & Walls

For the purposes of this Section, when a solid wall is used as a fence, it shall be considered a fence.

### A. General Standards ~~Construction and Maintenance~~: All Districts.

1. A fence requires a zoning permit. Fences which are part of an approved site plan do not require a separate zoning permit.
2. Fence ~~and wall~~ materials may include treated wood, painted/stained wood, treated split rail, ornamental wrought iron, brick, stone, masonry block, molded vinyl, chain link, or other materials as approved by the City of Alpena. Scrap lumber, plywood, ~~chicken wire~~, sheet metal, plastic or fiberglass sheets are specifically prohibited.
3. **Front Yard Fences.** ~~Ornamental Fences located in front yards shall be constructed in a style similar to split rail, picket, wrought iron fences, or decorative masonry and shall have a surface area which is fifty (50) percent or more open. No chain link fences or wire fences shall be permitted in front yards. Ornamental fences in a front yard must contain openings at least fifty (50) percent the width of the slats. If a wall/fence combination is used, the wall may be solid up to twenty-four (24) inches two (2) feet in height high and an open-style fence can make up the balance to total forty-two (42) inches four (4) feet high.~~ **Talk about solid 4' fences.**
4. Fences on residential or commercial lots shall not contain barbed wire, electric current or charge of electricity.
5. Fences located in the side or rear yard of industrial lots may contain barbed wire, ~~razor wire~~, electric current or charge of electricity ~~at the discretion of the Zoning Administrator under special circumstances due to necessary security or safety.~~
6. The portions of all fences facing property other than the property of the fence owner or facing a street right-of-way shall be finished and constructed so that, to the extent possible by the design of the fence, the fence posts and the horizontal and/or vertical fence supports are not visible from that other property or from the street right-of-way.
7. Fences shall be maintained to retain their original appearance, shape and configuration. Elements of a fence that are missing, damaged, destroyed or deteriorated shall be replaced and repaired to maintain conformity with the original fence appearance and design.
8. **Visibility Triangle.** Fences, ~~walls~~, or hedges installed, constructed, or planted in accordance with the provisions of this Ordinance shall not obstruct visibility triangles as regulated in **Section 3.14**. ~~Fences within the intersection and driveway visibility triangle shall have a maximum height of four (4) feet and shall have a surface area which is fifty (50) percent or more open.~~

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9. **Fences Located Directly on the Property Line.** In all districts, fences and walls may be located directly on the property line in the interior side and/or rear yards if a prearranged agreement is signed by both abutting property owners and recorded with the Register of Deeds. Said agreement shall run with the land but shall terminate as per said agreement or upon removal of the fence. If a property line is in dispute, the City shall require either (1) an agreement signed by both property owners or (2) a property survey prior to the installation of a fence. The City recommends that the applicant contact owners of abutting lots to assure they are in agreement with the fence location and construction. The City does not arbitrate disputes between property owners regarding fences. The City recommends the property owner(s) have a survey completed prior to erecting the fence. It is not the responsibility of the City to locate correct property lines.

10. A fence shall not be placed on a berm or any area of ground built up for the purpose of gaining fence height.

B. **Residential Fences and Walls.** Fences and walls shall require a Zoning Permit issued by the Zoning Administrator and shall comply with the following regulations and requirements:

*The fence tables on the following pages are replacing larger and more cumbersome tables in the current ordinance that were based on fence type.*

<b>1</b> Purpose	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> Signs	<b>5</b> District Regulations
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**TABLE 3.27 (A) RESIDENTIAL FENCES**

Yard	Maximum Height	Minimum Setback
1. Front Yard	4' See §A.3	2' from the sidewalk or 6" inside the lot line, whichever is greater
2. Interior Side Yard	6'	Outer face may abut lot line §A.9
3. Street Side Yard		
a. Reversed Corner Lot (rear lot line abuts side lot line of lot to the rear)	Up to 4'	2' from the sidewalk or 6" inside the lot line, whichever is greater
	Over 4' up to 6'	Set back a distance equal to the front setback of the lot to the rear or the setback of the principal structure of the lot to the rear, whichever is less
b. Not on Reversed Corner Lot	6'	2' from the sidewalk or 6" inside the lot line, whichever is greater
4. Rear Yard	6'	Outer face may abut lot line §A.9
5. Waterfront Yard	6'	15' from Ordinary High Water Mark
6. Through Lots	Fence requirements for through lots are the same as above. Front yard is determined by the direction the principal structure faces.	
	If a rear lot line is next to a front lot line of the neighboring lot along the same street, then a fence between 4' and 6' along the rear lot line facing that street shall be setback equal to the front yard setback of the adjacent lot along that street. Fences up to 4' shall adhere to the front yard standards above.	
<ul style="list-style-type: none"><li>6" additional is allowed for fence posts and raising fence off the ground for maintenance purposes.</li><li>Swimming Pools: Fence requirements for swimming pools are contained in Section 3.12.D.</li></ul>		

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- C. ~~Commercial and Industrial~~ **Non-Residential Fences and Walls**. Fences and walls which are not part of an approved site plan require a Zoning Permit from the Zoning Administrator. All fences and walls shall comply with the following regulations and requirements:

TABLE 3.27 (B) NON-RESIDENTIAL FENCES		
Yard	Maximum Height	Minimum Setback
1. Front Yard	4' See §A.3	2' from the sidewalk or 6" inside the lot line, whichever is greater Front yard fence setbacks do not apply to the Downtown Overlay District
2. Interior Side Yard	10'	Outer face may abut lot line §A.9
3. Street Side Yard		
a. Reversed Corner Lot (rear lot line abuts side lot line of lot to the rear)	Up to 4'	2' from the sidewalk or 6" inside the lot line, whichever is greater
	Over 4' up to 10'	Set back a distance equal to the front setback of the lot to the rear or the setback of the principal structure of the lot to the rear, whichever is less
b. Not on Reversed Corner Lot	10'	2' from the sidewalk or 6" inside the lot line, whichever is greater
4. Rear Yard	10'	Outer face may abut lot line §A.9
5. Waterfront Yard	6'	15' from Ordinary High Water Mark
6. Through Lots	Fence requirements for through lots are the same as above. Front yard is determined by the direction the principal structure faces.	
	If a rear lot line is next to a front lot line of the neighboring lot along the same street, then a fence between 4' and 6' along the rear lot line facing that street shall be setback equal to the front yard setback of the adjacent lot along that street. Fences up to 4' shall adhere to the front yard standards above.	
<ul style="list-style-type: none"><li>• Zoning Administrator is authorized to allow fences greater than the heights above under special circumstances due to necessary security or safety.</li><li>• 6" additional is allowed for fence posts and raising fence off the ground for maintenance purposes.</li><li>• <b>Swimming Pools:</b> Fence requirements for swimming pools are contained in <b>Section 3.12.D.</b></li><li>• <b>Fences over 6' in height require a building permit.</b></li><li>• <b>Non-Residential Uses Adjacent to Residential Uses:</b> See <b>Section 3.19 Required Buffering &amp; Screening</b></li></ul>		

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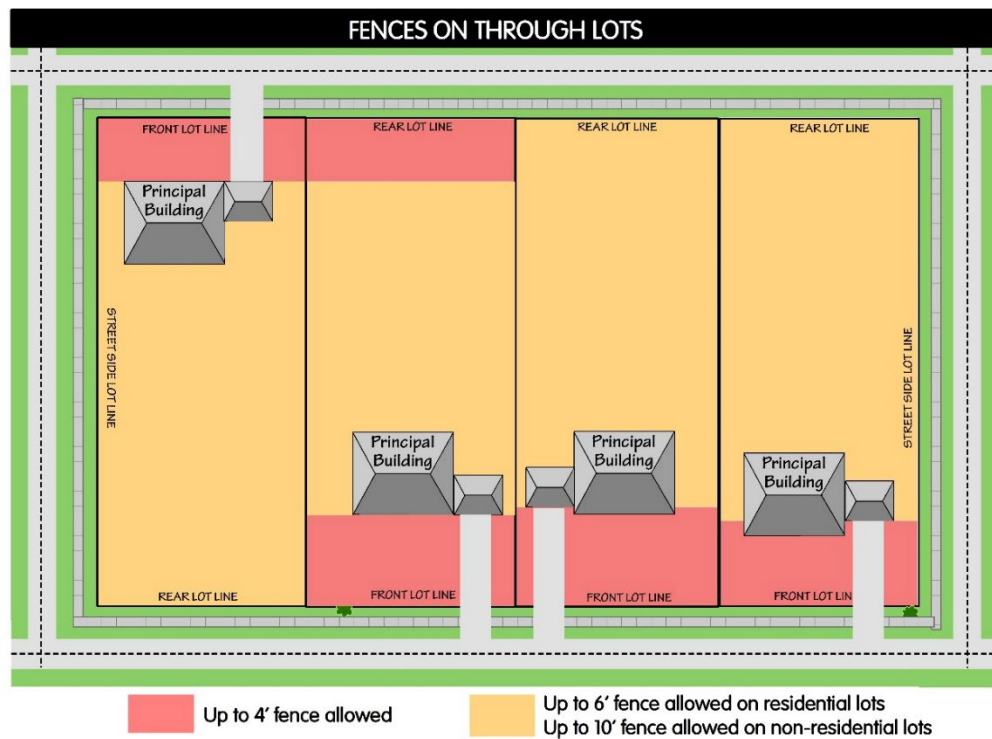
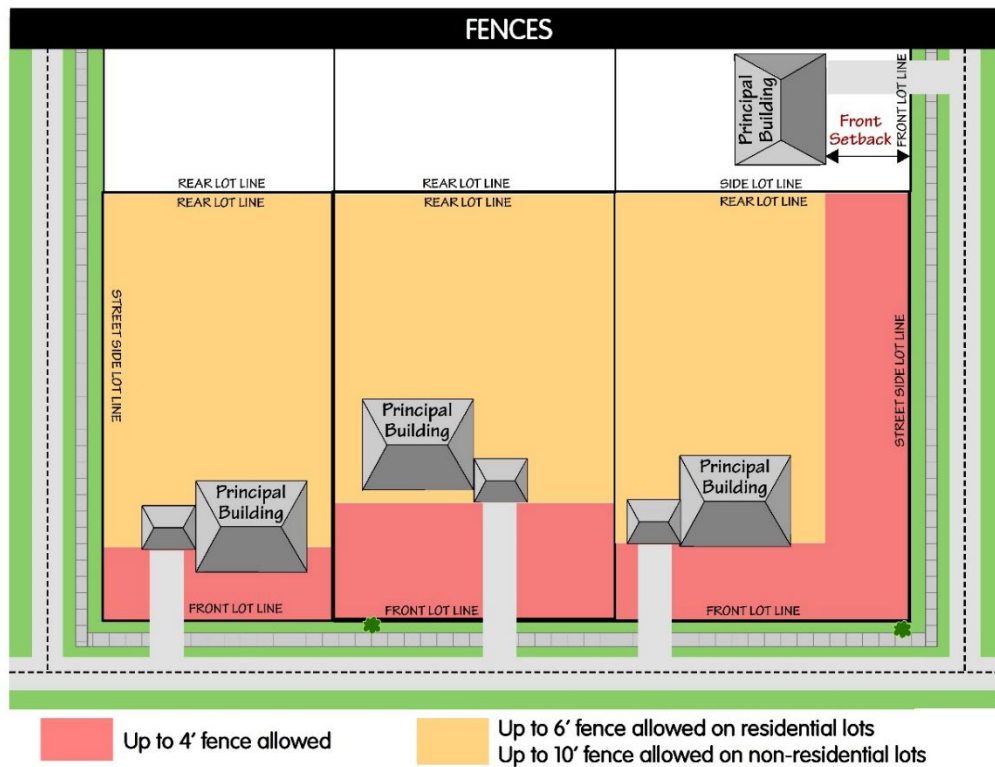
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## Section 3.28 Required Buffering & Screening

### A. General.

1. **Screening Required.** There shall be provided and maintained, between any non-residential and residential use, between any multiple-family and single-family uses, and between certain uses listed herein, an obscuring fence, wall, vegetative buffer, landscaped earth berm, or combination thereof as below set forth subject to materials and design approved by the Planning Commission or Zoning Administrator (dependent upon the body with the approving authority for the site plan). The screening shall be required along the entire length of the lot abutting lot line.
2. ~~Greenbelts~~ **Screening** shall be reviewed by staff for site plans requiring administrative review and by the Planning Commission for site plans requiring Planning Commission review to determine adequate width, length, and materials for screening purposes.
3. Required screening may be interrupted to provide reasonable pedestrian, bicycle, or vehicular access to a property from a public right-of-way.
4. The requirement for an obscuring wall between off street parking areas and abutting residential districts or uses shall not be required when such areas are located more than two hundred (200) feet distant from such abutting residential use or district.

### B. Height of Screening.

~~For those districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to a residential use of property or a residential district an obscuring fence or wall or a combination thereof as required below~~ The required height of the screening shall be as stated in **Table 3.28** below (except otherwise regulated by **§3.14** Intersection and Driveway Visibility):

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**TABLE 3.28 HEIGHTS OF SCREENING**

Use	Required Screening Height
<b>Side &amp; Rear Yard Screening Requirements</b>	
All districts except I-1, and I-2	4' 6" high fence or wall 6 feet high  CBD and CCD: Only a decorative masonry/brick wall or wrought iron fence shall be erected. Minimal landscaping (shrubs, groundcover, flowers) may be installed to provide visual variety.
I-1 and I-2 Districts	8' high wall or fence (Height shall provide open storage areas, loading/unloading areas, or service areas the most complete obscuring possible.)
Auto wash, drive-in restaurants, drive-through establishments, loading areas, dumpsters	6' high fence or wall
Hospital – ambulance and delivery areas	6' high fence or wall
Public utility buildings, stations and/or sub-stations	6' high fence or wall; 8' if in an Industrial Zone.
Outdoor storage areas	6' high fence or wall; 8' if in an industrial zone
<b>Front Yard Screening Requirements</b>	
Any non-residential use with a residential use across the street	24" – 30" high wall or shrubs

**C. Fences and Walls Used as Screening.**

- Screening Materials.** Solid fences, walls, or chain link or other wire fence utilizing metal, plastic or wood slats shall not be considered an obscuring wall for the purpose of this Ordinance. ~~The Planning Commission may, in its review of site plans for specific uses, allow or require the provision of a greenbelt planting consisting of trees and shrubs alone or in addition to a fence or wall to serve as a screen where such screens are required under this Ordinance or where conditions are such that a more effective and harmonious development with abutting or neighboring land uses would result. Greenbelt plantings shall be regulated under Section 3.29.~~ The construction of a fence or wall in combination

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with a berm to achieve the required height standards for screening purposes may also be approved. The height of the berm in addition to the fence atop of the berm shall not exceed the total allowable fence height as permitted by district.

