



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

---

## *Planning, Development, & Zoning*

---

### City of Alpena Planning Commission

#### Regular Meeting

Tuesday, August 8th, 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.

United States: [+1 \(571\) 317-3112](tel:+15713173112)

Access Code: 178-564-461

### AGENDA

CALL TO ORDER;

ROLL CALL;

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES – Regular meeting July 11, 2023

PUBLIC HEARING AND COMMISSION ACTION:

**1. Case SU23-03 Special Use Permit – 307 South 3<sup>rd</sup>**

Findings of Fact – Appendix A

Special Land Use Approval Standards 6.12 – Appendix B

Supplemental Regulations 7.38 – Appendix C

BUSINESS

**a) UNFINISHED:**

a. Articles 8 (Zoning Board of Appeals) and Article 10 (Adoptions & Amendments) updates

b. Articles 6 (Site Plan Review) and 9 (Administration)

**b) NEW:**

**c) COMMUNICATIONS OR REPORTS:**

**d) CONTINUING EDUCATION:**

PUBLIC COMMENT

MEMBER COMMENTS

ADJOURNMENT



MINUTES  
City of Alpena Planning Commission  
Regular Meeting (Council Chambers and Virtual)  
July 11, 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, Sundin, Boboltz, VanWagoner, Gilmore, Moses, Kostelic

ABSENT: Peterson

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 June 13, 2023, minutes were approved as printed.

PUBLIC HEARING AND COMMISSION ACTION: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS: **Managing Order in Public Hearings** - Boboltz stated that at the last meeting, he allowed a public speaker to address someone in the audience and he did not redirect them to address him or the Commission. Fortunately, he said that there were no significant problems. Moses said his main concern was that one speaker, after being redirected to address the Chairman, was still addressing another person from the public by name rather than addressing the Chairman; this all occurred after the public portion of the hearing was closed. He said that there is a need sometimes to redirect or ask questions of an audience member, but what do they do when they have already given someone thirty minutes during the public speaking portion, then they come back again for seconds, and then others chime in; at that point, what do they do. Wojda said that it is a delicate balance because you never go wrong by allowing the

public an opportunity to comment and will not get into trouble from a due process perspective if you give them an opportunity to say their peace; on the other hand, you can't have disorder. Sundin said that Boboltz always gives directions on the public hearing, but maybe it needs to be reinforced to the public that everybody will have a chance to speak, but the public portion is the only chance to speak unless asked a specific question by the Chairman or a board member. Boboltz said that he did not think he has been making the statement about addressing the Chairman when explaining the procedures, but he intends to start. Moses said that there were a couple instances when a member of the public just spoke up when the Planning Commission members were deliberating. He said he understands that that might happen, but there is a concern for order. Birmingham stated that many citizens may not have participated in a public hearing before and are just honestly not aware of the procedures. Boboltz said that in all the years he has been on the Commission, there really have not been any serious issues.

#### **Article 8 (Zoning Board of Appeals) and Article 10 (Adoptions and Amendments) –**

Birmingham said that a lot of the changes were grammatical or simply adding the word Zoning to Board of Appeals.

Page 8-2F – that section was not removed, but it did change locations.

Page 8-6 Section 8.5 Variance Standards – Birmingham said that the Zoning Board of Appeals has seen a number of Sign Variances and the variance standards that are in there now do not really fit for signs so they took the same variance standards that they approved for Article 4 Sign Section and inserted them here.

Page 8-3 Section 8.2 Jurisdiction - Sundin asked what can be appealed to the Zoning Board of Appeals. Boboltz said that one thing is clear and that is if it is a Zoning issue that someone is asking for a change and [the Planning Commission] denies it, they can go to the Zoning Board of Appeals; with the Special Land Use permit, that would go to Circuit Court.

Page 8-4 Section 8.4F – Wojda suggested some changes to the new language written in. He said that the second time the word *Decisions* is mentioned should be omitted, and the word *shall* be changed to *may* – the new language would be changed to *Decisions regarding Special Land Use may be addressed in Circuit Court*.

Page 10-2 Section 10.1B – Public Hearing language updated.

Page 10-3 Section 10.2 – Rezoning Standards changed to Rezoning Factors per recommendation of Denise Cline, NEMCOG.

Page 10-3 Section 10.1 D 2 and 3 – Sundin suggested that the proposed language sounds like it is a way to circumvent the Planning Commission. Boboltz agreed. Sundin suggested that in number 3, the word *may* be changed to *shall*. Birmingham will confirm what the MZEA states.

Pages 10-7&8 Section 10.3H & I – Sundin asked if someone does not do what they said they were going to do for a Conditional Rezoning, can it revert back to the previous Zoning, rather than going through another Public Hearing and all the other things. He asked if a duplex was bought by someone and turning into single family, would that automatically revert that back to its original zoning. Birmingham said that the time period for establishing it was updated in Section 10.7G. Boboltz suggested that [the City] would realize if a duplex was changed from two units to one during the rental inspection process. Sundin said that he is not only talking about that particular situation, but also other [Conditional Rezones] and the time periods given to people and having to go through the whole public hearing process again. He also said that he thought it should automatically revert back to the previous zoning if not completed on time; then letters could be sent out to the surrounding property owners again notifying them, which would be much simpler than another public hearing. Gilmore pointed out that with Conditional Zoning, there is that certain condition and time period which should make it clear to the property owner. Wojda asked why they are considering the rezoning standards when it says [in the Ordinance] that it has to revert to it's former; if that is the case, all they have to decide is whether Subsection G has been violated, not whether zoning is appropriate. They would have to make a finding that they haven't done anything, to revert back to what it was before. Wojda said that someone such as the Zoning Administrator would have to determine that. Boboltz stated that it did not make sense to him that the reversion process should be initiated by the City Council; others agreed.

Page 10-9 – Section 10.4 Protest Petition – Boboltz asked about the 2/3 or 3/4 vote requirement. Sundin stated that the Council would have to have at least 4 out of 5 votes.

COMMUNICATIONS OR REPORTS: None.

CONTINUING EDUCATION: Birmingham provided an article from the MSU Exchange called Zoning Petitions. The article was not discussed, but rather provided to read on their own time.

PUBLIC COMMENT: None.

MEMBERS' COMMENTS: Boboltz informed the Planning Commission members that Rachel [Smolinski, City Manager] attended the Lion's Club meeting recently and she talked about the housing study group. He said that if anybody is interested in attending their meetings, they are in the Council Chambers on the second Tuesday of the month, at 1:00 pm. He said a research study for housing needs and assessments has just been finalized early this Spring and he felt it

may be of some interest to the members since they are working on rewriting the Zoning Ordinance.

ADJOURNMENT: There being no further business, the meeting was adjourned at 6:45 p.m., by Boboltz, Planning Commission Chairman.

---

Clayton C. VanWagoner, Secretary

## Planning, Development, & Zoning

### FINDINGS OF FACT SPECIAL LAND USE

**APPLICANT:** BRETT MUTTER / SHERMAN HUBBARD (PROPERTY OWNER)  
**PROPOSED USE:** OUTDOOR VEHICLE SALES  
**DISTRICT:** CBD  
**LOCATION:** 307 SOUTH 3<sup>RD</sup> AVE  
**REVIEW DATE:** 7/24/2023  
**REPORT:** SU23-03



**Summary of Request:** Applicant and Owner request to allow outdoor trailers sales in the parking lot of 307 South 3<sup>rd</sup> Ave. Applicant was made aware of the special land use requirement on 6/12/2023 by City staff and an enforcement was entered on the property. Applicant requested to apply for a SLU permit.

### 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

1. The property subject to the application is located in a zoning district in which the proposed Special Land Use is allowed (CBD) (Section 7.38 Outdoor Vehicle Sales was used, as trailer sales in and of itself are not called out within the use matrix).

#### B. Compatibility with Adjacent Uses

1. Lot is located within the Downtown Development Authority and Downtown Overlay District
2. Parking lot is owned by Speedy Blaze and parking area is shared with Speedy Blaze.
3. Seasonal sales – most inventory will be removed during winter months, but applicant requests that a few trailers remain, as well as a sign.
4. Planned activities related to trailer sales are low impact – no permanent sales associate, structure, or personnel are planned to be present – customers must call to arrange a sale.
5. No set hours of operation.
6. Ingress/Egress exists off 3<sup>rd</sup> Avenue and Tawas.
7. No changes to lighting or the site itself are planned.
8. Residential properties face and adjoin the parking area off Tawas. Current ordinance requires greenbelts or buffers for screening from residential properties; however, Planning Commission may waive if no suitable purpose would be served.

---

## *Planning, Development, & Zoning*

---

**C. Public Services**

1. Essential public services (fire, police, etc.) are available – access to Speedy Blaze for fire equipment should be considered.

**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

**E. Compatibility with Natural Environment**

1. No changes proposed

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

1. No major impact on traffic street system impacted as far as increased traffic concerned; consideration should be given for semi loading and unloading and Speedy Blaze Employee Parking (see Additional Notes).

**G. Non-Detrimental Standards**

1. None known

**H. Consistency with Zoning Ordinance and Comprehensive Plan**

Economic Development: Goal 2: Retain existing businesses, establish new commercial uses, and redevelop vacant commercial buildings. Goal 2 objectives are to support efforts to create a vibrant downtown (this property is within the DDA District) and to attract a diverse mix of new businesses.

A special land use runs with the land; consideration should be given to the fact that unless the use is rescinded by the applicant at a later date, or the use is determined to be abandoned, the use can continue.

## **SUPPLEMENTAL REGULATIONS: SECTION 7.38**

---

The Planning Commission shall review and apply the following standards and factors in the consideration of a Special Land Use for Outdoor Vehicle Sales.

Section 7.38 (Outdoor Vehicle Sales)

- Display areas shall not be covered by canopies or other structures. – Condition Met
- Display areas shall be surfaced with concrete, asphalt, or other impervious surface material – Condition Met, however current parking area is in need of maintenance and removal of vegetation

## **ADDITIONAL NOTES**

---

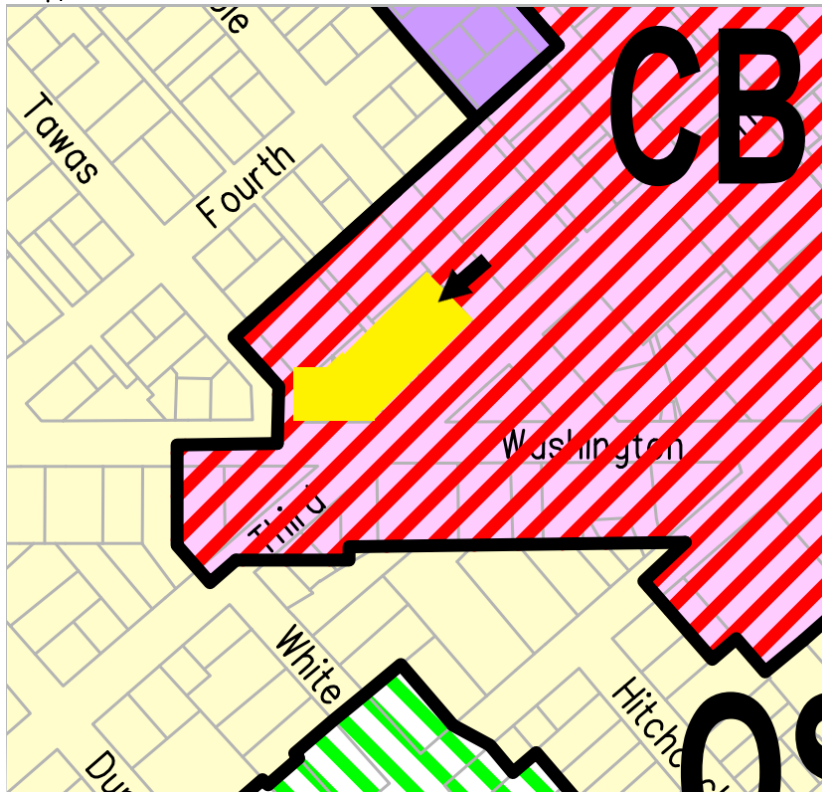
1. A Use Variance through the Zoning Board of Appeals in 2018 exists currently on the property to allow light manufacturing in the Central Business District for Speedy Blaze (ZBA Case 18-07).
  - a. Speedy Blaze is currently in violation of the requirements of the Use Variance – requirements are that there be no outdoor storage of raw or finished materials. A copy of the minutes from that meeting are included for reference. This issue and general exterior issues relating to vegetation and sidewalk encroachment were discussed with the property owner.
  - b. As of 7/31/2023 – the cages surrounding the light pole have been removed
  - c. As of 8/2/2023 confirmed with property owner that all material currently stored outside will be removed by August 31, 2023 (result of a supply chain issue). Property owner also stated that

## *Planning, Development, & Zoning*

exterior vegetation would be removed, parking lot cleaned up, and sidewalks cleared of pallets and equipment.

- d. Need to understand from the applicant access of semi-trailers into and out of the parking lot with additional trailers in parking area (loading of pallets, unloading or raw materials, loading of finished goods) and impact to employee parking.
2. Sign ordinance requirements:
  - a. Article 2: Definition of a temporary sign (of which a banner is considered): a temporary sign shall not be used as a substitute for a permanent on-premise advertising sign, except as permitted within this ordinance). A permanent sign has not been proposed.
  - b. A banner sign is currently hanging between two posts on the edge of the property facing 3<sup>rd</sup> Ave
  - c. A compromise could be to remove the hanging banner and affix a banner to the trailer itself that would align with temporary sign standards (no more than 2 signs for a total of 30 square feet with a maximum of 20 square feet for one sign); this would ensure as trailers sell that banners are changed out and maintained and could still be of a banner type material.
3. Consider delaying the issuance of a permit until all storage and maintenance violations have been corrected. If not correct by 8/31/2023, the SLU would not be permitted.
4. Objections received from property owners within 300': None
5. Letter received that were non in objection from property owners within 300': 1

### Map/Photos:





*Planning, Development, & Zoning*











**From:** [Avery Aten](#)  
**To:** [Birmingham, Montiel](#)  
**Subject:** Special Use Permit for 307 S 3rd Ave  
**Date:** Wednesday, August 2, 2023 5:12:28 PM

---

**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders." at the beginning of the message body.

I have no objection to this request for a special land use permit.  
Sincerely, Avery J Aten, 311 South 2nd Ave, Alpena MI

## MINUTES

### ZONING BOARD OF APPEALS

November 28, 2018

### COUNCIL CHAMBERS, CITY HALL

#### CALL TO ORDER:

Chairman Elwood Anderson called the Zoning Board of Appeals to order at 5:00 p.m.

#### ROLL CALL:

Present: Anderson, Bray, Guest, Keller, Lamble, Lewis

Absent: None

Chairman Anderson opened the public hearing and explained the procedures for the hearing.

#### Public Hearing of Case ZBA18-07

Adam Poll asked the board if they would like to hear this case first, because the applicant for the 307 Saginaw Street case will not be present at the meeting. Adam said he will be representing him.

Adam Poll, Planning and Development Director presented the use variance as follows: Third Avenue Properties, LLC 307 S. Third Avenue, Alpena, MI 49707 is requesting a use variance to allow the installation and use of certain types of light manufacturing equipment in the CBD Central Business District. Article 5.12B

#### **Property Address: 307 S. Third Avenue**

Notices were sent to all adjoining property owners within 300 feet of the subject property.

To authorize a variance, the board shall find that all of the following conditions are met:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.

3. The proposed use will not alter the essential character of the neighborhood.
4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).

**CONDITIONS:** The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

**FINDING OF FACT:** In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the four conditions relative to this petition is as follows:

The applicant is requesting to allow for the use of light industrial machinery to compress sawdust and woodchips into bricks. The applicant has indicated that the machinery is quiet and all elements of the production would be entirely contained within the building.

The building in question was previously a car dealership with car repair facilities that would have utilized compressors and air tools. More recently the building has been used as a specialty meat shop and office space, but is now vacant.

1. The property could be utilized as a form of many different general business uses that are permitted by right. The property is a former car dealership although the footprint is too small for most authorized modern dealerships. The unique size and layout of the building has led to it being vacant or underutilized for quite some time, and even when businesses did locate within the building, a majority of the building was still vacant.
2. The applicant has indicated they are in need of a larger building and want to remain in Alpena. This building would meet their needs and still allow them to operate their existing business with additional space for their needs.
3. The proposed use would not appear to alter the essential character of the neighborhood. The amount of noise produced by the proposed machinery would not appear to be audible to nearby residences and would allow for the utilization of a vacant building. In addition, there would still be space for office or retail use, which are the preferred uses in the Central Business District.
4. The applicant did not cause the immediate hardship. The building has a unique size and location that has led it to be vacant or underutilized for several years. While portions of the building have been utilized for retail and office, a majority of the building has been vacant since the car dealership changed locations.

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

Staff observations:

The applicant has indicated that the machinery is quiet and would be entirely contained within the building.

The building in question was previously a car dealership with car repair facilities that would have utilized compressors and air tools. More recently, the building has been used as a specialty meat shop and office space, but is now vacant.

As the property appears to be unique in that the size and layout of the building has not been able to be fully utilized, and that the property has not been able to be fully utilized for uses allowed in the Central Business District due to its configuration, and that the bricket machine described would not appear to alter the characteristics of the neighborhood. Staff would recommend **approval** of the request for the use of a light industrial machinery to compress sawdust and woodchips into brickets if the following conditions are met:

1. The requested equipment is only operated between the hours of 7:00 a.m. to 7:00 p.m.
2. The requested equipment is only operated with doors closed.
3. The equipment and layout meets all building and fire codes prior to operation.

PUBLIC COMMENT:

Chairman Anderson asked if there was anyone who desired to speak either for or against this variance.