2. **Location.** Required fences and walls may abut the lot line except where underground utilities interfere and except in instances where this Ordinance requires conformance with front yard setback lines on abutting residential lots. Upon review of the site plan, the Planning Commission or **Zoning Administrator** may approve an alternate location for the fence or wall or may waive the fence or wall requirement if in specific cases it would not serve the purposes of effectively screening the use. Required fences or walls may, upon approval of the Planning Commission, be located on the opposite side of an alley when mutually agreeable to the affected property owners. The continuity of the required wall on a given block will be a major consideration of the Planning Commission in reviewing such request.

### 3. **Wall Construction for Screening Purposes.**

- a. All walls herein required shall be constructed of materials approved by the Zoning Administrator to be durable, weather resistant, rustproof and shall be maintained by the commercial or industrial property owner or tenant at all times equal in condition to the completed structure at the time of initial installation. Wood or wood products, when utilized, shall be treated (wolmanized or equal) and maintained at all times.
- b. Walls may be constructed with openings which do not in any square section (height and width) exceed twenty (20) percent of the surface where uses to be screened do not generate noise which may impact abutting residential uses. Where walls are so pierced, the openings shall be so spaced as to maintain the obscuring character required and shall not reduce the minimum height requirement. The arrangement of the openings shall be reviewed and approved by the Zoning Administrator.

Walls which screen uses that do generate noise which may impact abutting uses shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this Ordinance and except such openings as may be approved by the Zoning Administrator.

- c. ~~Required~~ Walls shall be constructed of sound absorbing materials when, in the opinion of the Planning Commission or the Zoning Administrator, the use could result in noise of such frequency and/or magnitude as to pose a potential nuisance to abutting residents.



~~The City may require that a suitable maintenance guarantee be provided for the continued maintenance of walls required under this Ordinance.~~

#### **D. Greenbelts.**

The Planning Commission or Zoning Administrator may, in review of site plans for specific uses, allow or require the provision of a vegetative buffer strip consisting of trees and shrubs alone or in addition to a fence or wall or berm to serve as a screen where such screens are required under this Ordinance or where conditions are such that a more effective and harmonious development with abutting or neighboring land uses would result.

~~For nonresidential uses which abut a residential use or which are adjacent to a Residential District boundary, there shall be provided and maintained greenbelts or buffers. These requirements do not apply whenever the use, storage area, etc. is more than four hundred (400) feet from an adjacent residential use or residential district boundary.~~

1. The selection, spacing and size of plant material shall be such as to create, within a ~~four~~ **two (2)** year period from the date of planting, a horizontal obscuring effect for the entire length of the required ~~greenbelt~~ **screening** area, and a vertical obscuring effect of such height as is determined adequate by the Planning Commission ~~or Zoning Administrator~~ for proper screening between land uses.
2. The relationship between deciduous and evergreen plant materials shall ensure that a maximum obscuring effect will be maintained throughout the various seasonal periods.

~~Greenbelts shall be reviewed by staff for site plans requiring administrative review and by the Planning Commission for site plans requiring Planning Commission review to determine adequate width, length, and materials for screening purposes.~~

~~Required screening may be interrupted to provide reasonable pedestrian, bicycle, or vehicular access to a property from a public right of way.~~

~~Required screening of parking areas shall be achieved through the use of a decorative masonry/brick wall, decorative fencing, earth berms and landscape plant materials, either in combination or independently.~~

~~The Planning Commission may require or allow the substitution of walls and/or earth berms in those instances where a greenbelt or planting screen will not appropriately provide necessary screening to abutting properties. Where under the provisions of the Ordinance an option is provided to the developer relative to a required wall or berm for~~

~~a greenbelt, the minimum starting height of plant materials in said greenbelt shall be equivalent to the required wall or berm height.~~

#### E. Screening of Specific Uses.

1. **Dumpster/Trash Area Screening.** All outside trash storage areas, including dumpsters, shall be screened with a solid fence or wall at least six (6) feet in height.

The construction of the fence/wall shall be architecturally consistent with the primary structure on the lot. Fence/wall materials shall be block, wood, or vinyl. A chain link fence with slats shall not be permitted. A self-latching gate shall be required.

2. **Retention Ponds.** Every retention pond required by the City for water runoff storage and in which the deepest point is more than two feet below adjacent ground level with a slope from water's edge being no greater than 4 to 1, shall be enclosed with a fence or protective barrier a minimum of 6 feet in height. This requirement may be waived for those retention ponds that are incorporated within an approved landscape plan as a design feature.

3. **Junkyards, Motor Vehicle Impoundment Yards, Scrap Yards, Recycling Facilities, Motor Vehicle Wrecking Yards.**

- a. A wall or opaque fence, a minimum of eight (8) feet in height ~~and a maximum of fifteen (15) feet in height (including any barbed wire)~~, constructed of painted or treated wood, molded vinyl, painted or textured block, brick, or stone and set fifteen (15) feet or more inside the lot lines, shall be maintained in good repair around junk yards, motor vehicle impoundment yards, scrap yards, recycling facilities, motor vehicle wrecking yards or similar establishments. **Fences around these facilities may be higher than the maximum fence height in Section 3.x. Stored materials shall not be piled higher than the fence height.**

- b. ~~In a front or corner side yard the fence shall not project beyond the front façade of buildings located on adjacent lots on the same side of the street.~~

- c. Entryways to junk yards, motor vehicle impoundment yards, scrap yards, recycling facilities, motor vehicle wrecking yards, or similar establishment shall be gated and closed at all times when not in use. Gates shall be opaque and match the style of the fence.

d. A landscaped strip shall be maintained between the fence and property line in the following yards:

- (1) All front and corner side yards;
- (2) The front 1/3 of any side yard; and
- (3) Any yard abutting a residential zoning district or use.

The fence location shall allow for the installation and maintenance of this landscaped strip.

**Table 3.28 Administrative Departures: Screening**

<b>Administrative Departures</b>	<ol style="list-style-type: none"> <li>1. The Zoning Administrator may deviate from the screening listed in this Section including but not limited to requiring a higher screen or allowing a lower screen.</li> <li>2. The Zoning Administrator may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served.</li> </ol>
<b>Planning Commission Departures</b>	<ol style="list-style-type: none"> <li>1. The Planning Commission may deviate from the screening listed in this Section including but not limited to requiring a higher screen or allowing a lower screen.</li> <li>2. The Planning Commission may waive or modify the foregoing requirements where cause can be shown that no good purpose would be served.</li> </ol>

## Section 3.29 Natural Gardens

All property owners shall conform to the City of Alpena Code of Ordinances Chapter 102, Article III (Noxious Vegetation). Property owners may keep up to twenty-five (25) percent of their rear yard as a intentional natural garden of unmown vegetation, native to Michigan, for the purpose of providing a natural ecosystem for insects and wildlife. Said natural garden shall maintain side and rear principal building setbacks. At no time shall this natural garden become a nuisance to neighboring property owners due to the proliferation of natural vegetation, insects, or wildlife into the neighboring yards. Unmown vegetation within a natural garden shall not grow to a height greater than four (4) feet.

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## Section 3.30 Landscaping & Buffering

~~These~~ The requirements in this Section apply to all ~~uses for which site plan review is required~~ new development of a principal use which requires site plan review or special land use review or additions to existing development which increases the floor area twenty-five (25) percent or greater (or four hundred (400) square feet, whichever is less) in any district ~~the RM-1, RM-2, B-1, B-2, B-3, OS-1, WD, PUD, I-1, I-2, and US-23 Corridor Overlay Districts.~~ When an existing use removes more than fifty (50) percent of the existing landscaping, then this Section shall be complied with.



### A. Intent.

It is the intent of this section to protect and manage vegetation to:

1. Contribute to air purification, oxygen regeneration, groundwater protection and ~~recharge~~ replenishing, the promotion of green infrastructure, and the control of stormwater runoff.
2. Safeguard and enhance private and public property values and encourage continued investment in the community.
3. Enhance community appearance, identify unique natural beauty, and promote quality development at a suitable scale.
- ~~4. Provide visual screens between land uses of differing character and use intensities.~~
5. Provide for the preservation of native trees and vegetation.

### B. Flexible Design Standards.

1. It is recognized that alternative design concepts exist which, if adopted, could fulfill or exceed the results envisioned using these development standards. It is intended that the requirements of this ~~chapter~~ Section be flexible and permit latitude in site design and the use of plant materials when it can be shown that variation from the requirements will provide a development substantially equal to or better than that achievable using the

minimum standards of this Section. ~~The provisions of this Section shall be considered the minimum development standards and not a design goal.~~

2. ~~The Planning Director or~~ Zoning Administrator ~~or Planning Commission upon request of the Planning Director,~~ may approve variations from strict compliance with this Section when an applicant can demonstrate that any of the following apply to a specific development site:
  - a. When topography, shape, size, or other natural features make full compliance impractical or impossible.
  - b. When space limitations or prevailing development patterns in the surrounding neighborhood justify alternative compliance for in-fill projects and redevelopment in older established areas of the City.
  - c. When safety considerations warrant alternative compliance.
  - d. When there is not an alternative in the practical siting of a building, location of site access, or the location of underground utilities to service the site.
  - e. When the alternative compliance plan is equal to or superior in its ability to fulfill the intent of this Section.
  - f. Where existing landscaping is adequate in fulfilling the intent of this Section.

#### C. Landscape Plan Required.

1. A separate detailed landscape plan shall be submitted as part of a site plan review. The landscape plan shall include, but not necessarily be limited to, the following items:
  - a. Location, spacing, size, and root type [bare root (BR), balled and burlaped (BB), or container] and descriptions for each plant type proposed for use within the required landscape area.
  - b. Scale shall be equal to the scale of the accompanying site plan.
  - c. Existing and proposed contours on-site and one hundred fifty (150) feet beyond the site at intervals not to exceed two (2) feet where practical. ~~The Planning Director~~ Zoning Administrator may waive or modify this requirement based on specific site circumstances.



- d. Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
  - e. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage patterns.
  - f. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed plant materials.
  - g. Identification of existing trees and vegetative cover to be preserved.
  - h. Identification of grass and other ground cover and method of planting.
2. **Industrial Uses.** Industrial uses are required to submit a landscape plan for the front yard and corner side yard only. Rear or side yard landscape plans are only required if the industrial use abuts a residential use or district. All other uses for which a landscape plan is required shall submit a landscape plan for the entire property.

#### D. **General Standards.**

1. All areas not covered by buildings, parking areas, driveways, walkways, pedestrian plazas or other pedestrian-oriented impervious surfaces or water surfaces shall be planted with living vegetation, including canopy trees, shrubbery and ground covers **and shall be called the Landscape Area**. The combination of plant materials selected shall be placed in harmonious and natural associations and represent the approved indigenous landscape materials listed in **subsection G**. **There is no minimum percentage of a lot required to be included in the Landscape Area.**
2. **If a Landscape Area exists or is proposed, not less than twenty (20) percent of any Landscape Area shall be covered by trees, shrubs and ground cover in combination. A combination of stone, and other mulches, grass and other ground covers, pedestrian walks, other impervious surfaces, or water surfaces may cover the remaining eighty (80) percent of the Landscape Area. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be part of this eighty (80) percent. Within a front and corner side yard, the following shall apply to the twenty (20) percent tree, shrub, and ground cover combination area.**
  - a. ~~At least one (1) canopy or ornamental tree per four thousand (4,000) square feet of yard area for the first twenty four thousand (24,000) square feet; and~~

- ~~b. One additional canopy or ornamental tree per six thousand (6,000) square feet of yard area above twenty-four thousand (24,000) square feet.~~
3. The general site topography and any natural landforms unique to the property shall be maintained and made part of the development whenever possible to reinforce the local and regional character.
  4. The substitution of natural vegetation in lieu of landscaping may be approved on a case-by-case basis.
  5. All trees shall be located to allow sufficient room for growth.
  6. The required landscaping shall be planted with permanent living plant materials within thirty (30) days from the date of occupancy and shall thereafter be maintained in presentable condition, and shall be kept free from refuse and debris. ~~provided further that all plant materials shall be continuously maintained in a sound, healthy and vigorous growing condition, and shall be kept free of plant diseases and insect pests.~~ All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. ~~All landscaped areas shall be provided with a readily available and acceptable water supply.~~ The Zoning Administrator may extend the time period for planting when seasonal conditions are such that planting cannot be undertaken.
  7. **Native Plant Species.** At least seventy-five (75) percent of required trees shall be native to Michigan. At least thirty (30) percent of all other required landscape material shall be native to Lower Michigan. See **Table 3.30**. For information on native plants and lists of trees and shrubs, see the following websites: [www.nativeplants.msu.edu](http://www.nativeplants.msu.edu); [www.plant.native.org](http://www.plant.native.org); and [www.wildflower.org/collections/Michigan](http://www.wildflower.org/collections/Michigan).
  8. **Minimum Landscape Material Standards.**
    - a. All plant material shall ~~be~~ remain in a healthy and vigorous growing condition, free of disease and insects, compatible with local climate, site soils, drainage, have available water supply (~~in-ground sprinklers are not required~~), and meet the current **American Association of Nurserymen Standards**.
    - a. All landscape materials shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.

- b. All plant material shall be planted in a manner so as not to obstruct access to or view of fire hydrants or other fire connections, not interfere with utility lines (above and below ground) and public roadways. Landscape materials shall not constitute a nuisance to neighboring properties. **Landscape materials shall be planted pursuant to Section 3.14 (Intersection and Driveway Visibility).**

c. **Minimum Plant Sizes at Time of Installation.**

Deciduous Canopy Trees	2½" dbh
Deciduous Ornamental Trees:	2" dbh
Evergreen Tree:	6' height
Deciduous Shrub:	2' height
Upright Evergreen Shrub:	2' height
Spreading Evergreen Shrub:	18" – 24" spread

- d. Existing plant material, which complies with the standards and intent of the Ordinance, as determined by the ~~Planning Director or~~ Zoning Administrator, shall be credited toward meeting the landscape requirements.

~~The plant material shall achieve its horizontal and vertical screening effect within four (4) years of initial installation.~~

- e. The overall landscape plan shall not contain more than thirty-three (33) percent of any one plant species.

9. **Existing Vegetation.** The following standards shall apply to existing site vegetation whenever compliance is required:

- a. Existing healthy trees and shrubs in areas not required for development shall be preserved and incorporated into the final development plan where possible.
- b. Trees to be preserved shall be pruned to remove dead, diseased or irregular branching, but the crown form characteristic of the respective species shall be maintained.
- c. Preserved trees shall be protected with sturdy, highly visible barriers around the tree or group of trees, at approximately the critical root zone or dripline.

- d. The critical root zone of the tree shall remain undisturbed by cutting, filling or storage of materials and equipment during the development process.

~~Healthy, younger trees on development sites shall be preserved wherever possible to allow normal succession as older trees are lost.~~

#### 10. Minimum Standard for Berms.

- a. Berms shall be constructed so as to maintain a ~~side slope not to exceed a one foot (1) rise to a three feet (3) run ratio~~ a maximum slope ratio of one (1) to three (3) (one (1) foot of vertical height for each three (3) feet of horizontal plane).
- b. Berms not containing planting beds shall be covered with grass or vegetative groundcover maintained in a healthy growing condition to prevent erosion.
- c. Berms shall be constructed in a way that does not alter drainage patterns on site or adjacent properties or obstruct vision for reasons of safety, ingress or egress.
- d. Berms shall be constructed of landscaping material acceptable to the City. Berms shall not contain construction material/debris, garbage, junk, or other debris not typically used as landscaping material.
- e. Berms shall have a minimum of three (3) inches of topsoil.
- f. The Zoning Administrator may approve berms which do not exceed six (6) feet in height. Berms shall not exceed six (6) feet in height unless a higher berm is approved by the Planning Commission on non-residential or multiple-family property. Height of a berm shall be measured from the preconstruction grade of the land immediately surrounding the berm. If a berm is proposed to be higher than six (6) feet, then the applicant shall submit a stamped, engineered site plan showing the specifications of the berm.
- g. The berm shall be natural in appearance. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan.
- h. Trees shall be allowed to be placed on berms.
- i. No buildings or any structures shall be permitted upon or within any berm.

#### ~~Greenbelts and Buffers.~~

<b>1</b> Purpose	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> Signs	<b>5</b> District Regulations
<b>6</b> Plan Review	<b>7</b> Supplemental Regulations	<b>8</b> Zoning Board of Appeals	<b>9</b> Administration	<b>10</b> Adoption & Amendments

~~For nonresidential uses which abut a residential use or which are adjacent to a Residential District boundary, there shall be provided and maintained greenbelts or buffers. These requirements do not apply whenever the use, storage area, etc. is more than four hundred (400) feet from an adjacent residential use or residential district boundary.~~

~~The selection, spacing and size of plant material shall be such as to create, within a four (4) year period from the date of planting, a horizontal obscuring effect for the entire length of the required greenbelt area, and a vertical obscuring effect of such height as is determined adequate by the Planning Commission for proper screening between land uses.~~

~~The relationship between deciduous and evergreen plant materials shall insure that a maximum obscuring effect will be maintained throughout the various seasonal periods.~~

~~Greenbelts shall be reviewed by staff for site plans requiring administrative review and by the Planning Commission for site plans requiring Planning Commission review to determine adequate width, length, and materials for screening purposes.~~

~~Required screening may be interrupted to provide reasonable pedestrian, bicycle, or vehicular access to a property from a public right-of-way.~~

~~Required screening of parking areas shall be achieved through the use of a decorative masonry/brick wall, decorative fencing, earth berms and landscape plant materials, either in combination or independently.~~

~~Within the CBD and CCD Districts or along a major thoroughfare, only a decorative masonry/brick wall or wrought iron fence shall be erected. Minimal landscaping (shrubs, groundcover, flowers) may be installed to provide visual variety.~~

~~The Planning Commission may require or allow the substitution of walls and/or earth berms in those instances where a greenbelt or planting screen will not appropriately provide necessary screening to abutting properties. Where under the provisions of the Ordinance an option is provided to the developer relative to a required wall or berm for a greenbelt, the minimum starting height of plant materials in said greenbelt shall be equivalent to the required wall or berm height.~~

**E. Landscape Requirements Along Streets.** The following landscape requirements shall apply:

<b>1</b> Purpose	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> Signs	<b>5</b> District Regulations
<b>6</b> Plan Review	<b>7</b> Supplemental Regulations	<b>8</b> Zoning Board of Appeals	<b>9</b> Administration	<b>10</b> Adoption & Amendments



1. A strip of land with a minimum depth of ten (10) feet within the front yard setback shall be located between the abutting right-of-way of a public street and shall be landscaped with a minimum of one (1) tree ~~with a minimum caliper of two and one-half (2 ½) inches (whichever is greater at the time of planting)~~ for each forty (40) lineal feet of frontage abutting said right-of-way. The remainder ~~of the buffer~~ shall be landscaped in grass, ground cover, shrubs, and/or other natural, landscape material. **Only the lineal feet of Landscape Area counts when determining the number of trees required.**
2. Access ways from public rights-of-way through required landscape strips shall be permitted, ~~but such access ways shall not be subtracted from the lineal dimension used to determine the minimum number of trees required.~~

#### F. Landscape Requirements in Parking Lots.

Parking lot landscape requirements shall be applicable to all parking areas in all districts, and a parking lot landscape plan shall be provided.

1. **Parking Lot Perimeter Landscaping.** A landscape strip shall be provided around the perimeter of the parking lot, as defined below:
  - a. **Parking Lots that Do Not Abut a Right-of-Way.** The landscape strip shall be six (6) feet wide. ~~When the parking lot abuts a building(s) the strip shall be:~~
    - ~~(a) Four feet wide — parking lot with 1 to 40 spaces or a single parallel driving aisle or any other configuration of equal or greater square footage.~~
    - ~~(b) Six feet wide — parking lot with 41 or more spaces, or any other configuration of equal or greater square footage.~~
    - ~~(c) For single use buildings with front facades less than 100 feet in length a minimum 150 square feet of landscape area may be installed at the building entrance (total square footage for both sides of entrance) in place of the required planting strip along the front façade.~~
    - ~~(d) For buildings with an arcade across the front facade or an access aisle immediately adjacent and parallel to the front facade, the required landscaping may be consolidated at focal points along the front facade and/or incorporated into other required parking lot landscape areas (perimeter or interior).~~

- ~~(e) A landscape strip abutting a building shall have at least 50% of its length occupied by shrubs.~~
- b. **Parking Lots that Abut a Right-of-Way.** See subsection E. ~~When the parking lot abuts a right-of-way, the strip will be:~~
- ~~(a) 1-75 spaces: 10 feet.~~
- ~~(b) 76-150 spaces: 20 feet.~~
- ~~(c) 151+ spaces: 30 feet~~
- c. ~~When the parking lot abuts vacant land or an existing parking area with no landscape strip, the strip will have a minimum width as follows:~~
- ~~(a) 1-75 spaces: 6 feet.~~
- ~~(b) ii. 76-150 spaces: 8 feet.~~
- ~~(c) iii. 151+ spaces: 12 feet.~~
- d. ~~When the parking lot abuts an existing parking lot which provides for a perimeter landscape strip, the width of the strip will be equal to the additional width needed to create a strip with an overall minimum width as prescribed hereinabove. However, a landscape strip of at least 4 feet wide must extend from the property line inward.~~
- e. **Parking Lots Abutting a Residential Zone or Residential Use.** When a parking lot abuts a residentially zoned or used property, a landscape area shall be provided as prescribed in the individual zoning district and shall have a screen as prescribed in **Section 3.29**.
- f. **Existing Development.** When a new development is constructed either adjacent to or in between existing developments, the type and placement of street trees in the right-of-way along the new development shall be consistent with the type and placement of street trees along the existing development right-of-way; however, at a minimum, trees shall be planted per subsection (g) below.
- g. All landscape strips shall be planted with shrubbery, trees and groundcover. There shall be one (1) tree for every forty (40) feet of landscape strip.

~~h. The Zoning Administrator has the authority to reduce these requirements upon a finding that no good purpose would be served by the current standards.~~ *Don't need this anymore.*

i. Piped utilities, such as water, sewer and gas, may cross through, run parallel and adjoining to, or within the outer two (2) feet of a landscape strip. Cable utilities, such as electricity, cable television, telephones, and fiber optic lines located within a landscape strip must be placed a minimum of twenty-four (24) inches below grade.

## 2. Landscaping of Interior Parking Areas.

a. Parking areas totaling seventy (76) or more spaces shall provide a minimum of ten (10) percent of the area of the parking lot as interior landscaping.

b. Parking areas totaling seventy (75) or less spaces shall provide a minimum of five (5) percent of the area of the parking lot as interior landscaping. ~~which~~

~~c. Interior landscaping may be transferred to the perimeter of the lot(s) if interior landscaping is not possible. Plant material within parking lots shall provide for safe visibility and maintain clear site lines between three (3) and eight (8) feet from the top of the curb.~~

d. Interior landscaping shall occur in any combination of planting islands, planting peninsulas, and entrance ways.

~~e. Unless otherwise approved all parking lot interior landscape areas shall have a minimum width of 6 feet.~~

~~f. Unless otherwise approved, plantings within islands and peninsulas shall consist of at least 1 tree and mulch or groundcover for each 162 square feet, or portion thereof, of required landscape area. Shrubs may also be used as long as they do not exceed 3 feet in height.~~

~~g. In cases in which trees exist on the property where the parking lot is proposed, the existing trees shall be maintained where they do not impede construction on the site and shall count toward the interior landscape requirement. Accepted best management practices for tree preservation shall be used. The location of existing~~

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~~trees to be saved shall be included in the landscape plan submitted to the planning and zoning staff prior to site clearance.~~

~~h. Parking lots for three hundred (300) or more spaces requiring a central access drive shall have a minimum six (6) foot wide landscape area on both sides and running the length of the drive. A minimum of one shade tree for every fifty (50) lineal feet of landscape area shall be provided. This landscape area may count toward fifty (50) of the interior landscape requirement for the adjoining parking area of the development.~~

~~3. **Planting standards.** See Section 3.30.E. Planting areas can be landscaped with a variety of trees, shrubs or other planting materials. The variety of planting materials used should be tolerant of the existing urban conditions including exhaust, salt and poor and/or compacted soils.~~

~~a. Deciduous canopy trees shall be a minimum of 2 1/2 caliper inches d.b.h.; ornamental trees shall be a minimum 2 caliper inches; coniferous trees shall be a minimum of 6 feet in height; evergreen and deciduous shrubbery shall be a minimum of 18 inches in height, except where required as a screen.~~

~~b. All deciduous and coniferous trees and shrubs shall be prepared and planted in accordance with industry standards.~~

~~c. Planting islands and peninsulas shall encompass an area of not less than 160 square feet for single parking rows and 320 square feet for double parking rows.~~

~~d. Visibility requirements: All landscape plantings, shrubs, trees, walls, fences, temporary and permanent, shall permit completely unobstructed vision within a clear sight triangle in accordance with §3.14. Landscaping installed in parking areas shall be spaced and maintained so that a visual obstruction that represents a traffic hazard is not created.~~

#### G. ~~Suggested~~ Plant Materials.

The following table shows plant material that are suggested and prohibited in the City of Alpena. This table addresses trees and shrubs.