Member Lamble asked if there are any chemicals used in this process. The applicant said no.

Mr. Jack McCoy showed the board one of the brickets. Member Lewis asked what they were used for.

Mr. McCoy said they were used for replacement of firewood. They are trying to restrict the amount of time for the distance they can transport firewood. They did pick up a contract with the State of Michigan for their parks and recreations.

Mr. McCoy of Third Avenue Properties addressed the board. The machine will be located within what used to be our paint booth when we had a body shop there. You would not even know it is operating. They are looking into putting in a sprinkling system in that area because of the woodchips.

Member Lewis asked, the product that goes into this, how does that come in? Does it get trucked in and piled up?

Mr. McCoy said they would be picking it up locally from Fiberchar Corporation or ABTco, places like that, bringing it in probably in huge bags or in the back of a truck. They would back into the body shop area and dump it off there and then transport it into the machine that presses the bricks.

Member Lewis asked if there was any storage outside. Mr. McCoy said no.

Member Keller asked if there are no chemicals, how do they do the process. Once the product is pressed, they run it through a paraffin dip tank that coats and waterproofs it so it can sit outside. There are no fumes or smoke from this product.

Chairman Anderson asked Mr. McCoy if they have an order with the State of Michigan now. He said they have a contract with the State of Michigan for at least 20 of their parks to replace the firewood contracts. When these bricks burn, it does not put out any sparks, does not throw a flame as high as firewood does, but it does last a lot longer and hotter.

Alisha Manning, 118 Tawas Street addressed the board. As a resident, her concern is the noise because she works at home. She said there is a machine shop on the corner of Fourth and Tawas. She said she hears noise coming from the machine shop, with mechanics working on machinery a lot. To add this to the machinery noise is definitely a concern to her.

Kathleen Melville-Hall at 342 S. Third Avenue addressed the board. They have had issues for a long time because of all the floodlights at the car dealership. The lights are always there and the bugs are always all over her house. She uses shades and room darkening draperies but those lights are on all night long. She says dust and noise is a big issue with her. She knows the building was being used last summer, and they had to open the doors because that place gets hot in the summer. She asked if in the summer that you are using this business, is this equipment going to create heat. Will you have a way of keeping it so the people inside are not going to melt without opening the doors. If they open the doors, is it going to become a noise issue? These issues does something to the value of her house. These issues are her concern.

Member Guest asked Kathleen for clarification of questions about concerns about the lights, dust, how to enforce the doors being closed, the noise from the semi-trailers, and the cleanliness.

Donald Gilmet, Building Official, says the first thing Jack McCoy needs to do is pull a building permit for change of use. What he is going to have is a factory use. It is either going to be F-1 moderate hazard factory, because wood is involved. Or depending on the amount of wood, sawdust, and other combustible dust producing materials, it may go down to low hazard. There is a lot of things that are going to have to happen in that building. Noise being one of them.



Mr. McCoy said the machine will be located in the northern portion of the building, which used to be a body shop towards the Skiba building. If we left all the doors open in the building, except for that area, you would not hear it standing in the parking lot.

Member Guest asked Adam Poll, what do we do about storage of raw material? I heard that raw material would be stored inside. Is that bound by any legality? Adam said outside storage of raw or finished materials is not allowed outside in the Central Business District. You can add an extra condition that it cannot be stored outside.

Since no one else wished to speak on this case, either for or against, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA 18-07.

Member Lamble made a motion that the request be approved, with the conditions stated by the city, and that we emphasize in terms of some of these special conditions that no product is stored outside, whether it is sawdust coming in or the finished product going out.

Member Bray seconded the motion.

#### DISCUSSION BY BOARD MEMBERS:

There was no further discussion on this case.

#### ROLL:

Ayes: Anderson, Bray, Keller, Lamble, Lewis

Nays: Guest

The use variance to allow Third Avenue Properties to install and use certain types of light manufacturing equipment in the Central Business District at 307 S. Third Avenue has been granted.

This variance meets all the following conditions:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
3. The proposed use will not alter the essential character of the neighborhood.

4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).

Public Hearing of Case ZBA18-06

Adam Poll, Planning and Development Director presented the variance as follows: Duane Jennings, 9543 M-65 South, Lachine, MI 49753 is requesting a variance for the property located at **307 Saginaw Street** to allow the construction of a covered porch with a front yard setback of five feet, ten feet less than required in an R-2 One Family Residence District. Article 3.31 E1

Notices were sent to all adjoining property owners within 300 feet of the subject property.

To authorize a variance, the board shall find that all of the following conditions are met:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
2. Strict compliance with the regulations governing area, setbacks, frontage, height bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;
4. The need for the requested variance is not the result of action of the property owner or previous property owners. It is not a self-created problem.
5. That the requested variance will not cause an adverse impact on the surrounding property, property values, or the use and enjoyment of the property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals, or welfare of the inhabitants of the City of Alpena.

**CONDITIONS:** The Zoning Board of Appeals may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in Section 9.9.

**FINDING OF FACT:** In granting or denying a variance, the board shall state in a written statement of findings of fact, which you can do verbally, the grounds upon which it justifies the granting of the variance.

Staff evaluation of the five conditions relative to this petition is as follows:

The applicant is in the process of replacing the front porch on their home. They would like to replace the former 4' x 4' open porch with a 4' x 4' covered porch. The Zoning Ordinance regulates a covered porch the same as an enclosed porch and requires that they project no more than five feet into a required setback. The house itself is nine feet from the property line.

1. The proposed request is unique as the home is setback nine feet from the property line. Any covered porch would require a variance and even an open porch would be a legal non-conforming use.
2. Strict compliance to the ordinance would not allow a porch on the property. Stairs could be without a porch, but not ideal.
3. The request would not appear to have a negative impact on the area. Granting a lesser variance would not appear to be an option.
4. The need for the variance is not self-created. The home has a nine foot front yard setback, which is eleven feet closer than would be allowed in an R-2 district.
5. The request for the variance would not appear to have a negative impact on the area. There are many homes with similar setbacks in the neighborhood, and many of them have covered porches with similar setbacks.

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

Staff observations:

As the request would appear to be unique as the house is only nine feet from the front property line, and it would not appear to have a negative impact on the neighborhood as there was a previous 4' x 4' uncovered porch at this location without any issues, and the need is not self-created, staff would recommend that the variance is approved and the requested 4' x 4' covered porch is allowed to be constructed.

PUBLIC COMMENT:

Since no one was present to speak on this case, either for or against, Chairman Anderson closed the public comment portion of the meeting to deliberate for case ZBA18-06.

Member Bray asked what the setback requirement would be now. Adam Poll said to build a house today, the front setback would be 20 feet.

DISCUSSION BY BOARD MEMBERS:

There was no further discussion on this case.

Member Lamble made a motion to grant the variance with the reasons set forth by Adam Poll.

Member Guest seconded the motion.

ROLL:

Ayes: Anderson, Bray, Guest, Keller, Lamble, Lewis

Nays: None

The variance to construct a 4' x 4' covered porch has been granted with a front yard setback of five feet, ten feet less than required in an R-2 One-Family Residential District.

BUSINESS PORTION OF THE MEETING:

OLD BUSINESS:

Per Adam Poll, there was not any old business.

NEW BUSINESS:

The minutes from the October 24, 2018 meeting were approved as printed.

Ayes: All

ADJOURNMENT:

With no other business to discuss, Chairman Elwood Anderson adjourned the meeting.

---

Alan Guest, Secretary

---

Elwood Anderson, Chairman

## 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

1 Purpose

2 Definitions

3 General  
Provisions

4 Signs

5 District  
Regulations6 Site Plan  
Review7 Supplemental  
Regulations

8 ZBA

9 Administration

10 Adoption &  
Amendments

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.

1 Purpose

2 Definitions

3 General  
Provisions

4 Signs

5 District  
Regulations6 Site Plan  
Review7 Supplemental  
Regulations

8 ZBA

9 Administration

10 Adoption &  
Amendments

## VEHICLE SALES &amp; WASHES

## SECTION 7.38 VEHICLE SALES (OUTDOOR)

CBD

CCD

B-2

B-3

I-1

Outdoor display may be allowed in non-required front and side yards abutting a street provided the following conditions are met:

- A. Display areas shall not be covered by canopies or other structures.
- B. Display areas shall be surfaced with concrete, asphalt, or other impervious surface material.

## SECTION 7.39 VEHICLE WASHES

B-2

B-3

I-1

- A. Such facility shall only be located on property abutting a major thoroughfare or a street with access to such major thoroughfare.
- B. A six foot (6') high obscuring wall of sound-absorbing material shall be provided and maintained on those property lines abutting a residential district.
- C. All wash equipment shall be located within a building.
- D. Outdoor vacuums, if provided, will be required to be a minimum distance of fifty feet (50') from a residential area.
- E. Entrances: Sufficient space shall be provided on the lot so that vehicles do not enter the wash building directly from an adjacent street or alley. All maneuvering areas, stacking lanes, and exit aprons shall be located on the car wash parcel itself. Streets and alleys shall not be used for maneuvering or parking by vehicles to be serviced by the automobile wash.