<b>1</b> Purpose	<b>2</b> Definitions	<b>3</b> General Provisions	<b>4</b> Signs	<b>5</b> District Regulations
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**TABLE 3.30 SUGGESTED AND PROHIBITED PLANT MATERIALS**

	<b>Suggested Plant Material</b>		<b>Prohibited Plant Material</b>
<b>Trees - Evergreen</b>	<b>Medium - Large</b>	<b>Narrow</b>	<b>Prohibited</b>
	Douglas Fir	Aborvitae	
	Fir	Cedar	
	Hemlock	Junipers	
	Pine: Red and White		
	Spruce		
<b>Trees - Deciduous</b>	<b>Large</b>	<b>Small</b>	<b>Prohibited</b>
	Basswood	Flowering Cherry (non-fruit bearing)*	Amur Cork Tree
	Beech	Flowering Crabapple (disease resistant, non-fruit bearing)*	Amur Maple*
	Birch	Flowering Dogwood	Black Locust
	Black Cherry	Hawthorn (thornless)	Callery Pear (e.g. Bradford)*
	Ginko (male only)*	Ironwood (hophornbeam or musclewood)	Catalpa
	Honey Locusts (seedless & thornless)*	Kwansan Cherry	Elms (unless disease resistant)
	Kentucky Coffee Tree	Magnolia	European Alder
	Linden:* Little Leaf, Greenspire, Redmond	Redbud	Ginko (female)
	Maples: Red*, Sugar, Black	River Birch	Norway Maple*
	Oaks:* Pin, Red, English	Serviceberry	Poplars (examples: Cottonwoods,
	Purple Leaf Plum	Sweet Birch	Quaking & Big Toothed Aspen,
	Sycamore (American or Plane Tree??)*		Balsam Poplar, White Poplar, etc)
			Siberian Elms
			Soft Maples: Silver and Box Elder
			Tree of Heaven
			Willows
<b>Shrubs - Evergreen</b>	<b>Large</b>	<b>Small</b>	<b>Prohibited</b>
	Irish Yew	Spreading Yews (Dense, Brown's Ward, etc)	Scots/Scotch Pine
	Hicks Yew	Low Spreading Junipers (Andora, Hughes, Tamarack, etc)	
	Mugo Pine	Dwarf Mugo Pine	
	Pfitzer Juniper	Big Leaf Wintercreeper	

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		(Euonymus)	
	Savin Juniper	Bird's Nest Spruce	
Shrubs - Deciduous	<b>Large</b>	<b>Small</b>	<b>Prohibited</b>
	Lilac	Regal Privet	Autumn Olive
	Yellow Osier	Potentilla	Buckthorn: Common and Glossy
	Viburnum	Japanese Quince	Burning Bush (all varieties)
	Spirea		Butterfly Bush
	Barberry		Cotoneaster (all varieties)
	Forsythia		Multiflora Rose
	Sargent Crabapple		Privet: Common and Border
	Dogwood (Red Osier, Grey)		Japanese Barberry
	Ninebark		
Other			<b>Prohibited</b>
			Knotweed: Giant and Japanese
			Oriental Bittersweet vine
			Purple Loosestrife

### Suggested Plant Materials

Evergreen Trees			
Fir	Spruce	Hemlock	Pine
Douglas Fir			
Narrow Evergreen—			
Cedar	Arborvitae	Junipers	
Large Deciduous Trees			
Ash (disease & insect resistant)	Elms (disease resistant)	Sycamore (Plane Tree)	Hard Maples
Beech	Ginkgo (male only)	Black Cherry	Birch
Lindens	Honey locusts (seedless & thornless varieties)	Oaks	Basswood
Small Deciduous Trees			
Flowering Dogwood	Hawthorn (thornless)	Redbud	Sweet Birch
Flowering Crabapple (disease resistant varieties)	Serviceberry	Hornbeam	Kwansan Cherry
Purple Leaf Plum	Mountain Ash	River Birch	Magnolia
Large Deciduous Shrubs			
Honeysuckle	Lilac	Border Privet	Ninebark
Yellow Osier	Buckthorn	Pyracantha	Viburnum
Spirea	Forsythia	Flowering Quince	Barberry
Sargent Crabapple	Dogwood (Red Osier, Grey)	Cotoneaster (Peking, Spreading)	Burning Bush

Large Evergreen Shrubs			
Irish Yew	Mugo Pine	Pfitzer Juniper	Savin Juniper
Hicks Yew			
Small Deciduous Shrubs			
Compact Burning Bush	Regal Privet	Potentilla	Japanese Quince
Cotoneaster (Cranberry, Rockspray)			
Small Evergreen Shrub			
Spreading Yews (Dense, Brown's, Ward, etc.)	Low Spreading Junipers (Andora, Hughes, Tamarack, etc.)	Dwarf Mugo Pine	Big Leaf Winter creeper (Euonymus)
Bird's Nest Spruce			
Trees Not Permitted			
Box Elder	Tree of Heaven	Jack Pine	Poplars
Catalpa	Horse Chestnut (nut bearing)	Soft Maples	Willows
Elms (unless disease resistant)	Cottonwoods	Scotch Pine	

Administrative Approval	
<b>Administrative Approval</b>	Landscape Plans for Uses Permitted by Right
<b>Planning Commission Approval</b>	Landscape Plans for Special Land Uses (a “general plan” with less landscaping detail may be submitted to the Planning Commission for its review. This general plan shall indicate areas of shrubs, trees, ground cover, etc. Specific details shall be required for final staff review).
<b>Administrative Departures</b>	Flexible Design Standards based on site conditions <a href="#">[3.29(B)]</a>
<b>Planning Commission Departures</b>	Flexible Design Standards based on site conditions <a href="#">[3.29(B)]</a>

## Section 3.31 Circulation & Parking

### A. Purpose.

The purpose of parking regulations is to make Alpena safe for and accessible by pedestrians, cyclists, and drivers. Equal consideration should be given to pedestrians, cyclists and drivers in the design of all public and private parking areas. Site design should help to reduce the number of conflicts between the parking area users. Public rights-of-way shall be designed to ensure the movement of people safely. Design of parking areas and rights-of-way shall contribute to the walkability of the City of Alpena. Screening, landscaping, and lighting shall contribute to the enhancement of the community.

### B. Pedestrian ~~Walkways~~ ~~Travelways~~.

1. **Requirements.** All developments except for one- and two-family dwellings shall provide clearly defined pedestrian ~~travelways~~ **walkways** from the public sidewalk to main entrances of the buildings or uses of the land or to the sidewalk fronting the building in the case of a multi-entrance building. **Walkways shall be designed to be recognizable to both pedestrians and drivers.** ~~as per the following:~~
  - ~~a. For properties with one hundred (100) feet or less of frontage abutting a public right-of-way there shall be a minimum of one (1) designated route.~~
  - ~~b. For properties with more than one hundred (100) feet of frontage abutting a public right of way a minimum of one (1) designated route per vehicular access or one (1) designated route per three hundred (300) feet of frontage, whichever is greater.~~
  - ~~c. For properties with frontage abutting two (2) or more public streets, the minimum required designated routes shall be provided along each street.~~
  - ~~d. Pedestrian travelways **walkways** shall be at least five (5) feet wide.~~
2. **No Existing Public Sidewalk.** When a public sidewalk does not exist, the following shall apply:
  - a. For new construction on vacant land, both a public sidewalk as per city standards and the required designated pedestrian connections shall be installed. The sidewalk must be constructed with a minimum five (5) foot landscaped green space (tree lawn) between the curb and the outside edge of the sidewalk.

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- b. For reconstruction on an existing development, a public sidewalk shall be installed if at least forty (40) percent of the properties on both sides of the street in the same block have public sidewalks, as well as the required designated pedestrian routes.

### ~~3. Construction Standards.~~

- a. ~~Walkways shall be designed to be recognizable to both drivers and pedestrians. Any combination of at least two (2) of the following walkway treatments shall be used:~~

~~(1) Constructing the walk/crosswalk **walkway** with different materials, such as concrete or brick or other material approved or recognized under The Americans with Disabilities Act (ADA) requirements;~~

~~(2) Placing bollards at sufficient regular intervals to delineate the **walkway** walk/crosswalk;~~

~~(3) Aligning planting islands to define the **walkway** walk/crosswalk;~~

~~(4) Raising the **walkway** walk/crosswalk; and~~

~~(5) Painting pavement with **walkway** walk/crosswalk striping.~~

- b. ~~Pedestrian travelways **walkways** shall be physically separate from the parking area except where they cross a vehicle maneuvering lane, in which case the travel way shall be defined with a separate and contrasting material such as the use of a textured concrete or brick paver.~~

### C. Bicycle Parking.

1. **Compliance Required.** Whenever full off-street parking compliance is required, a minimum of one (1) bicycle rack ~~or locker~~ which can accommodate four (4) bicycles total is required. ~~The Zoning Administrator may reduce or eliminate this requirement based on the physical layout of the lot, the use of the lot, or the location of the lot. and shall be located within fifty (50) feet of the main entrance of a building or inside a building in a location that is easily accessible by bicyclists. For sites that require more than twenty five (25) motor vehicle spaces, the ratio is one (1) rack or locker which can accommodate four (4) bicycles total for every twenty five (25) motor vehicle spaces. When units of measurement determining the number of required parking spaces result in a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.~~

2. **Exception.** The requirements of this section do not apply to residential uses in all districts as well as to the CBD District, except if on-site vehicular parking is provided in the CBD District.

~~3. **Standards.**~~

- ~~a. **Bicycle lockers.** Where required bicycle parking is provided in lockers, the lockers must be securely anchored.~~
- ~~b. **Bicycle Racks.** Where required bicycle parking is provided in racks, the racks must meet the following standards:~~
- ~~(1) The bicycle frame and one wheel can be locked to the rack with a high security, U-shaped shackle lock if both wheels are left on the bicycle.~~
  - ~~(2) A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components; and~~
  - ~~(3) The rack must be securely anchored.~~
- ~~c. **Maneuvering Areas**~~
- ~~(1) Each required bicycle parking space must be accessible without moving another bicycle; and~~
  - ~~(2) There must be an aisle at least five feet wide behind all required bicycle parking to allow room for bicycle maneuvering.~~

**D. Motor Vehicle Parking: Single-Family and Two-Family Residential Uses.**

1. The off-street parking facilities required for residential dwellings shall be located on the same lot or plot of ground as the dwellings they are intended to serve and shall consist of a parking strip, parking apron, driveway, carport, and/or garage or some combination thereof.
2. Parking areas shall be accommodated in paved (concrete, asphalt, brick and other similar materials) driveways which may be located in the front, side or rear yard but may not occupy more than fifty (50) percent of any front yard. Such parking area shall provide two



(2) parking spaces per dwelling unit where no garage is provided. The Zoning Administrator may make an exception to this requirement (subsection D.2) where both criteria cannot be met based on the physical layout of the lot.

**E. Motor Vehicle Parking: ~~Commercial and Industrial~~ Multi-Family and Non-Residential Uses.**

1. **Compliance Required.** Off-street parking and loading provisions of this section shall apply to the following:
  - a. **New Construction.** For all principal buildings and principal structures erected and all uses of land established after the effective date of this Ordinance chapter.
  - b. **Enlargement.** Whenever a principal building is expanded to increase its gross floor area.
  - c. **Change in Use.** Whenever the use of a building or portion of a building is changed to accommodate a use requiring more parking than the former use.
  - d. **Parking Area Construction and Expansion (For all new parking areas and whenever existing parking areas are expanded or upgraded).** Normal maintenance, such as re-grading of legal non-conforming gravel parking areas or the addition of top coat or sealer to existing paved parking areas, will not trigger full off-street parking compliance; however, pulverizing an existing asphalt, concrete or other paved parking surface, the outright removal or substantial modification of the paved surface in preparation for paving and demolition by neglect which serves to return a parking area substantially to gravel or other aggregate surface, shall, for the purposes of this code, be considered a new parking area.

Regulations pertaining to off-street parking shall not apply to new commercial construction projects where it can be demonstrated that adequate public parking exists when located within the CBD.

~~commercial buildings in existence at the time of adoption of this Ordinance; or~~ (already addressed above)

2. **Permit Required.** No parking lot shall be constructed unless and until a zoning permit ~~therefore~~ is issued. Applications for a permit shall be submitted with two (2) sets of site plans for the development and construction of the parking lot showing that the provisions of this Section will be fully complied with. The Zoning Administrator has the authority to review and approve parking lots.

3. **Site Plan Review.** Any off-street parking lots, parking structures or loading areas required under this ~~Section~~ ~~chapter~~ shall be required to submit a plan for review and approval of applicable regulations. All elements shall be dimensioned on the plan and distances from property lines and structures shall be noted. The plan shall show the following:
- Total number of parking spaces provided, existing and proposed; and total required by ordinance;
  - Location and size of spaces;
  - Parking aisles;
  - Vehicle circulation;
  - Ingress and egress;
  - Sidewalks and pedestrian circulation;
  - Signage;
  - Lighting;
  - Storm water retention areas;
  - Proposed and existing grades;
  - Landscaping islands;
  - Landscape and buffer areas; and
  - Parking details and any other information deemed necessary by Planning Staff or City Engineer.

~~**Owned or Leased Parking.** The owner or occupier of the property to be served shall own or lease all property utilized to meet minimum parking requirements. A five (5) year lease on such property shall be required. At least six (6) months before the lease expires, an extension or renewal of the lease shall be acquired or other parking shall be made available. The lease shall include a provision that advance notice of cancellation shall be given one hundred eighty days (180) prior to cancellation of the lease. The lease agreement shall be kept on file with the City of Alpena.~~

4. **Loading Space.** Loading space as required elsewhere in this ordinance dealing with off-street loading requirements shall not be construed as also supplying off-street parking space.
5. **Changes to Required Parking.** Areas designated for required off-street parking shall not be changed to any other use unless and until equal facilities meeting the standards of this section are provided and approved at a differing location on the property or elsewhere as permitted within this ordinance. If parking requirements for the site are changed due to a change in use or occupancy, the designated off-street parking areas shall be revised and approved by the Planning Director or Zoning Administrator.

~~**Excessive Parking Space.** A maximum of one hundred thirty (130) percent of the required number of parking spaces may be provided (rounded down to the nearest whole number). Each ten (10) percent increase above the required number of parking spaces shall require an additional one (1) percent in the interior parking lot landscaping provisions provided in this section of the Zoning Ordinance. Provision of more than one hundred thirty (130) percent of the requirement will require a variance from the Board of Zoning Appeals.~~

6. **Collective Parking.** The Zoning Administrator or Planning Commission may allow shared off-street parking arrangements between two (2) or more buildings or uses. ~~may collectively provide the required off-street parking.~~ This may occur if the buildings do or do not overlap in hours. If approved by the Zoning Administrator or Planning Commission, the owners of the parcels shall file a signed agreement with the City which describes their agreed-upon parking arrangement. ~~in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.~~

~~Joint use of the required parking areas may be permitted for two (2) or more uses located on the same, adjacent, or nearby parcels provided that the developer or owner demonstrates to the satisfaction of the planning staff that the uses will not overlap in hours of operation or in demand for shared spaces. The owners of all parcels used for or making use of shared parking areas shall record a commitment stating that the uses will not overlap in hours of operation or in demand for shared spaces. The commitment shall be binding on future owners of the property(s) and shall be recorded with the Register of Deeds. Shared parking areas shall be located not more than three hundred (300) feet from the uses they are intended to serve and shall be connected to that use by a defined pedestrian walkway.~~

7. **Reduction of Parking Spaces/Land Banking.** The Zoning Administrator or Planning Commission may require that an area be reserved, either on-site or off-site, to provide additional parking should it become apparent that additional parking is needed for the use. This designated area shall contain no structure or permanent feature. In the event additional parking is required, a site plan shall be submitted to the staff for approval. The additional parking shall be constructed within four (4) months thereafter.
- a. ~~For development in any zoning district, the Planning Director may approve a total reduction of not more than thirty (30) percent of the required off-street parking spaces where it has been demonstrated by study of the proposed use(s) and the customary operation of the use(s) that adequate parking would be provided.~~

~~b. When such a reduction is approved, an area of sufficient size to include the number of parking spaces necessary to meet the minimum requirements stated herein shall be designated on the site plan (land banking) and no structure or other permanent feature shall be permitted within such designated area. The area shall not be included in any required buffer yards. The areas shall be reserved to accommodate additional parking so as to meet the otherwise applicable minimum requirements. In the event additional parking is required, a site plan shall be submitted to the staff for approval. The additional parking shall be constructed within 4 months thereafter.~~

~~c. **Off Site Land Banking.** The Planning Director may approve land banking at a location off-site. A written agreement shall remain on file at the City of Alpena which records that the off-site land which has been set aside for future parking is under the control of the applicant.~~

## 8. Ingress/Egress.

- a. A maximum of one (1) ingress and egress driveway for each sixty-six (66) feet of lot width shall be allowed in office, business and industrial zones. Modification of this standard shall only be allowed where the plan for such access can be demonstrated to the satisfaction of the City Engineer that traffic movement and traffic safety can better be served by such modification.
- b. Entrances shall be designed to allow vehicles entering the site to be stacked to prevent backup on the adjacent street. Parking lot entrances and exits shall be consolidated when possible to limit the number of access points to the site. In instances where parking areas are one hundred (100) feet or more wide, the parking lot entrance shall be a minimum of fifty (50) feet from the nearest existing access drive.
- c. Ingress/egress to parking lots shall be located as far away from street intersections as possible to prevent impeding the flow of traffic in the parking lot and prevent hazards in the street. Each entrance to and exit from any off-street parking lot located in an area zoned for other than single family and two-family residential use shall be at least twenty five (25) feet distant from adjacent property located in any single family residential district and shall be located at least twenty-five (25) feet distant from any corner.

9. **Display and Storage.** Accessory off-street parking facilities required herein shall not be used for the storage, display, sale, repair, dismantling or wrecking of any vehicles, equipment or material. ~~Parking of commercial vehicles as defined in this ordinance is~~

~~prohibited in residential zones with the exception of maintenance vehicles for a multi-family use in the RM-1 and RM-2 Districts.~~

## 10. Parking Area Standards.

### a. Location of Parking Areas.

- (1) Off-street parking areas shall be located in the same district as the use they are intended to serve, in a district that allows the use, or as provided by a special land use permit or the granting order of a planned unit development. In addition, parking areas are to meet the following requirements:

~~**Front Setbacks.** Refer to Article 5 for front setback requirements in individual districts. For through lots, parking may be provided streetward of the principal building on the street that carries less traffic.~~

~~**Side Setbacks.** Any parking area which is contiguous to the side property lot line of a residential district shall provide a minimum side setback of ten (10) feet from the side contiguous to the residential district. All other parking areas shall maintain a minimum five (5) foot side setback. The side setback requirement may be reduced by the Planning Director or Zoning Administrator to a minimum of five (5) feet when it can be demonstrated that the property exhibits site constraints which preclude or render permitted parking configurations impractical.~~

~~**Rear Setbacks.** A rear setback of five (5) feet shall be required for any parking area abutting, adjacent to or across a public alley from a residential district with the exception of the following:~~

~~The rear setback requirement may be waived by the Planning Director or Zoning Administrator to allow parking designed to back directly into a public alley when it can be demonstrated that the property exhibits site constraints which preclude or render permitted parking configurations impractical.~~

### (2) Off-Site Locations.

- (a) All off-street parking areas shall be located on the immediate premises or within three hundred (300) feet for commercial uses and five hundred (500) feet for industrial uses as measured from the nearest point of the parking area to the nearest point of the building intended to be served. Either a proof of ownership or evidence of at least a five (5) year lease must be provided. In

addition, an adequate pedestrian route from the parking area to the use must be provided and maintained.

- (b) The required number of parking spaces may be reduced, at the discretion of the Planning Director, if a public parking area or sufficient on-street parking is located within five hundred (500) feet of the building to be served.

- b. **Surface.** An entire parking area, including parking spaces, maneuvering lanes and ingress and egress driveways required under this Section, shall be provided with asphalt, concrete, brick or other similar hard surface which meets drainage requirements in accordance with specifications approved by the City. The parking area shall be surfaced prior to the issuance of a permanent certificate of occupancy. ~~In those instances where a parking area is non-conforming, the expansion or significant improvement of the use of the land or structure shall require the paving of such parking area to conform with this Section.~~ This surface shall be striped and maintained in good condition and free of weeds, dirt, trash and debris.

The use of pervious concrete, grasscrete, and other pervious surfaces may be permitted for specific uses as approved by the Planning Commission or Planning Staff.

For industrial uses, storage yards for construction equipment, raw materials, or partially or fully finished product, may be surfaced with gravel or slag when located in a rear yard. The storage yard shall be properly graded and maintained to insure proper drainage and shall be kept free of weeds, trash and other debris.

- c. **Screening.** Parking areas shall conform to the requirements set forth in §3.29 Landscaping and Buffering.
- d. **Design Standards.**
- (1) **Parking Space Design.**



**TABLE 3.31 (A) PARKING SPACE DESIGN**

Parking Pattern (in degrees)	Maneuvering Lane Width	Parking Space		
		Width	Length	Total Width of 2 Parking Stalls Plus Maneuvering Aisle
0 degrees (parallel parking)	12'	8'	22'	28' (one-way) 38' (two-way)
30 degrees	12'	9'	18'	48' (one-way)
45 degrees	14'	9'	18'	52' (one-way)
60 degrees	18'	9'	18'	58' (one-way)
90 degrees	22'	10'	19'	60' (two-way)
A one (1) foot deviation from the measurements in this table may be approved by the Zoning Administrator.				

**(2) Parking Lot Design.**

- (a) All parking lots shall be designed to provide adequate storm water drainage, including onsite detention capabilities.
- (b) All curbing shall conform to City standards, unless approved otherwise by the Planning Commission.
- (c) All parking areas shall be provided with circulation aisles of adequate dimension to assure efficient internal circulation.
- ~~(d) Parking lots with 300 or more spaces shall include perimeter drives and a central access drive leading to the main building.~~
- ~~(e) A shelter of not more than 50 square feet in size for use by a parking lot attendant may be maintained on a parking lot containing at least 25 spaces.~~

- (3) **Drainage.** Except for one- and two-family dwellings, off-street parking areas shall be drained with internal site drainage so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings. Drainage must comply with **Section 3.21**. The Planning Commission, upon recommendation of the City Engineer, may allow the upgrading of drainage without providing for full internal site drainage for existing structures upon determination of no negative impact to future or

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potential development. A drainage plan and calculations shall be approved by the City Engineer prior to the issuance of a permit.

Storm water retention or detention facilities on site shall be provided to assure storm water runoff at a rate of flow in keeping with City standards and with capacity of existing public storm water drainage-ways.

- (4) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited. All maneuvering lane widths shall permit one way traffic movement, except that the ninety (90) degree pattern may permit two-way movement.
- ~~(5) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.~~
- (6) Ingress and egress to a parking lot lying in an area zoned for other than single family or two-family residential use shall not be across land zoned for single family or two-family residential use.

#### 11. Parking Spaces Required.

- a. Applicants shall submit plans for parking showing the number of spaces needed. With the exception of uses listed in the residential table below, the applicant shall present evidence or data showing that their proposed number of parking spaces is sufficient. In reviewing and approving parking plans, the City shall take the following into consideration:

- (1) The number of customers expected.
- (2) The number of staff required to operate the use.
- (3) Shared parking arrangements.
- (4) Space for snow removal.
- (5) Loading/unloading space.
- (6) Available on-street parking.
- (7) Any other information the applicant provides which supports the number of spaces needed for the use.

~~**Computing the Number of Spaces.** For the purpose of determining off-street parking requirements, gross floor area shall be calculated as the sum of the gross horizontal area of the several floors of a building or buildings, including if habitable the horizontal areas of the basement. Basement space used solely for storage or utility shall be exempt.~~

**Fractional Spaces.** ~~When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.~~

**Uses Not Mentioned.** ~~For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accordance with the use which the Planning Director or Planning Commission considers to be similar in type.~~

**Bicycle Parking Substitution.** ~~In off-street parking areas with greater than 25 automobile parking spaces, bicycle parking spaces may be substituted for automobile parking spaces at the rate of 10 bicycle spaces per 1 off-street parking space, up to 4% of the total number of required automobile parking spaces with a maximum of 10 automobile spaces replaced with bicycle parking.~~

- b. **Handicap-Accessible Spaces.** Off street parking facilities shall provide spaces for the handicapped in accord with the provisions of **1972 PA 230**, as amended.

**TABLE 3.31 (B) PARKING FOR HANDICAPPED (ALL DISTRICTS)**

Number of Parking Spaces in Lot	Required Minimum Number of Accessible Spaces <sup>1</sup>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of Total Spaces
1,001 and Over	20 Plus 1 for Each 100 Over 1,000 Spaces

<sup>1</sup> For every 8 accessible spaces, at least 1 must be a van accessible space.

- ~~c. **Number of Spaces Required.** The requirements of the following table shall not be applicable to those uses located in the CBD Central Business District or DOD Downtown Overlay District except where required by Section 7.2 (Accessory Dwelling Units Above a Commercial Establishment). In order to meet their parking needs, those land uses located in the CBD or DOD may utilize public parking which currently exists at the time they are determining their parking needs. However, such public parking is not guaranteed to meet those parking needs. In addition, the City of Alpena is not obligated to provide additional public parking to meet those needs. For those buildings existing within all Business Districts, no additional parking space need be provided when remodeling or rebuilding of structures is proposed, provided the floor area of existing structures on such site is not increased in the remodeling or rebuilding undertaken. Where floor area is increased or a change of use occurs, parking spaces shall be provided for such increased floor area or change of use in accord with the provisions of this Ordinance. All of the following parking requirements are based upon floor area unless otherwise specified:~~

**TABLE 3.31 (C) RESIDENTIAL PARKING REQUIREMENTS**

Use	Requirements
One-family <del>dwelling</del> and two-family	2 for each dwelling unit
Two-family <del>dwelling</del> and multiple family <del>dwelling</del>	1.5 per each efficiency or one-bedroom dwelling unit, 2 per each unit with 2 or more bedrooms
Manufactured Homes located in a Manufactured Housing Community	2 for each manufactured home site
Housing for the elderly	1 for each 4 units, and 1 for each employee on the largest shift
Rooming houses and group quarters	1 for each bed and 2 for the owner/resident manager
Group day care homes	2 in addition to the 2 required for the residence
State-Licensed Residential Facilities (Adult Foster Care Homes)	3 for each establishment

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<b>Institutional Parking Requirements</b>	
<b>Use</b>	<b>Requirements</b>
Churches, temples, or similar places of worship; theaters, auditoriums, and assembly buildings; stadiums, sports arenas, or similar places of outdoor assembly	1 space for each 4 seats or 6 linear feet of benches in the main unit, plus 1 for each 2 employees
Nursery schools, day nurseries, or child day care centers (non residential)	1 for each employee plus 1 space for each 8 children of licensed authorized capacity
Elementary, middle, and junior high schools	1 for each teacher, employee, or administrator, or the requirements of the auditorium, whichever is greater. If no such auditorium exists, then two spaces per classroom in addition to that for each teacher, employee or administrator.
Senior high schools	1 for each teacher, employee, or administrator, and 3 for each 10 students; or the requirements of the auditorium, whichever is greater.
Colleges and universities	1 for each teacher, employee, or administrator, and 3 for each 10 students
College housing	2 spaces per unit and one per dorm bed
Government offices; libraries; museums	1 for every 400 square feet of gross floor area
Post offices	1 space per official vehicle plus 1 space per employee on the largest shift plus 1 space per 200 square feet
Homes for the aged and convalescent homes	1 for every 3 beds or 2 rooms, whichever is less, plus 1 for each employee on the largest shift.
Assisted living facility	1 for every 2 dwellings plus 1 for each employee on the largest shift
Private clubs or lodges	1 for every 3 persons allowed within the maximum occupancy load as established by city, county, or state fire, building, or health codes
Hospitals	1 for every 2 beds plus 1 for every employee based upon the largest shift, plus 1 for every 1,000 square feet of treatment area.