1 Purpose

2 Definitions

3 General Provisions

4 Signs

5 District Regulations

6 Site Plan Review

7 Supplemental Regulations

8 ZBA

9 Administration

10 Adoption &amp; Amendments





# Article 8

## Zoning Board of Appeals

Sec	Name	Pg
8.0	Creation & Membership	
8.1	Meetings	
8.2	Jurisdiction	
8.3	Procedure & Decisions	
8.4	Stay	
8.5	Variance Standards	
8.6	Appeal To Circuit Court	

### Section 8.0 Creation & Membership

The Zoning Board of Appeals (ZBA) shall perform its duties and exercise its powers as provided in Article 6 of **2006 PA 110**, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done. The Board shall consist of seven (7) members, appointed by the City Council by a vote of a majority of its membership.

#### A. Regular Members.

1. The first member shall be a member of the Alpena City Planning Commission for the terms of his/her office.
2. The remaining members must be selected from the electors of the City of Alpena and shall be representative of the population distribution and of the various interests present in the City.
3. An employee or contractor of the City Council may not serve as a member of the Board of Appeals.

#### B. Alternate Members.

The City Council may appoint not more than two (2) alternate members for the same term as regular members to the Zoning Board of Appeals. An alternate member may be called to sit as a

<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

regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend one (1) or more meetings of the Zoning Board of Appeals. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

#### **C. Terms of Office.**

The terms of office for members of the Zoning Board of Appeals shall be for three (3) years, except for members serving because of their membership on the Planning Commission, whose terms shall be limited to the time they are members of the Planning Commission. When members are first appointed, the appointments may be for less than three (3) years to provide for staggered terms. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term in the same manner as the original appointment.

#### **D. Officers.**

The Zoning Board of Appeals shall annually elect a Chairperson, Vice-Chairperson and Secretary. The compensation of the appointed members of the Zoning Board of Appeals may be fixed by the City Council.

#### **E. Removal of Member.**

A member of the Zoning Board of Appeals may be removed by the City Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.

#### **F. ZBA Member who is also Planning Commission Member.**

A member of the Zoning Board of Appeals who is also a voting member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.

## Section 8.1 Meetings

- A. Meetings of the Zoning Board of Appeals shall be held ~~at the call of the Chairman~~ **monthly** and at such other times as the Zoning Board of Appeals may determine or specify in its rules of procedure. ~~If there is no business on the agenda for the Zoning Board of Appeals, the monthly meeting may be cancelled.~~
- B. All hearings conducted by said Board shall be open to the public **in compliance with the Open Meetings Act, 1976 PA 267, as amended.**
- C. The **Zoning** Board of Appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the City Clerk, which shall be a public record.
- D. Four (4) members of the ZBA shall constitute a quorum for the conduct of its business. The **Zoning** Board of Appeals shall not conduct business unless a majority of those Zoning Board of Appeals members qualified to sit for a particular matter are present to constitute a quorum, regardless of whether the members are regular members or alternate members.
- E. The **Zoning** Board of Appeals shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it.

## Section 8.2 Jurisdiction

### A. Appeals from a Decision.

The ZBA shall hear and decide appeals from and review any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of this Ordinance.

### B. Interpretation.

The ZBA may interpret the location of zoning district boundaries and may interpret the provisions of this Ordinance.

### C. Dimensional Variances.

Upon the finding of practical difficulty, the ZBA shall have the authority to grant nonuse variances

**1** Purpose

**2** Definitions

**3** General Provisions

**4** Signs

**5** District Regulations

**6** Plan Review

**7** Supplemental Regulations

**8** Zoning Board of Appeals

**9** Administration

**10** Adoption & Amendments

related to dimensional requirements of the Zoning Ordinance as provided for in §8.5.

**D. Use Variances.**

Upon the finding of unnecessary hardship, the ZBA shall have the authority to grant variances from uses of land as provided for in §8.5.

**E. Exercise Of Powers.**

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

**F. ~~Special Land Use and PUD~~ Powers Not Granted.**

The ZBA has no jurisdiction to hear appeals from Planning Commission decisions concerning Special Land Use approvals or Planned Unit Developments. [Appeals of Special Land Use decisions may be filed in Circuit Court.](#)

G. Nothing herein contained shall be construed to give or grant to the ZBA the power or authority to alter or change this Ordinance or the Zoning Map, such power and authority being reserved to the City Council of the City of Alpena in the manner provided by law.

## Section 8.3 Procedure & Decisions

- A. An appeal to the Zoning Board of Appeals may be taken by a person aggrieved or by an officer, department, board or bureau of Michigan or the City of Alpena.
- B. An appeal concerning the administration of the provisions of this Ordinance may be taken to the **Zoning** Board of Appeals within the timeframe defined in the general rules and procedures adopted by the Zoning Board of Appeals. If such a timeframe is not specified, appeals shall be filed within thirty (30) days of the decision of the Zoning Administrator **or Planning Commission** from which the appellant seeks relief
- C. A variance in the Zoning Ordinance may be applied for and granted under Section 4 of the **Uniform Condemnation Procedures Act, 1980 PA 87**, MCL 213.54, and as provided under the **Michigan Zoning Enabling Act, PA 110 of 2006**, as amended.

~~The Zoning Board of Appeals shall state the grounds of any determination made.~~

- D. The appellant shall file with the **Zoning** Board of Appeals on ~~blanks or forms to be~~ **an application** furnished by the Zoning Administrator a notice of appeal specifying the grounds for the appeal.
- E. The Zoning Administrator shall ~~forthwith~~ transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- F. **Materials Required.** The applicant is required to submit ~~nine (9) copies of~~ surveys, plans and data or other information deemed reasonably necessary for making any informed decision on his or her appeal. **If the plans, surveys, or data are 11"x17" or less, then the applicant may submit either paper copies or digital copies. If the plans, survey, or data are greater than 11"x17", then the applicant shall submit at least eight (8) paper copies.**
- G. **Public Notice.** Following receipt of a written request for a variance, an interpretation of the Zoning Ordinance, or an appeal of an administrative decision, the Zoning Board of Appeals shall ~~fix a reasonable time for the hearing of the request and~~ give notice pursuant to **§9.6**.
- H. **Representation.** Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

~~A member of the Zoning Board of Appeals who is also a member of the Planning Commission shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission. However, the member may consider and vote on other unrelated matters involving the same property.~~

- I. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination and may issue or direct the issuance of a permit. The final decision of such appeal shall be in the form of a resolution reversing, modifying or affirming, wholly or partly, the decision or determination appealed from. Written findings of fact supporting the decision reached by the ZBA must become part of the public record.
- J. **Voting.** The concurring vote of a majority of the members of the Zoning Board of Appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body, to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant a **dimensional** variance in the zoning ordinance. A two-thirds (2/3) majority **of the members of the Zoning Board of Appeals** is required to grant a use variance. A majority vote of a quorum present may deny a requested variance.

- K. **Conditions.** The ZBA may impose such conditions or limitations in granting a variance as deemed necessary to protect the character of the area, as provided for in §9.9.
- L. **Findings of Fact.** In granting or denying a variance, the Board shall state in a written statement of findings of fact the grounds upon which it justifies the granting of a variance.
- M. **Time Limit.** No order of the Board of Appeals permitting the erection or alteration of a building shall be valid for a period longer than ninety (90) days unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. If a variance which is granted is not utilized within twelve (12) months of its granting, the variance shall be considered null and void and an application must be re-filed if it is desired at a future date. A variance which is legally utilized and maintained runs with the property and any subsequent owners who legally continue the variance under its original or amended terms. The Zoning Board of Appeals may require such conditions and the posting of necessary bonds or other financial guarantees acceptable to the City Council to control compliance with specified conditions.
- N. The decision of the Zoning Board of Appeals shall be final. A party aggrieved by the decision may appeal to the circuit court of Alpena County.
- ~~O. Copies of the written statement of findings of fact shall be furnished to the City Council and Planning Commission.~~

## Section 8.4 Stay

An appeal to the Zoning Board of Appeals stays all proceedings in furtherance of the action appealed. However, if the body or officer from whom the appeal is taken certifies to the Zoning Board of Appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the Zoning Board of Appeals or a circuit court.

## Section 8.5 Variance Standards

### A. Dimensional Variance Standards.

The ZBA may grant dimensional variances when the applicant demonstrates in the official record of the hearing that the strict enforcement of this Ordinance would result in practical difficulty.

To establish practical difficulty, the applicant must establish all of the following:

1. The need for the requested variance is due to unique circumstances or physical conditions of the property involved that do not apply generally to other properties in the surrounding area, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship;
2. Strict compliance with the regulations governing area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome;
3. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners;
4. The need for the requested variance is not the result of action of the property owner or previous property owners (self-created).
5. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district and will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City of Alpena

**B. Use Variance Standards.**

To obtain a variance from the use regulations of this Ordinance the applicant must demonstrate that unnecessary hardship exists by showing all of the following:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by Special Land Use permit in the zoning district in which it is located.
2. The need for the requested variance is due to unique circumstances or physical conditions of the property involved such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic hardship.
3. The proposed use will not alter the essential character of the neighborhood.