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<b>Business Parking Requirements</b>	
<b>Use</b>	<b>Requirements</b>
Professional medical and dental offices or offices of similar professions.	1 for every 150 square feet of waiting room floor area plus one for each examining room.
Bank, business offices, or non-medical professional offices	1 for each 350 square feet of gross floor area, plus 2 spaces for each ATM, and stacking area equivalent to 4 stacking spaces for each drive up window
Restaurants and establishments for on premises sale and consumption of food, refreshments, and/or beverages	1 for every 2 persons of seating capacity plus 1 space per employee on the largest shift
Food consumption services or drive in, drive through, or take out	Use seating capacity standards as applicable for sit-down restaurants. A minimum of 5 stacking spaces shall be provided for each service window where a drive through operation is present.
Tavern and night club	1 space per 100 square feet
Motel, hotel, or other commercial lodging establishments	1 for each guest bedroom plus 1 for each 1 employee, plus spaces for any dining rooms, cocktail lounges, ballrooms, or meeting rooms, based upon maximum occupancy code as determine by the Building Official.
Furniture and appliance sales and service, hardware, household equipment, repair shops, shoe repair, showroom of a plumber, decorator, electrician or similar trade, and other similar uses	1 for each 850 feet of gross floor area
Retail sales and services establishment	1 space per 400 square feet
Bowling alley	5 spaces per lane plus parking for accessory uses.
Dance Halls, Exhibition Halls, Pool Halls, Billiard Parlors and Assembly Halls without fixed seats	1 per every 2 persons allowed within the maximum occupancy load.
Convenience store, with or without automotive fuel service	3 spaces for every 1000 square feet of gross floor area, plus spaces required for fuel service
Video Rental Store	1 space per employee on the largest shift plus 1 space per every 350 square feet
Beauty parlor or barber shop	2 per chair.
Greenhouse	1 space per 1,000 square feet
Laundromats and coin operated dry cleaners	1 for each 3 washing or dry cleaning machines
Dry cleaners	2 for every 1000 square feet of gross floor area
Auto service station and repair	1 space per pump plus 2 spaces per service bay

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Car wash (self service or automatic)	1 space per employee on the largest shift and a minimum of 7 stacking spaces.
Automobile, mobile home, truck, recreational vehicle, boat and farm implement sales	1 space per 300 square feet of showroom floor area plus 1 space per 2,000 square feet of outdoor sales area
Rental agency	1 space per 300 square feet plus 1 space per 1,000 square feet outdoor display area
Marine sales and service centers, including RVs	1 space for each employee, and 1 for each service stall. Add 1 space for every 300 square feet gross floor area of the sales room, but not less than 5 spaces with or without a showroom
Veterinary clinics or hospitals	3 for every 1000 square feet of gross floor area
Mini-warehouses, self-storage establishments	1 per 10 storage units, equally distributed throughout the storage area

<b>Industrial Use Parking Requirements</b>	
<b>Use</b>	<b>Requirements</b>
Wholesale establishments	1 space per 600 square feet plus 1 space per employee on the largest shift
Warehouse and/or storage building	5 spaces, plus 1 for each 3 employees; or 1 for every 1500 square feet of gross floor area, whichever is greater
Industrial Establishments	1 space per employee on the largest shift, plus 1 space per 300 square feet of public office area
Mineral extraction, borrow pit, top soil removal and storage	1 space per employee on the largest shift
Sanitary landfill or refuse dump; sewage, trash, garbage disposal or recycling plant	1 space per employee on the largest shift plus 1 space per 4 acres
Truck terminal	1 space per 1,000 square feet plus a reasonable number of spaces for visitors
Water treatment or wastewater facility	1 space per employee on the largest shift

<b>Misc. Use Parking Requirements</b>	
<b>Use</b>	<b>Requirements</b>
Private club or lodge	1 space per 3 persons up to maximum capacity
Penal or correctional institution	1 space per employee on the largest shift plus 1 space per 5 cells
Research, medical or optical laboratory	1 space per 300 square feet

Tennis or racquetball facility	2 spaces per court plus 1 space per employee on the largest shift
Marinas	1 per boat slip
Boat Launch Ramp	7x the maximum trailer capacity of the ramp (double length spaces accommodating vehicle and trailer)
Athletic clubs	1 per each 3 persons allowed within the maximum occupancy load plus 1 per each employee
Golf Courses	5 per hole, plus one for each employee
Cemetery	1 space per employee on the largest shift
Mortuary or crematory	2 for each 100 square foot of gross floor area

**~~Parking Lot Landscaping.~~** ~~Parking lot landscape requirements shall be applicable to all parking areas in all districts, and a parking lot landscape plan shall be provided.~~

d. **~~Parking Lot Perimeter Landscaping.~~** ~~A landscape strip shall be provided around the perimeter of the parking lot, as defined below:~~

(1) **~~Parking Lots that Do Not Abut a Right-of-Way.~~** ~~The landscape strip shall be six (6) feet wide. When the parking lot abuts a building(s) the strip shall be:~~

(a) ~~Four feet wide — parking lot with 1 to 40 spaces or a single parallel driving aisle or any other configuration of equal or greater square footage.~~

(b) ~~Six feet wide — parking lot with 41 or more spaces, or any other configuration of equal or greater square footage.~~

(c) ~~For single use buildings with front facades less than 100 feet in length a minimum 150 square feet of landscape area may be installed at the building entrance (total square footage for both sides of entrance) in place of the required planting strip along the front façade.~~

(d) ~~For buildings with an arcade across the front facade or an access aisle immediately adjacent and parallel to the front facade, the required landscaping may be consolidated at focal points along the front facade and/or incorporated into other required parking lot landscape areas (perimeter or interior).~~

(e) ~~A landscape strip abutting a building shall have at least 50% of its length occupied by shrubs.~~

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~~(2) **Parking Lots that Abut a Right of Way.** When the parking lot abuts a right of way, the strip will be:~~

~~(d) 1-75 spaces: 10 feet.~~

~~(e) 76-150 spaces: 20 feet.~~

~~(f) 151+ spaces: 30 feet~~

~~(3) When the parking lot abuts vacant land or an existing parking area with no landscape strip, the strip will have a minimum width as follows:~~

~~(d) 1-75 spaces: 6 feet.~~

~~(e) ii. 76-150 spaces: 8 feet.~~

~~(f) iii. 151+ spaces: 12 feet.~~

~~(4) When the parking lot abuts an existing parking lot which provides for a perimeter landscape strip, the width of the strip will be equal to the additional width needed to create a strip with an overall minimum width as prescribed hereinabove. However, a landscape strip of at least 4 feet wide must extend from the property line inward.~~

~~(5) **Parking Lots Abutting a Residential Zone or Residential Use.** When a parking lot abuts a residentially zoned or used property, a landscape area shall be provided as prescribed in the individual zoning district and shall have a screen as prescribed in **Section 3.29.**~~

~~(6) **Existing Development.** When a new development is constructed either adjacent to or in between existing developments, the type and placement of street trees in the right of way along the new development shall be consistent with the type and placement of street trees along the existing development right of way; however, at a minimum, trees shall be planted per subsection (7) below.~~

~~(7) All landscape strips shall be planted with shrubbery, trees and groundcover. There shall be one (1) tree for every forty (40) feet of landscape strip.~~

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~~(8) The Zoning Administrator has the authority to reduce these requirements upon a finding that no good purpose would be served by the current standards.~~

~~(9) Piped utilities, such as water, sewer and gas, may cross through, run parallel and adjoining to, or within the outer two (2) feet of a landscape strip. Cable utilities, such as electricity, cable television, telephones, and fiber optic lines located within a landscape strip must be placed a minimum of twenty four (24) inches below grade.~~

~~e. Landscaping of Interior Parking Areas.~~

~~(1) Parking areas totaling seventy (76) or more spaces shall provide a minimum of ten (10) percent interior landscaping.~~

~~(2) Parking areas totaling seventy (75) or less spaces shall provide a minimum of five (5) interior landscaping, which~~

~~(3) Interior landscaping may be transferred to the perimeter of the lot(s) if interior landscaping is not possible. Plant material within parking lots shall provide for safe visibility and maintain clear site lines between three (3) and eight (8) feet from the top of the curb.~~

~~(4) Interior landscaping shall occur in any combination of planting islands, planting peninsulas, and entrance ways.~~

~~(5) Unless otherwise approved all parking lot interior landscape areas shall have a minimum width of 6 feet.~~

~~(6) Unless otherwise approved, plantings within islands and peninsulas shall consist of at least 1 tree and mulch or groundcover for each 162 square feet, or portion thereof, of required landscape area. Shrubs may also be used as long as they do not exceed 3 feet in height.~~

~~(7) In cases in which trees exist on the property where the parking lot is proposed, the existing trees shall be maintained where they do not impede construction on the site and shall count toward the interior landscape requirement. Accepted best management practices for tree preservation shall be used. The location of existing trees to be saved shall be included in the landscape plan submitted to the planning and zoning staff prior to site clearance.~~

~~(8) Parking lots for three hundred (300) or more spaces requiring a central access drive shall have a minimum six (6) foot wide landscape area on both sides and running the length of the drive. A minimum of one shade tree for every fifty (50) lineal feet of landscape area shall be provided. This landscape area may count toward fifty (50) of the interior landscape requirement for the adjoining parking area of the development.~~

~~f. **Planting standards.** See Section 3.29.E. Planting areas can be landscaped with a variety of trees, shrubs or other planting materials. The variety of planting materials used should be tolerant of the existing urban conditions including exhaust, salt and poor and/or compacted soils.~~

~~(1) Deciduous canopy trees shall be a minimum of 2 1/2 caliper inches d.b.h.; ornamental trees shall be a minimum 2 caliper inches; coniferous trees shall be a minimum of 6 feet in height; evergreen and deciduous shrubbery shall be a minimum of 18 inches in height, except where required as a screen.~~

~~(2) All deciduous and coniferous trees and shrubs shall be prepared and planted in accordance with industry standards.~~

~~(3) Planting islands and peninsulas shall encompass an area of not less than 160 square feet for single parking rows and 320 square feet for double parking rows.~~

~~(4) Visibility requirements: All landscape plantings, shrubs, trees, walls, fences, temporary and permanent, shall permit completely unobstructed vision within a clear sight triangle in accordance with §3.14. Landscaping installed in parking areas shall be spaced and maintained so that a visual obstruction that represents a traffic hazard is not created.~~

#### F. Off Street Loading and Unloading.

On the same premises with every building, structure, or part thereof, 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 in order to avoid undue interference with public use of dedicated rights of way. Such space shall be provided as follows:

1. **At least one (1)** loading space shall be provided in the rear yard in the ratio of at least ten ~~(10)~~ square feet per front foot of building and shall be computed separately from the off-street parking requirements; except in the instance of OS 1 Districts loading space shall be provided in the ratio of five ~~(5)~~ square feet per front foot of building and may be

~~provided in the side or rear yard.~~ Where an alley exists or is provided at the rear or side of buildings, loading spaces shall not be required in OS 1, B 1, B 2, CBD, DOD, WD, and DOD districts. **The number and dimension of all proposed loading spaces shall be shown on the site plan.**

2. Within an **Industrial** District, ~~all spaces shall be laid out in the dimension of at least ten by fifty (10 x 50) feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14) feet in height.~~ loading dock approaches shall be provided with a pavement having an asphalt or Portland cement binder so as to provide a permanent, durable and dustless surface. ~~All spaces in I Districts shall be provided in the following ratio of spaces to floor area:~~

**TABLE 3.31 (D) OFF-STREET LOADING & UNLOADING**

Gross Floor Area	Loading & Unloading Space Required
0 – 1,400 ft <sup>2</sup>	None
1,401 – 20,000 ft <sup>2</sup>	One (1) space
20,001 – 100,000 ft <sup>2</sup>	One (1) space plus one (1) space for each twenty thousand (20,000) square feet in excess of twenty thousand and one (20,001) square feet
100,001 ft <sup>2</sup> and over	Five (5) spaces

3. All loading and unloading in an Industrial District shall be provided off street in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least fifty (50) feet.
4. Loading areas shall be designed to provide internal drainage.
5. The Planning Commission may permit the modification of loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of these requirements.

#### G. Snow Storage Areas.

Snow storage areas shall be provided for all sites in the following districts as an unobstructed area of not less than ten percent (10) of the surface area of all paved or surfaced areas such as but not limited to: parking areas, loading and service areas, driveways, etc. Such area may be



lawn or landscaped areas, parking lot divider strips, tree planting areas in parking lots provided plantings are adequately protected. Snow storage areas shall not include public street rights of way.

#### H. Flexibility in Application.

The City recognizes that, due to the specific requirements of any given development, flexible application of the parking standards set forth in this Section may be required to prevent traffic congestion, unauthorized parking on adjacent streets or neighboring site, excessive paving and stormwater runoff, and misuse of space which could otherwise be left as open space.

1. The Planning Commission or the Zoning Administrator may permit departures from the requirements of this Section and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question.
2. The Planning Commission or the Zoning Administrator may attach conditions to the approval of a departure from the requirement of this Section that bind such approval to the specific use in question. Where a deviation results in a reduction of parking, the Planning Commission may further impose conditions which ensure that adequate reserve area is set aside for future parking, as needed.

## Section 3.32 General Exceptions Voting Place

#### A. ~~Essential Services.~~ *Already addressed earlier*

~~The erection, construction, alteration, maintenance, and operation by public or private utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam or water distribution, transmission systems, collection, communication (buried or above ground), fiber optic, supply systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substations, gas regulation stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health or safety or general welfare, shall be permitted as authorized or regulated by law and other Ordinances of the City of Alpena in any use district, provided that the above meet the setback and dimensional requirements of the respective districts and the Zoning Administrator is notified at least sixty (60) days prior to any major construction, and provided a Zoning Permit is obtained. The essential services addressed in this section must also meet all regulations and requirements of the authority having jurisdiction over the road.~~

1 Purpose

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~~Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and shall not be regulated or permitted as essential services, public utilities or private utilities.~~

#### **B. Voting Place.**

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

*Remainder moved to district section:*

#### **~~C. Height Limit.~~**

- ~~1. The height limitations of this Ordinance shall not apply to any portion of a structure that could not be used for living or commercial space such as chimneys, church spires, flag poles, and public monuments; provided, however, the Planning Commission may specify a height limit for any such structure when such structure requires authorization as a Special Land Use.~~
- ~~2. Ground mounted amateur radio transmitting and receiving towers See **Section 7.3.**~~
- ~~3. These height restrictions do not apply to wind turbines, **solar facilities**, anemometer towers, radio and television towers, telecommunication towers **wireless support structures**, and related facilities which are regulated by **Article 7: Supplemental Regulations.**~~

#### **~~D. Lot Area.~~**

~~Any lot existing and of record on the effective date of this Ordinance may be used for any principal use permitted in the district where such lot is located, other than Special Land Uses for which special lot area requirements are specified in this Ordinance, whether or not such lot complies with the lot area and width requirements of this Ordinance. Such use may be made provided that all requirements, other than lot area and width prescribed in this Ordinance are complied with, and provided that not more than one (1) dwelling unit shall occupy any lot except in conformance with the provisions of this Ordinance for required lot area for each dwelling unit.~~

#### **~~E. Projections Into Yards (Encroachments).~~**

- ~~1. **Enclosed Porch.** A closed, roofed porch may project into a front or rear setback for a distance not exceeding five (5) feet. Side setbacks shall be maintained.~~

**1 Purpose**

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- ~~2. **Open Porches and Decks.** An open, unenclosed and unroofed porch, deck, terrace, or similar structure may project into a front or rear setback for a distance not exceeding ten (10) feet (but no closer than two (2) feet from the sidewalk), but this shall not be interpreted to include or permit fixed canopies. Side setbacks shall be maintained.~~
- ~~3. **Patios and Grade-Level Decks.** A patio or grade-level deck shall maintain a two (2) foot setback from all property lines.~~
- ~~4. **Architectural Features.** For properties with a minimum six (6) foot side yard, chimneys, flues, cornices, eaves, gutters and similar features may project into any required setback a maximum of twenty-four (24) inches.~~
- ~~5. Unenclosed and unroofed fire escapes, outside stairways and balconies may project into a required setback to within five (5) feet of the property line.~~

#### ~~F. **Access Through Yards.**~~

For the purpose of this Ordinance, access drives may be placed in the required front or side yards so as to provide access to rear yards or accessory or attached structures. These drives shall not be considered as structural violations in front and side yards. Further, any walk, terrace or other surface servicing a like function, and not in excess of twelve (12) inches above the grade upon which placed, shall, for the purpose of this ordinance, not be considered to be a structure, and shall be permitted in any required yard.