4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).

### C. Sign Variance Standards.

The Zoning Board of Appeals may approve a fifteen (15) percent or more increase to the allowable sign sizes and heights listed in this Ordinance. The following factors shall be considered by the Zoning Board of Appeals when determining allowable increases:

1. Relationship of the sign to surrounding properties and rights-of-way
  - a. Compatibility with adjacent land uses and signs.
  - b. Visibility of neighboring signs or buildings.
  - c. Visibility and legibility of the sign for pedestrian and vehicular traffic.
  - d. Lighting trespass impacts.
2. Relationship of the sign to features on the site of the sign installation:
  - a. Suitability of the sign and its location relative to particular site characteristics such as yard areas, vegetation, topography, and the like.
  - b. Compatibility of the sign with the size, location, and character of the principal building(s) on-site.
  - c. Impact of the sign upon on-site vehicular and pedestrian circulation.
3. Impact of the sign upon parks and historic properties:
  - a. Impact of the sign upon views of prominent natural features
  - b. Impact of the sign upon parks and public spaces.
  - c. Impact of the sign upon historic buildings or properties.
4. Impacts of the sign upon public safety:
  - a. Visibility of traffic safety devices.
  - b. Visibility of pedestrians and vehicles entering or exiting the site or on adjacent rights-of-way.
  - c. Impacts of sign lighting upon vehicular traffic.
  - d. The safety of the placement of the sign.



**Section 8.6 Appeal to Circuit Court**

- A. Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the Circuit Court for Alpena County. The circuit court shall review the record and decision to ensure that the decision meets all of the following requirements:
1. Complies with the constitution and laws of the state.
  2. Is based upon proper procedure.
  3. Is supported by competent, material, and substantial evidence on the record.
  4. Represents the reasonable exercise of discretion granted by law to the Zoning Board of Appeals.

If the court finds the record inadequate to make the review required by this section or finds that additional material evidence exists that with good reason was not presented, the court shall order further proceedings on conditions that the court considers proper. The Zoning Board of Appeals may modify its findings and decision as a result of the new proceedings or may affirm the original decision. The supplementary record and decision shall be filed with the court. The court may affirm, reverse, or modify the decision.

- B. An appeal from a decision of a Zoning Board of Appeals shall be filed within thirty (30) days after the Zoning Board of Appeals issues its decision in writing signed by the chairperson, if there is a chairperson, or signed by the members of the Zoning Board of Appeals, if there is no chairperson, or within twenty-one (21) days after the Zoning Board of Appeals approves the minutes of its decision. The court may affirm, reverse, or modify the decision of the Zoning Board of Appeals. The court may make other orders as justice requires.



# Article 10

## Adoption & Amendment

Sec	Name	Pg
10.0	Amendment To This Ordinance	
10.1	Amendment Procedure	
10.2	Rezoning Standards	
10.3	Conditional Rezoning	
10.4	Protest Petition	
10.5	Severability	
10.6	Vested Right	
10.7	Repeal & Savings Clause	
10.8	Enactment & Effective Date	

### Section 10.0 Amendment To This Ordinance

The City Council is authorized and empowered to cause this Ordinance to be amended, supplemented, or changed, pursuant to the authority and according to the procedures set forth in **2006 PA 110**, as amended.

- A. The regulations and provisions stated in the text of this Ordinance and the boundaries of zoning districts shown on the City of Alpena Zoning Map may be amended, supplemented or changed by action of the City Council following a recommendation from the Planning Commission.
- B. Proposals for amendments, supplements or changes may be initiated by the City Council on its own motion, by the City Planning Commission or by petition of one (1) or more owners of property to be affected by the proposed amendment.

### Section 10.1 Amendment Procedure

The procedure to be followed for initiating and processing an amendment shall be as follows:

#### A. Filing of Amendment Application.

1. Each ~~petition~~ **application** by one (1) or more persons for an amendment shall be submitted ~~by application to planning staff~~ **the Zoning Administrator** on a standard form

provided and shall be accompanied by the fee as prescribed by the City Council. No part of such fee shall be returnable to a petitioner if the public hearing is held.

2. In the case of a Zoning Ordinance text amendment, ~~a letter shall be submitted which~~ the **completed zoning application** shall contain the requested change and the reason for such change.
3. In the case of a desired Zoning Map change, ~~a petition shall be submitted which~~ the **completed zoning application** shall describe the property involved, the zone change desired, and the reason for such change.
4. ~~Planning staff~~ **The Zoning Administrator** shall transmit the amendment application and all related materials to the ~~Chair of the Planning Commission at or before the time he/she transmits the amendment request to the Planning Commission.~~

#### **B. Public Hearing.**

Before making a recommendation on an amendment, the Planning Commission shall conduct at least one (1) public hearing, notice of the time and place of which shall be given pursuant to **Section 9.6.**

~~The public notice procedure shall be the same as that contained in §9.6.~~

#### **C. Planning Commission Action.**

1. The Planning Commission shall consider each proposal for amendment on particular factors related to the individual proposal and in terms of the likely effect on the community's physical development. The Planning Commission may recommend any additions or modifications to the original proposal.
2. The Planning Commission shall submit a final report/recommendation to the City Council along with a summary of the comments received at the public hearing.

#### **D. City Council Action.**

1. The City Council may hold a public hearing if it considers it necessary or if otherwise required. Notice of such hearing shall be published using the procedures in **§9.6.**

2. The City Council shall grant a hearing on a proposed Ordinance amendment to a property owner who requests a hearing by certified mail, addressed to the City Clerk. Notice of such hearing shall be published using the procedures in **§9.6**.
3. The City Council may refer any proposed amendments to the Planning Commission for consideration and comment. The Planning Commission shall have a reasonable time, not less than sixty (60) days for consideration and report. *MZEA under 125.3401 Sec. 401 (3), states "The legislative body may refer any proposed amendments to the zoning commission for consideration and comment within a time specified by the legislative body." Should we just state that?*
4. After any such public hearing as allowed under **this subsection D**, the City Council shall consider and vote upon the adoption of a Zoning Ordinance amendment. A Zoning Ordinance amendment shall be approved by a majority vote of the members of the City Council.
5. Once adopted by the City Council, amendments to this Ordinance shall be filed with the City Clerk, and one (1) notice of adoption shall be published in a newspaper of general circulation in the City within ~~fifteen (15) days~~ after adoption. Any amendments to this Ordinance shall take effect eight (8) business days **on the 8<sup>th</sup> day** after publication or at a later date as may be specified by the City Council at the time of adoption.

#### **E. Resubmittal of Application for Rezoning.**

An owner of property, his/her authorized agent, or other person, shall not initiate action for rezoning affecting the same parcel more often than once every twelve (12) months. An exception to this rule may be made in those cases where the Planning Commission determines that conditions affecting the property have changed substantially, thereby justifying a repetition before twelve (12) months have elapsed from the date of the previous petition.

## **Section 10.2 Rezoning ~~Standards~~ Factors**

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?

<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

- 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?
- H. Are there size or environmental constraints on the site which would make it difficult to use in the district?

## 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.

### B. Application and Offer of Conditions.

1. An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

3. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district.
4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
5. Any use or development proposed as part of an offer of conditions that would require a special land use permit, variance, or site plan approval under the terms of this Ordinance may only be commenced if the special land use permit, variance, or site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
6. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

#### C. **Planning Commission Review.**

The Planning Commission, after a public hearing as set forth pursuant to **Section 9.6** of this Ordinance and consideration of the factors set forth in **Section 10.2** (except **10.2.F**) of this Ordinance, may recommend approval, approval with recommended changes, or denial of rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

#### D. **City Council Review.**

After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested conditional rezoning and may approve or deny the request. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with Section 401 of **2006 PA 110**, refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council, and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

#### E. **Approval.**

<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. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the City Council to accomplish the requested rezoning.
2. The Statement of Conditions shall:
  - a. Be in a form recordable with the County Register of Deeds, or as an alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.
  - b. Contain the legal description and tax identification number of the land to which it pertains.
  - c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
  - d. Incorporate by attachment or reference any diagram, plans, or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
  - e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the County Register of Deeds.
  - f. Contain the notarized signatures of ~~all~~ **at least one (1)** owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.
3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation the land was rezoned with a Statement of Conditions. The City Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.

4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.
5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

**F. Compliance with Conditions.**

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

**G. Time Period for Establishing Development or Use.**

Unless another time period is specified in the Ordinance, the approved development and/or use of the land pursuant to building or other required permits must be commenced upon the land within one (1) year after the rezoning took effect and thereafter proceeded diligently to completion. Upon the expiration of one (1) year, if the approved development and/or use has not commenced or is not proceeding diligently to completion, the applicant may request a one (1) year extension, and the Zoning Administrator may grant the one (1) year extension if he/she finds just cause for such extension. This time limitation may upon written request be extended by the City Council if:

1. it is demonstrated to City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and
2. the City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.