## Section 3.33 Nonconformities

### A. **Intent.**

It is the intent of this Ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed but not to encourage their survival. It is recognized that there exists within the districts established by this Ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Ordinance was passed or amended which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments.

### B. **Special Uses and Variances.**

If a Special Use Permit or a variance has been approved, the structure or use is not considered “nonconforming”.

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**C. Change in Tenancy or Ownership.**

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land or of structures which does not alter the nonconforming status.

**D. Nonconforming Structure.**

A lawful structure existing on the effective date of adoption or amendment of this Ordinance which could not be built under the requirements of this Ordinance by reason of restrictions in area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure.

**1. Maintenance of Nonconforming Buildings and Structures.**

- a. Nothing in this Ordinance shall prevent such necessary repairs and incidental alterations of a nonconforming building existing on the effective date of this Ordinance as may be necessary to secure a reasonable advantageous use thereof during its natural life.
- b. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Official or to comply with barrier-free requirements of the Americans with Disabilities Act.

2. **Completion of Nonconforming Buildings and Structures.** To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

3. **Damaged or Total Destruction of Nonconforming Structures.** When a nonconforming structure is damaged to the extent of fifty (50) percent or less of the replacement cost of the structure, exclusive of foundation, the structure may be rebuilt in the same location, using the same building footprint, provided that rebuilding begins within one (1) year of the event which caused the damage. *If one (1) year or more has elapsed, then the rebuilt*

structure shall conform to current district regulations. If the structure is damaged more than fifty (50) percent or more of the replacement cost of the structure, exclusive of foundation, then the rebuilt structure shall conform to the current district regulations. Restoration of a nonconforming structure pursuant to this subsection shall not increase the degree of nonconformance or noncompliance existing prior to such damage.

4. **Alterations to Nonconforming Structures.** Alterations to a nonconforming structure are permitted, however no nonconforming structure may be enlarged or altered in a way which increases its nonconformity.

E. **Nonconforming Use.** A lawful use existing on the effective date of the adoption or amendment of this Ordinance which would not be permitted by the regulations imposed by this Ordinance. Such nonconforming use may be continued provided the following:

1. **Extension/Improvement of Nonconforming Use.**

- a. A nonconforming use or an existing structure devoted to a use not permitted by this Ordinance in the district in which it is located may be enlarged, extended, constructed, reconstructed, moved, allowed to occupy a greater area of land or structurally altered following approval by the Planning Commission and subject to the following provisions:

- (1) The alteration is compatible with the design of the existing structure;
- (2) Traffic flow along adjoining streets is unaffected, maintain, or improved;
- (3) City infrastructure is not overburdened (sewer, water, storm drainage);
- (4) The function, physical, and visual characteristics of the overall site as it relates to the surrounding neighborhood is maintained or improved;
- (5) The alteration or expansion shall not have a negative effect on nearby property;
- (6) The alteration or expansion would not be contrary to the public health, safety, or welfare or the spirit of this Ordinance;
- (7) No useful purpose would be served by strict application of the provisions of this Ordinance with which the structure does not conform;

~~(8) The alteration or expansion of the structure shall not exceed thirty (30) percent of the total area of the footprint of the existing structure being expanded or fifteen hundred (1,500) square feet, whichever is less.~~

If the nonconformity use is within a structure which is also nonconforming, then the structure shall not be altered to extend the structural nonconformity unless issued a variance by the Zoning Board of Appeals.

- b. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

## 2. Change of Nonconforming Use.

- a. No nonconforming use shall be changed to other than a conforming use, nor shall any use be reverted to a former non-conforming use after said use has been changed to a conforming use.
- b. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

## 3. Abandonment of Nonconforming Use. If a property owner has the intent to abandon a nonconforming use of land and in fact abandons a nonconforming use of land for a period of one (1) year or more, then any subsequent use of the property or structure shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

- a. Whether utilities such as water, gas, and electricity to the property have been disconnected.
- b. Whether the property, buildings, and grounds have fallen into disrepair.
- c. Whether signs or other indications of the existence of the nonconforming use have been removed.
- d. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.



- e. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

#### F. Nonconforming Lots.

1. Any nonconforming lot of record may be used for any purpose authorized by the district in which it is located. This provision shall apply even though such lot fails to meet the requirements for area or width applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Any required variances may be requested pursuant to the procedures and standards of this Ordinance. **The Zoning Administrator may approve an administrative departure to reduce the required setback by ten (10) percent.**
- ~~2. If two (2) or more contiguous lots, parcels, or portions of lots or parcels are under the same ownership and do not individually meet the lot width, depth, and/or area requirements of this Ordinance, then those contiguous lots, parcels, or portions of lots or parcels shall be considered an undivided lot or parcel for the purposes of this Ordinance, and no portion of such undivided lot or parcel shall be used or divided in a manner that diminishes compliance with the lot width, depth, and/or area requirements established by this Ordinance or which creates a nonconforming structure.~~

## Section 3.34 Performance Standards

All development within the City of Alpena shall comply with the following performance standards. **The City of Alpena does not enforce regulations under the jurisdiction of another local, state, or federal agency.**

#### A. Sound.

The emission of measurable noise in decibels (dB) from the premises shall not exceed the sound levels specified in **Section 54-1** of the City of Alpena Code of Ordinances. These regulations do not apply to construction activities, maintenance activities, noises of safety signals, warning devices, emergency pressure relief valves or special community events approved by City Council.

#### B. Vibration.

All machinery shall be so mounted and operated that vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses.

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**C. Odor.**

The emission of noxious, odorous matter in such quantities as to be readily detectable at any point along any lot line so as to produce a public nuisance or hazard is prohibited.

For new facilities (commercial or industrial), the most recent technologies shall be utilized to reduce odors, as part of or in addition to any conditions included in a USEPA and/or **State of Michigan MDNRE** air/water quality permit(s). As part of the Zoning Permit review the applicant shall demonstrate that all measures technologically available and financially viable to mitigate the emission of noxious odors will be incorporated into the design of the facility.

For existing commercial and industrial facilities, odors resulting from the production process that are within the limits established by the USEPA and/or **State of Michigan MDNRE** in approved permits shall not be considered in violation of this ordinance. This does not exempt any business from the responsibility to take all necessary technologically feasible and financially viable measures to reduce such odors, and to comply to with any new standards required as part of a renewed or new USEPA and/or **State of Michigan MDNRE** environmental permit.

**D. Toxic Gases.**

The escape or emission of any gas, which is in violation of a USEPA and/or **State of Michigan MDNRE** permit shall be deemed a violation and shall be abated, as directed by the permit issuer.

**E. Glare and Heat.**

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

**F. Electromagnetic Radiation.**

The rules and regulations of the Federal Communications Commission, as amended with respect to the propagation and dissemination of electromagnetic radiation must be followed and are hereby made a part of this Ordinance.

**G. Drifted And Blown Material.**

Property owners shall take appropriate measures to ensure the prevention of drifting of airborne particles or debris beyond their lot lines. Any such activity shall be promptly abated upon

notification by the City. During times of stockpiling or removal, excavation or grading those measures, necessary and practical (dampening, etc.), will be taken to minimize the blowing and drifting of material.

#### H. **Smoke, Dust, Dirt, and Fly Ash.**

The discharge of any opaque smoke or particulate in violation of an issued permit from the USEPA or the **State of Michigan** ~~MDNRE~~ shall not be permitted, and shall be abated, as directed by the permit issuer.

#### I. **Notification.**

The public shall be notified whenever scrubbers or other pollution control equipment used to reduce or eliminate the emission of odors, gases, or particulate matter into the air, or contaminants from discharging into ground or surface waters, will be shut down for maintenance or become inoperable due to breakdown.

In the case of a planned shutdown, the public shall be notified at least **forty-eight (48)** hours in advance. Such notice shall include the date and time of the shutdown, the duration of the shutdown and the impact of the shutdown (increased odors, etc.) on the community.

In the case of a non-planned, sudden breakdown of such equipment the public shall be immediately notified of the problem, its expected duration and its impact on the community.

Such notification shall be sent via e-mail, ~~fax~~ and/or other electronic means to the **State of Michigan** ~~MDNRE~~, City of Alpena, adjacent governmental entities, local schools, district health department, and local media (TV, radio, newspaper, etc.).

## Administrative decisions require careful application to ordinance standards: Part 1

Brad Neumann, [Michigan State University Extension](#) - March 21, 2023

Base decisions only on explicit standards in the ordinance to avoid a challenge of being unreasonable, arbitrary or capricious.

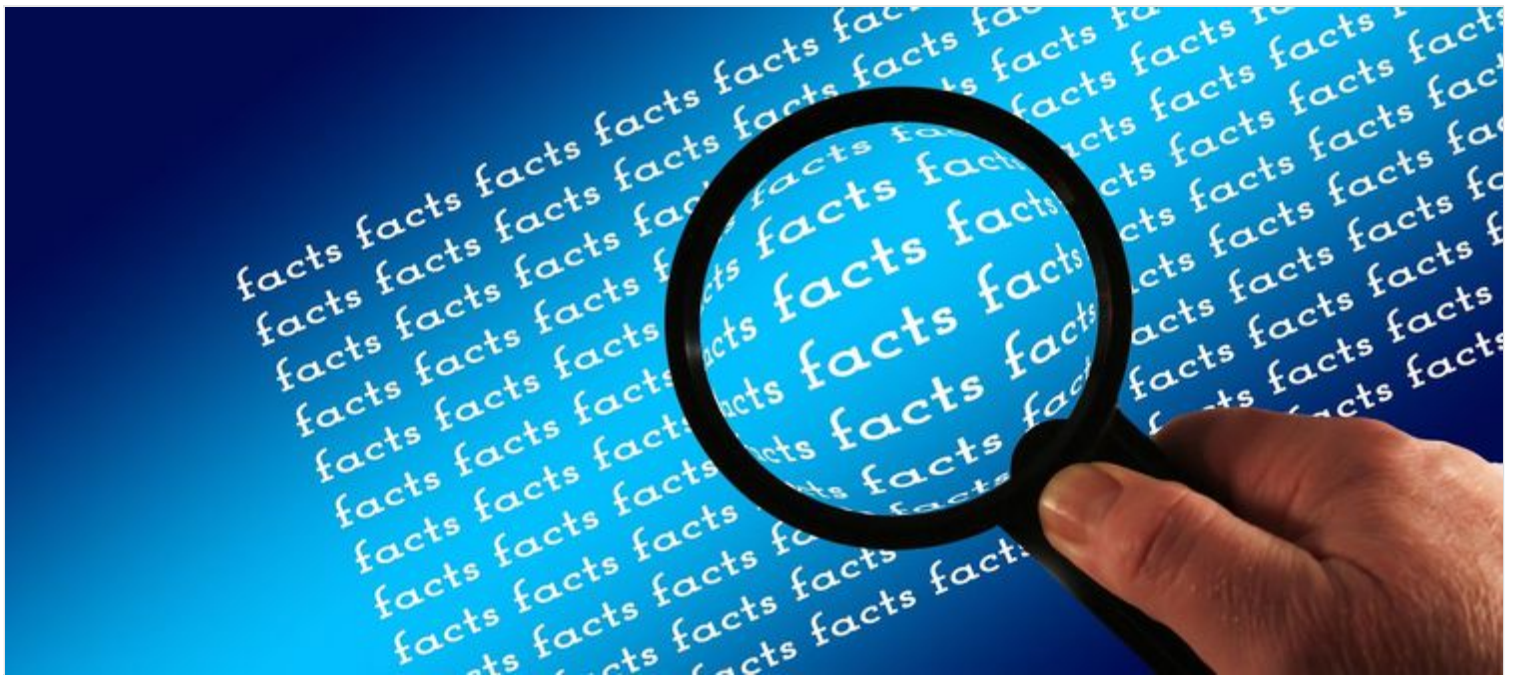


Photo by Gerd Altmann via Pixabay.com.

The [Michigan Zoning Enabling Act](#) (MZEA) requires that a zoning ordinance include standards to direct administrative decision makers in ruling on zoning applications that require discretion and judgment. This includes decisions on site plans, special land uses, planned unit developments, and variances. Strictly following the standards is a principal means for defending zoning decisions against charges of being unreasonable, arbitrary or capricious.

A zoning ordinance includes two types of standards, discretionary and nondiscretionary. With nondiscretionary standards, such as a setback, height or lot area standard (sometimes called a numerical standard), one can count, or measure, whether the standard is met. Finding whether or not nondiscretionary standards are met can be relatively black and white.