**H. Reversion of Zoning.**

If the approved development and/or use of the rezoned land does not occur within the timeframe specified under **subsection G** above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the ~~City Council~~ Zoning Administrator requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests including a public hearing. The property owner shall have the opportunity, at the public hearing, to provide comment on the reversion of zoning district. The Planning Commission need not consider the rezoning factors in **Section 10.2** when considering the reversion back to the original zoning classification.

**I. Subsequent Rezoning of Land.**

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification, but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to **subsection H** above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The City Clerk shall record with the County Register of Deeds that the Statement of Conditions is no longer in effect.

**J. Amendment of Conditions.**

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

**K. City Right to Rezone.**

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

**L. Failure to Offer Conditions.**

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

**Section 10.4 Protest Petition**

A. An amendment to this Zoning Ordinance is subject to a protest petition. If a protest petition is filed, approval of the amendment to the Zoning Ordinance shall require a 2/3 vote of the **City Council** ~~legislative body, unless a larger vote, not to exceed a ¾ vote, is required by ordinance or charter.~~ The protest petition shall be presented to the City Council before final legislative action on the amendment and shall be signed by one (1) or more of the following:

1. The owners of at least twenty (20) percent of the area of land included in the proposed change.
2. The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.

B. Publicly owned land shall be excluded in calculating the twenty (20) percent land area requirement under subsection (A).

**Section 10.5 Severability**

This Ordinance and various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. The City Council hereby declared that it would have passed this Ordinance and each part, section, subsection, phrase, sentence and clause thereof irrespective of the fact that any one or more parts, sections, subsections, phrases, sentences or clauses be declared invalid.

**Interpretation**

*Moving this section to Article 9*

~~In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience or general welfare. It is not intended by this Ordinance to repeal, abrogate, annul~~

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

~~or in any way to impair or interfere with any existing provision of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.~~

## Section 10.6 Repeal & Savings Clause

- A. This Ordinance repeals and replaces any previous City of Alpena Zoning Ordinance in its entirety.
- B. The repeal of any previous City of Alpena Zoning Ordinance, as provided, shall not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted. Said Ordinance or Ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities, and actions therefore.

## Section 10.7 Enactment & Effective Date

- A. This Ordinance was adopted on \_\_\_\_\_ by the Alpena City Council and will be effective \_\_\_\_\_. The foregoing Zoning Ordinance and Map of Zoning Districts were presented at a public hearing before the City of Alpena Planning Commission on \_\_\_\_\_.
- B. Amendments or revision to this Ordinance or Map of Zoning Districts shall become effective on the ~~expiration of seven (7) days~~ **8<sup>th</sup> day** or at a later date specified by the Alpena City Council after publication of a notice of adoption of said amendments or revisions within fifteen (15) days of adoption in accordance with Section 401 of PA 110 of 2006, as amended.

I hereby certify that the above Ordinance was adopted by the Municipal Council of the City of Alpena, Michigan at a regular meeting held on \_\_\_\_\_.

\_\_\_\_\_  
Anna Soik  
City Clerk

<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

First Reading: \_\_\_\_\_ Second Reading: \_\_\_\_\_

Published: \_\_\_\_\_ Effective Date: \_\_\_\_\_

#### NOTICE OF ADOPTION OF ZONING ORDINANCE

A Zoning Ordinance (Ordinance No. \_\_\_\_\_) regulating the development and use of land has been adopted by the Municipal Council of the City of Alpena.

The Zoning Ordinance may be purchased or inspected at the City Clerk's Office, City Hall, Alpena, Michigan 49707, during regular business hours.

Affidavit of Publication Required.



# Article 6

## Plot Plans, Site Plans & Special Use Review

Sec	Name	Pg	Sec	Name	Pg
6.0	Purpose & Approval Table		6.9	Amendment to an Approved Site Plan	
6.1	Plot Plan Requirements		6.10	Expiration of Site Plan Approval	
6.2	Circumstances Requiring a Site Plan		6.11	Special Land Use Applications	
6.3	Preapplication Conference		6.12	Special Land Use Approval Standards	
6.4	Site Plan Data Required		6.13	Special Land Use Approval	
6.5	Site Plan Procedures		6.14	Amendment to a Special Land Use	
6.6	Site Plan Approval Standards		6.15	Expiration of a Special Land Use	
6.7	Site Plan Approval		6.16	Site Condominium Review	
6.8	Conformity To Site Plan Required				

### Section 6.0 Purpose & Approval Table

#### A. Purpose.

The purpose of this article is to specify the documents and/or drawings required for plot plans and site plan review ~~so as~~ to ensure that a proposed land use or development activity is in compliance with this ordinance, other local ordinances, and state and federal statutes and regulations. Furthermore, its purpose is to ensure, through the application of standards, that development taking place within the City is orderly, properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect surrounding properties, roadways, natural features, and infrastructure from substantial adverse impacts.

#### B. Approval Summary Table.

The following table shows the type of plan required and the approving body based on the type of use.

<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

**Approval Summary Table**

Type of Use	Required	Approving Body
1. Single-Family Detached Dwellings; Two-Family Dwellings	Plot Plan	Zoning Administrator
2. Multiple-Family Dwellings 6 units or less	Site Plan	Zoning Administrator
3. Multiple-Family Dwellings over 6 units	Site Plan	Planning Commission
4. Residential in Conjunction with Non-Residential (Mixed Uses)	Site Plan	Zoning Administrator
5. Home Occupations	Application	Zoning Administrator
6. Cottage Industries	Plot Plan	Planning Commission
7. Accessory Dwelling Units	Plot Plan	Zoning Administrator
8. Family Child Care Homes & Adult Day Care Homes (6 or less adults)	Plot Plan	Planning Commission
9. New or Expanding Commercial, Industrial, Utility, & Institutional Structures/Uses (except Special Land Uses) & Any Use Requiring Off-Street Parking	Site Plan	Zoning Administrator
10. Change of use or expansion or renovation of an existing use where such change would result in an increase in impervious surface, additional off-street parking, access or other external site characteristics, or create a violation of this Ordinance.	Site Plan	Zoning Administrator
11. Special Land Uses including Accessory Structures –residentially-based Special Land Uses such as Group Child Care Homes & Cottage Industries require a Plot Plan	Site Plan	Planning Commission
12. Accessory structures for Single-Family & Two-Family Dwellings	Plot Plan	Zoning Administrator
13. Accessory Structures for Buildings (other than single-family & two-family)	Site Plan	Zoning Administrator
14. Fences	Plot Plan	Zoning Administrator
15. Signs	Plot Plan	Zoning Administrator
16. Parking Lots	Site Plan	Zoning Administrator
17. Temporary Dwellings	Plot Plan	Zoning Administrator
18. Food Trucks & Food Truck Parks	Plot Plan	Zoning Administrator
19. Seasonal Use Sales	Plot Plan	Zoning Administrator
20. Short Term Rentals	Plot Plan	Zoning Administrator
21. Wind Energy Systems (Small On-Site) & Accessory Solar Panels	Plot Plan	Zoning Administrator
22. Planned Unit Developments and Site Condominium Developments	Site Plan	Planning Commission

\*Zoning Administrator determines the level of plan needed based on the proposed use.

For all uses which are reviewed & approved by the Zoning Administrator, the Zoning Administrator may request review and approval by the Planning Commission at no extra charge to the applicant.

## Section 6.1 Plot Plan Requirements

All applications for Zoning Permits which do not require a site plan shall be accompanied by a Plot Plan, drawn to scale, showing the following:

A. PLOT PLAN APPLICATION REQUIREMENTS (Zoning Administrator may waive any of the plot plan requirements listed below if the requirements are not applicable to the proposed use)	
1.	<b>ZONING DISTRICT:</b> Zoning classification of the property.
2.	<b>CONTACT INFORMATION:</b> Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
3.	<b>BOUNDARY LINES:</b> The shape, location and dimensions of the lot and property lines, drawn to scale. The scale shall be of such size as deemed adequate by the Zoning Administrator to make a judgment that the application meets the requirements of this ordinance. When deemed necessary by the Zoning Administrator, a survey may be required.
4.	<b>MAP REQUIREMENTS:</b> The scale, north arrow, and date.
5.	<b>SETBACKS:</b> The required and proposed setbacks of all structures and improvements.
6.	<b>STRUCTURES (EXISTING &amp; PROPOSED):</b> The location, shape, dimensions, and height of all structures or impervious surfaces to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to measure the height of the proposed structures.
7.	<b>STRUCTURES ON ABUTTING LOT:</b> All existing structures within ten (10) feet of the property on adjoining property.
8.	<b>ACCESS:</b> The location and configuration of the lot access, driveway, and any proposed parking areas including manner of surfacing drawn to scale.
9.	<b>RIGHT-OF-WAY/EASEMENTS:</b> The location and width of all abutting rights-of-way, easements, and public open spaces within or bordering the subject project.
10.	<b>USE:</b> The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
11.	<b>NATURAL FEATURES:</b> Natural features such as forests, water bodies, wetlands, high-risk erosion areas, slopes over 10%, drainage and other similar features, if determined by the Zoning Administrator to be applicable.
12.	<b>LANDSCAPING:</b> Proposed landscaping for uses other than single-family or two-family dwelling units.
13.	<b>OTHER:</b> Other information concerning the lot or adjoining lots that may be essential for determining whether

**1** Purpose

**2** Definitions

**3** General Provisions

**4** Signs

**5** District Regulations

**6** Plan Review

**7** Supplemental Regulations

**8** Zoning Board of Appeals

**9** Administration

**10** Adoption & Amendments



the provisions of this Ordinance are being observed, as deemed necessary by the Zoning Administrator.