With discretionary standards, the administrative body or official has to exercise discretion, or judgment, in determining if the standard has been met. The following standard is discretionary:

“The development that is the subject of the application for zoning approval shall not be injurious to the use and enjoyment of property in the immediate vicinity for the purposes permitted, nor substantially diminish or impair property values within the neighborhood, or the value of the natural environment.”

Although some of the wording may appear vague, a careful reading will show that there are ways to determine whether this standard is met based on the specific facts in a particular case.

Zoning standards and uniform procedures help reduce the potential to make arbitrary decisions and increase the odds of making uniform, consistent decisions when similar situations arise. This is especially important, given the following:

- The MZEA requires that if the requirements and standards for decisions are satisfied, the board, commission, or official **must** approve the request.
- The role of the decision maker is to take into account the welfare of the entire community, not just those who may show up at a hearing.

A decision-making body has constitutional limitations such as due process and equal protection. How does this work at the practical level when confronted with a roomful of angry people demanding that an application be denied? In these situations, review standards prove most useful. Decision makers must abide by the review standards; they may not make up their own rules. This means that even though zoning decisions are discretionary, they can be consistent when the review standards are applied for each decision.

Following the standards helps prevent arbitrary decisions based on personal biases or opinions that lead to public dissatisfaction and distrust of the zoning process. It should be mentioned that a zoning decision that must be made with discretionary standards might best be reviewed and acted upon by an administrative body – the planning commission – because there are multiple decision makers and points of view. If the zoning case has only nondiscretionary standards, then it might be better reviewed and acted upon by an official (e.g., the zoning administrator) in order to streamline the review time (see article “Who should decide if a zoning permit is issued?”).

The second part of this article describes the importance of a detailed record for an administrative decision and outlines the necessary four components of minutes of administrative bodies.

Questions about making administrative decisions can be directed to a Michigan State University Extension land use educator.

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## Administrative decisions require careful application to ordinance standards: Part 2

Brad Neumann, [Michigan State University Extension](#) - March 21, 2023

Base decisions only on explicit standards in the ordinance to avoid a challenge of being unreasonable, arbitrary or capricious.

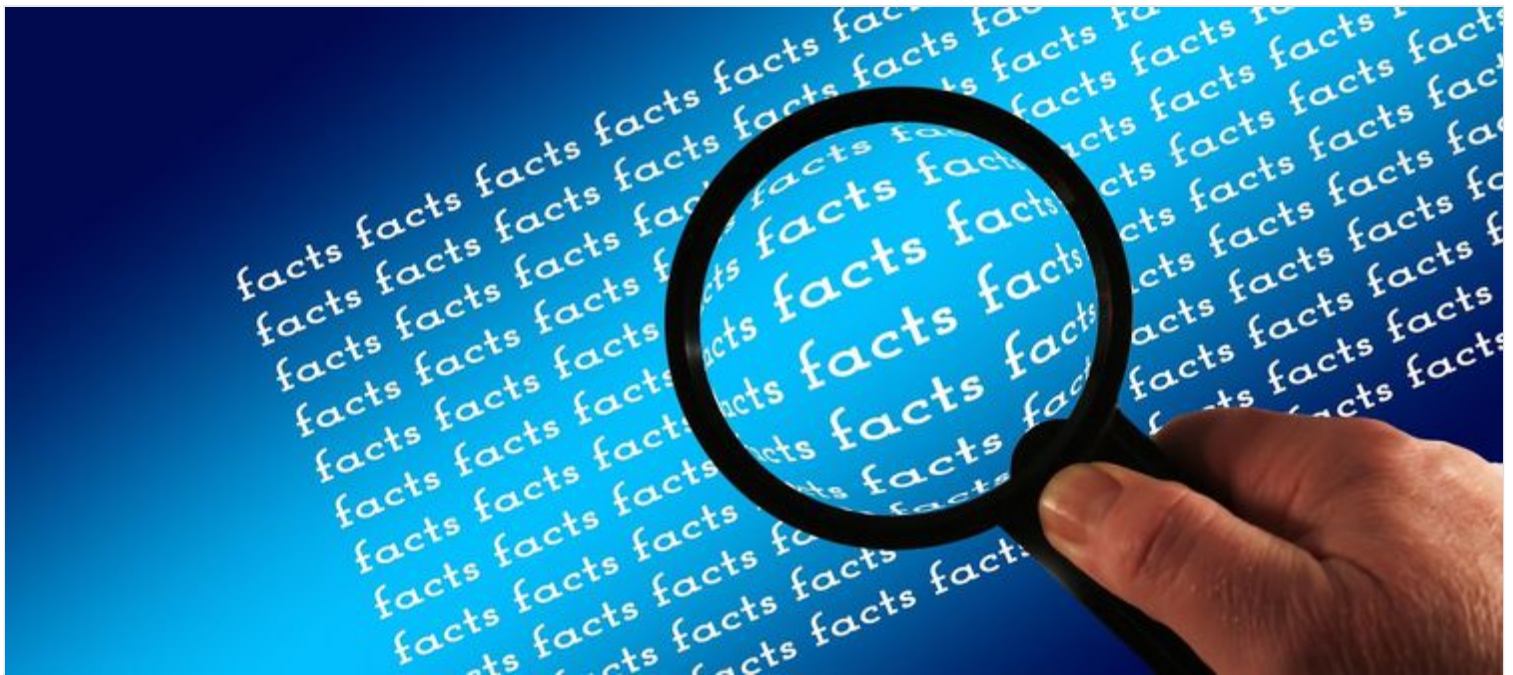


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The [first article](#) in this two-part [Michigan State University Extension](#) series explains the importance of ordinance standards in making administrative decisions and differentiates between discretionary and nondiscretionary standards. This article covers the importance of detailed minutes to document conformance (or not) with ordinance standards.

When making decisions on administrative matters (e.g., site plans, special land uses, planned unit developments) and quasi-judicial cases (e.g., appeals, variances), decision makers must ensure that required tests or standards are employed, substantiated, and documented in the record. To assist in collecting this information and achieving consistency and equity in reviewing applications, use of a checklist is encouraged. Denying an application because of a vague notion that the use is “not a good idea” or will “harm the neighborhood” is not enough (see “Vague or subjective ordinance standards: In the court’s opinion they stink!”). The record must show sufficient facts to back up the findings made according to the ordinance standards. If the impact on traffic is of concern, for example, describe those concerns as precisely and factually as possible.

If a decision is challenged, the importance of using the ordinance standards becomes evident. A well-supported decision provides the background needed to build a solid legal foundation for the decision. For this reason, administrative bodies (planning commissions, zoning boards of appeals) should take minutes with greater detail than those of a legislative body; see MSU Extension “Land Use Series” pamphlet: “How to take minutes for administrative decisions.” For example, for each case the minutes should reflect at least four things:

- Findings of fact;
- Reasons for the decision (each reason based on or tied to a standard in the ordinance);
- the decision; and
- Any conditions of approval.

These four items do not need to be all in one motion, but all four do need to be in the minutes, or attached to the minutes, as a single motion, more than one motion, in a staff report, part of the discussion leading up to a motion(s), or another combination.

In arriving at findings of fact, the commission or board reviews all the material on the case (the application, staff reports, statements made at the public hearing) and decides which statements are true. In other words, the members shift through all the material and find the facts for the case. Seldom will all facts support one decision or another. That is okay and expected. The next step is to sort through the findings of fact to determine if a preponderance, not always a majority, of facts exist that leads to one decision or the other.

Then, it is a recitation of reasons for the decision. Often one reason is stated for each standard germane to the case. This leads one to determine if that particular standard was met or not. For instance, one, of likely several, reasons for approving an application might be, “The total square footage of all structures detailed in the application does not exceed section 3704.E. requiring no more than 30 percent coverage of a parcel.”

Next is the decision – to approve, to approve with conditions, or to deny the request.

Finally, is a list of the conditions of approval, if any. For example, a discretionary standard to minimize impacts on neighboring properties may not be met in the application, but if the applicant built a buffer along a property line, then that standard might be met. The requirement for the additional buffer would then be an appropriate condition of approval.

Questions about making administrative decisions can be directed to a [Michigan State University Extension land use educator](#).

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## Who should decide if a zoning permit is issued?

Kurt H. Schindler, Michigan State University Extension - February 24, 2015

Michigan law provides three options for who decides to issue zoning permits. There is a way to determine which option is best for a local government to use.



Michigan law provides three options for who decides to issue zoning permits. There is a way to determine which option is best for a local government to use. Photo credit: Michigan Citizen Planner training program | MSU Extension

In Michigan, zoning administrative decisions can be assigned to three different bodies. The assignment is in the local zoning ordinance and is done the same way each time within that local community. But how does one choose what may be the best option provided in the Michigan Zoning Enabling Act (MZEA) (MCL 125.3101 *et seq.*)?

For purposes of executive, or administrative, decisions we are talking about who makes the final decision concerning the issuing or denying a zoning or land use permit, special use permit, planned unit development (PUD), handled administratively and site plan reviews. The MZEA provides for these decisions to be made by one of the following. In each case the local zoning ordinance has to specify which **one** is the body or official responsible for the review and approval (MCL 125.3501(1), 125.3502(1), and 125.3503(2)).

- Planning Commission (usually)
- Zoning Administrator (sometimes: for minor special uses, PUDs handled administratively, or site plans)
- Legislative Body (more rarely)

It is the third option, the legislative body, that is discussed in detail in Legislative body involvement in zoning administrative decisions can raise important questions.

First is the idea that with approving or denying a zoning or land use permit, special use permit, planned unit developments (PUD) handled administratively and site plan review, the basis for the decision is if the proposed project complies with the standards written in the zoning ordinance or not. Decisions in these cases must be based on standards, **not** popular opinion, other concerns not already addressed in the zoning ordinance, and so on. A very important concept, taught and repeated a number of times in the Michigan State University Extension Michigan Citizen Planner program, is “if an applicant meets all the standards stated in the ordinance, approval must be given.”

**"If all standards and requirements are met:  
approval must be given."**

This becomes especially important because everything is supposed to be based on compliance with standards in the ordinance, or not. If a decision is challenged, the court will focus on the ordinance standards – nothing else. A well-supported decision provides the background needed to build a solid legal foundation for the decision, which involves taking detailed minutes. For each case, the minutes should reflect content of discussion, the hearing record, findings of fact, reasons, the decision, conditions if any, all need to

be reflected in the minutes (See Land Use Series “How to take minutes for Administrative decisions”). This is true for any administrative decision (Article VI, §28, Michigan 1963 Constitution).

So, which official or body should be assigned the task of reviewing and making a decision: planning commission, zoning administrator or legislative body?

The answer might be finding a balance between two competing goals:

- Minimizing the amount of red tape, length of time, it takes to process and decide (favors the zoning administrator doing the task).
- Not placing too much power in the hands of one individual, but rather placing the decision before an administrative body such as a planning commission (or more rarely the legislative body). Then the discussion is at a public meeting and more than one person is engaged in the discussion and decision.

In reality, the answer in any given local government will be a combination: where some decisions are assigned to the zoning administrator and others are assigned to a public body. Then, the question becomes when should it be an individual or a public body deciding?

To help answer that question we should examine what the standards are in the local government's zoning ordinance. Standards, upon which zoning decisions are based, are usually found in four places in the zoning ordinance:

1. In the part of the zoning ordinance often called general provisions. These are the requirements, or standards, that apply throughout the zoning jurisdiction, regardless of the zoning district.
2. In the part of the zoning ordinance about the particular zoning district in which the parcel at question is located. These are the regulations, standards, which are unique to that zoning district.
3. In the part of the zoning ordinance on special use permits (and PUDs). These are the general standards for all special uses (and PUDs) located anywhere in the zoning jurisdiction.
4. In the part of the zoning ordinance that addresses specific special uses (and PUDs). These may be in its own Article, in the zoning district. An example might be gravel mining and the standards related to review and approval of that special use.



As one reviews these standards in the zoning ordinance, they can be placed in two categories.

First would be “non-discretionary” standards. When one sits down to determine if a proposed land use complies with the standard or not, you find it is pretty black and white. You can measure or count to determine if the standard is met. There is very little judgment, or discretion, needed to find compliance or lack of compliance. Yard setbacks or number of parking spaces are non-discretionary standards. Another example of a non-discretionary standard is: “Whenever a residential zone abuts a commercial zone, an eight-foot-high brick wall shall be constructed along the property line.”

If the type of approval is predominantly reviewing non-discretionary standards then minimizing the amount of red tape, length of time, it takes to process and decide may be the priority. This means the zoning administrator (one individual) could be assigned the task. Most zoning ordinances already do this with zoning permits, (also known as land use permits, permitted uses or uses by right).

Second would be “discretionary” standards. When one sits down to determine if a proposed land use complies with the standard or not, you find there is grey area in making the determination. It requires judgment, and there may be differing opinion, to determine if the standard(s) is (are) met or not. The standard might require determining if it fits with the environment, or does not exceed capacity of police or fire services. Another example of a common non-discretionary standard is: “The proposed land use must be compatible with adjacent uses of land.”

Discretionary standards may require an opportunity for residents in the immediate area to contribute to the debate. For example, neighbors may have information or views as to if the land use is compatible with them (the adjacent uses) or not. If the type of approval is reviewing many or predominantly discretionary standards then not placing too much power in the hands of one individual, but rather placing the decision before an administrative body such as a planning commission may be the priority. Also, the discussion is at a public meeting and more than one person is engaged in the discussion and decision.

The reality is one will find a number of decisions are easy to put into the non-discretionary category (most zoning permits), and are easy to put into the discretionary category (most PUDs, major commercial, industrial, and development projects). But there will be a large number in between (small commercial, additions to commercial or

industrial). Those will take more debate and analysis to find the best balance between the goals of minimizing the amount of red tape, length of time for review, and not placing too much power in the hands of one individual.

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