### B. Plot Plan Administrative Procedure

<b>Permitted Uses</b>	Plot Plan is reviewed and approved by Zoning Administrator.
<b>Special Land Uses</b>	Plot Plan is reviewed and approved by the Planning Commission after required public hearing.
<b>Accessory Structures (Residential &amp; Nonresidential)</b>	Plot Plan is reviewed and approved by Zoning Administrator.
<b>Accessory Structures for Special Land Uses</b>	Plot plan is reviewed by the Planning Commission (no public hearing required).

## Section 6.2 Circumstances Requiring a Site Plan

Please see Section 6.0.B (Approval Summary Table) for a list of circumstances requiring a site plan.

A. A site plan shall be submitted to Zoning Administrator for the following:

1. All new uses and/or structures except single-family or two-family dwelling units.
2. Change of use or expansion or renovation of an existing use where such change would result in an increase in impervious surface, additional off street parking, access or other external site characteristics, or create a violation of this Ordinance.
3. Special Land Uses with the exception of residentially-based Special Uses such as Cottage Industries and Group Day Care Homes. Residentially-based Special Uses require a plot plan.
4. Multiple family dwelling units, condominiums, and site condominiums.
5. Planned Unit Developments.
6. Any use requiring off street parking, except single family or two family dwelling units.
7. Other uses as required by this Ordinance.

B. SITE PLAN ADMINISTRATIVE PROCEDURE	
<b>SITE PLANS FOR PERMITTED USES</b>	Site plan is reviewed and approved by Zoning Administrator. Zoning Administrator may refer permitted uses to the Planning Commission.
<b>SITE PLANS FOR SPECIAL USES</b>	Site plan is reviewed and approved by the Planning Commission as part of Special Use approval process (unless otherwise noted in Ordinance) after required public hearing.

**1 Purpose**

**2 Definitions**

**3 General Provisions**

**4 Signs**

**5 District Regulations**

**6 Plan Review**

**7 Supplemental Regulations**

**8 Zoning Board of Appeals**

**9 Administration**

**10 Adoption & Amendments**

<b>SITE PLANS FOR MULTIPLE-FAMILY DWELLING UNITS (over 6 units), CONDOMINIUMS, SITE CONDOMINIUMS</b>	Site plan is reviewed and approved by the Planning Commission.
<b>PUD</b>	Site plan is reviewed and approved by the Planning Commission as per <a href="#">§5.24</a> .

## Section 6.3 Pre-Application Conference Meeting

Staff shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other ordinance requirements and to provide insight as to what portions of their proposed development may be of special concern to **Zoning Administrator** or the Planning Commission.

Except for Planned Unit Developments, this **conference meeting** is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application **conference meeting** should be held several months in advance of the desired start of construction. Such an advance **conference meeting** will allow the applicant/developer time to prepare the needed information for the Zoning Administrator or Planning Commission to make a proper review.

## Section 6.4 Site Plan Data Required

Each site plan submitted shall contain the following information unless specifically waived, in whole or in part, by the Zoning Administrator or the Planning Commission. The Zoning Administrator or Planning Commission can waive any of the site plan requirements listed below, when it finds those requirements are not applicable to the proposed development.

SITE PLAN APPLICATION REQUIREMENTS	
1.	<b>APPLICATION FORM:</b> Completed and signed application form.
2.	<b>CONTACT INFORMATION:</b> Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
3.	<b>LEGAL DESCRIPTION:</b> The parcel's legal description.
4.	<b>MAP REQUIREMENTS:</b> The date, a north arrow, the scale, date of original submittal and last revision, and name, seal, and signature of the individual or firm responsible for preparing said plan. The scale must be at least one (1) inch = one hundred (100) feet or less. If multiple sheets are used, each shall be labeled and the preparer identified.
5.	<b>ZONING CLASSIFICATION:</b> The existing zoning district in which the site is located and the zoning of adjacent parcels.

6.	<b>BOUNDARY LINES:</b> The boundary lines and dimension of the property. Show relationship of the subject property to abutting properties. Show monument locations. A certified survey of the property which has been prepared and sealed by a professional licensed surveyor may be required by the Zoning Administrator.
7.	<b>SETBACKS:</b> Setback lines and distances between structures and lot lines.
8.	<b>ADJACENT FRONT YARD DIMENSIONS:</b> The front yard dimensions of the nearest building on both sides of the proposed structure/development.
9.	<b>NEARBY STRUCTURES:</b> The location and identification of all existing structures, lighting, signs, ingress drives, roads, and parking within a two hundred (200) foot radius of the site, including road names.
10.	<b>NATURAL FEATURES:</b> Boundary dimensions of natural features such as existing trees and vegetation, forests, high risk erosion areas, slopes over ten (10) percent, drainage and other similar features.
11.	<b>TOPOGRAPHY:</b> The topography of the existing site and proposed grades of the finished site shall be shown by contours or spot elevations. Contours shall be shown at height intervals of two (2) feet or less. Direction of drainage shall be depicted.
12.	<b>WATER FEATURES:</b> Location and elevations of existing and proposed water courses and water bodies, including county drains and man made surface drainage ways, floodplains, and wetlands.
13.	<b>LOCATION OF STRUCTURES AND ACCESSORY FEATURES:</b> The location, dimension, and height of all existing structures and all proposed uses or structures on the site, including but not limited to principal building(s), accessory structures, trash receptacles, walkways, common use areas, recreational areas and facilities, flag poles, docks, transformers, generators and similar equipment, and any impervious surface. Indicate gross building areas. Indicate method of screening of structures.
14.	<b>SIGNS:</b> Location, size and specifications of all signs and advertising features with cross sections.
15.	<b>LIGHTING:</b> Exterior lighting locations with area of illumination illustrated as well as the type of fixtures and shielding to be used.
16.	<b>LANDSCAPING, FENCES, AND WALLS:</b> Location and height of all walls, fences and screen planting, including a landscaping plan.
17.	<b>LOCATION OF VEHICULAR FEATURES:</b> Location of existing and proposed drives, neighboring drives, vehicle entrances and loading points, vehicular circulation features, size and number of parking spaces, carports, service lanes (show the dimensions of a typical parking stall and parking lot), fire lanes, loading and unloading areas, and acceleration, deceleration or passing lanes where applicable.
18.	<b>LOCATION OF PEDESTRIAN CIRCULATION FEATURES:</b> Location and design of sidewalks, walkways, barrier-free access points, bicycle paths, bicycle parking areas, and areas for public use.
19.	<b>ELEVATIONS:</b> Drawings or sketches of the exterior and elevations, and/or perspective drawings of the building or structures and signs under consideration. Indicate number of stories of structures.
20.	<b>TYPE OF SURFACE:</b> Types of surfacing such as paving, turfing or gravel to be used at the various locations.
21.	<b>AREA OF DEVELOPMENT:</b> Indicate the gross land area of the development and area of the property subject

	to be covered by structures (not available as open space).
22.	<b>COMMON AREAS:</b> Proposed location, dimensions and details of common open spaces and common facilities such as community buildings or swimming pools if applicable.
23.	<b>RIGHTS-OF-WAY, EASEMENTS, AND PUBLIC SPACES:</b> The location and width of all abutting rights-of-way, easements, and public open spaces within or bordering the subject project.
24.	<b>UTILITIES:</b> Location of water supply lines and/or wells, including fire hydrants and shut off valves, waste water lines, clean-out locations, connection points and treatment systems including septic systems if applicable. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam. NOTE: Location of utilities required as part of permit process, not for Planning Commission review. Applicant may discuss with staff the information necessary for the Planning Commission review process.
25.	<b>SIGNIFICANT VIEWS/UNIQUE FEATURES:</b> Identification of any significant views onto or from the site to or from adjoining areas. Identification of any significant site amenities or unique natural features.
26.	<b>OUTDOOR STORAGE:</b> Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
27.	<b>DRAINAGE:</b> The location, size and slope of all surface and subsurface drainage facilities. The location and design of storm sewers, retention or detention ponds. Include drainage calculations. NOTE: Location of drainage required as part of permit process, not for Planning Commission review. Applicant may discuss with staff the information necessary for the Planning Commission review process.
28.	<b>WASTEWATER TREATMENT:</b> Description and location of on-site wastewater treatment and disposal systems.
29.	<b>WELL LOCATION:</b> Location of existing and proposed private drinking water wells, monitoring wells, test wells, irrigation wells, or wells used for industrial processes.
30.	<b>SNOW STORAGE:</b> The location of snow storage areas.
31.	<b>SOILS:</b> The location and type of existing soils on the site and any certifications of borings.
32.	<b>HOURS OF OPERATION:</b> Anticipated hours of operation for the proposed use. The Planning Commission may impose reasonable limits to hours of operation as a condition of site plan approval when warranted to assure compatibility with surrounding land uses.
33.	<p><b>RESIDENTIAL PROJECT REQUIREMENTS:</b> Site plans for residential projects (multiple family developments and manufactured home parks) shall include the following additional information:</p> <ul style="list-style-type: none"> <li>a. Minimum floor area of dwelling units.</li> <li>b. Total number of units proposed.</li> <li>c. Number of bedrooms per unit in multiple family developments.</li> <li>d. Areas to be used for open space and recreation.</li> </ul>

34.	<p><b>PHASED CONSTRUCTION:</b> Where phases or staged construction is contemplated for the development of a project, the site plan submitted must show the interrelationship of the proposed project to the future stages, including the following:</p> <ul style="list-style-type: none"> <li>a. Relationship and identification of future structures.</li> <li>b. Pedestrian and vehicular circulation.</li> <li>c. Time schedule for completion of the various phases of the proposed construction.</li> <li>d. Temporary facilities or construction of same as required to facilitate the stated development.</li> </ul>
35.	<p><b>IMPACT STATEMENT:</b> Staff may require a statement which addresses the following as applicable to the type of use:</p> <ul style="list-style-type: none"> <li>a. A complete description of the proposed development including: areas of the site; the number of lots or units; and the number and characteristics of the population impact such as density, as it relates to elderly persons, school children, tourists, family size, income, and related information as applicable.</li> <li>b. Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of water consumption related to ground water reserves, change in traffic volume on adjacent streets and other factors that may apply to the particular development.</li> <li>c. Statements relative to the impact of the proposed development on soil erosion, drainage patterns, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise pollution and the aesthetics and scale of development in terms of the surrounding environment. Statement of the impact of the development with respect to noise, dust, fire hazard, fumes, odors, vibration, smoke, or excessive light.</li> </ul>
36.	<p><b>OTHER:</b> Information as may be required by the Zoning Administrator or Planning Commission to assist in the consideration of the proposed development.</p>
37.	<p><b>DATA REQUIRED FOR GROUNDWATER PROTECTION:</b> All businesses or facilities which use or generate hazardous substances in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety-five (95) liters (approximately twenty-five (25) gallons) per month, whichever is less, or stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety-five (95) liters (approximately twenty-five (25) gallons), whichever is less shall submit the following:</p> <ul style="list-style-type: none"> <li>a. Inventory of hazardous substances to be stored, used or generated on-site, presented in a format acceptable to the local fire marshal.</li> <li>b. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.</li> <li>c. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.</li> <li>d. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store, transport</li> </ul>

	stormwater or waste water. The point of discharge for all drains and pipes shall be specified on the site plan.
e.	Location of all water wells on the site and within 150 feet surrounding the parcel's property boundaries.
f.	Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of the contamination, including any remediation activities.
g.	Submissions of the "State/County Environmental Permits Checklist".

## Section 6.5 Site Plan Submittal & Approval Procedures

### A. Number of Copies.

1. If site plan is 11"X 17" or smaller ~~and black/white~~, then one (1) copy is required.
2. If site plan is larger than 11"X 17":
  - a. **Site Plans Approved by the Planning Commission.** ~~or in color, then~~ Twelve (12) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent. ~~Prior to submission of the twelve (12) required copies, the applicant shall submit one (1) copy to the Zoning Administrator to determine if all information has been included on the site plan.~~
  - b. **Site Plans Approved by the Zoning Administrator.** One (1) copy is required.
3. A digital copy ~~of final approved site plan may~~ **shall** be required ~~by Zoning Administrator or Planning Commission~~ **in addition to print copies.**
4. An additional ~~twelve (12)~~ **six (6)** copies may be required if City Council approval is required.

### B. Timing of Submittal for Planning Commission Approval.

For site plans requiring Planning Commission approval, site plans shall be submitted at least thirty (30) days prior to the Planning Commission meeting at which the site plan will be considered.

### C. Review.

<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. **Review for Completeness.** The Zoning Administrator will review the materials submitted to ~~assure~~ **ensure** all information required by the Ordinance has been provided. If the application is incomplete the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant.
2. If the site plan, including all required additional or related information, is determined to be complete, within thirty (30) days, ~~the Zoning Administrator~~ **one of the following** shall occur:
  - a. **Administratively-Approved Site Plans.** ~~Zoning Administrator shall review and approve, review and approve with conditions, review and deny, or review and refer to the Planning Commission all site plans submitted under this Ordinance; or~~
  - b. **Planning Commission-Approved Site Plans.** ~~Zoning Administrator shall cause the submittal to be placed on~~ **place the review on** the agenda of the next regular Planning Commission meeting. ~~Site plans which are referred to the Planning Commission for its review shall be accompanied by the recommendations of the Zoning Administrator as to conformity or nonconformity with Ordinance requirements and what revisions or conditions, if any, would be necessary in order to be in conformance. Zoning Administrator shall provide draft findings of fact to the Planning Commission to assist the Planning Commission in determining if the site plan meets the standards of the Zoning Ordinance. Zoning Administrator may provide draft recommended conditions to the Planning Commission.~~

#### D. Coordination With Other Agencies.

**Prior to approval,** the Zoning Administrator may distribute the site plan to the following for comment or recommendation prior to consideration for approval:

1. Police Chief
2. Fire Chief
3. Engineer
4. Alpena County Road Commission
5. District Health Department
6. County Drain Commissioner
7. **State of Michigan Departments**
8. ~~Michigan Department of Transportation~~
9. ~~Michigan Department of Natural Resources and the Environment~~
10. **Professional planner, engineer, attorney, or other professional** ~~Planning consultant~~
11. Other agencies as deemed appropriate



**E. Application Fees.**

Application fees pursuant to ~~the~~ currently adopted City of Alpena fee schedule shall be paid when the application and site plan are submitted.

**F. ZBA Action Required.**

Where the applicant is dependent upon the ~~granting~~ of any variances by the Zoning Board of Appeals, ~~said~~ favorable action by the Zoning Board of Appeals shall be necessary before the site plan approval can be granted, or the site plan may be approved subject to favorable action by the Zoning Board of Appeals.

**G. Representation at Meeting (For Reviews by Planning Commission).**

The applicant or his/her representative shall be present at the scheduled site plan review. If the applicant fails to provide representation, the review may be ~~tabled~~ **postponed** until the next scheduled Planning Commission meeting or may be acted upon without the applicant's input.

**H. ~~Consultant.~~**

~~The Planning Commission may request the assistance of a qualified professional planner, engineer, attorney, or other professional in the site plan review process, if deemed necessary or advisable.~~

## Section 6.6 Site Plan Review Standards

The Zoning Administrator or Planning Commission shall approve, or approve with conditions, an application for a site plan only upon a finding that the proposed site plan complies with all applicable provisions of this Ordinance and the standards listed below unless the Zoning Administrator or the Planning Commission waives a particular standard upon a finding that the standard is not applicable to the proposed development under consideration and the waiver of that standard will not be significantly detrimental to surrounding property or to the intent of the Ordinance.

**A. Compliance With District Requirements.**

The site plan shall comply with the district requirements for minimum floor space, height of building, lot size, yard space, density and all other requirements as set forth in the Zoning Ordinance, unless otherwise provided.

<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

**B. ~~Public Welfare and Adjoining Properties.~~**

~~The uses proposed will not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account the size of the property, uses on the adjoining property and the relationship and size of buildings to the site. The site shall be developed so as not to impede the normal, orderly, and reasonable development or improvement of surrounding property for uses permitted in this Ordinance nor to diminish the value thereof and will be harmonious in use, appearance, and layout with existing and planned future uses in the immediate area. .~~

**C. ~~Light, Air, and Access.~~**

The location, size, and height of the building, walls, and fences shall be such that there is adequate open space so as to provide light, ~~air,~~ and access to the persons occupying the building and that there will be no interference with adequate light, air, and access to adjacent lands.

**D. ~~Topography and Natural Landscape.~~**

All elements of the site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of elements that respect existing features of the site in relation to topography. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.

**E. ~~Drainage.~~**

1. On-site drainage shall be required pursuant to **§3.21**.
2. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties.
3. Provisions shall be made to accommodate stormwater according to City ordinance and to prevent erosion and the formation of dust. The use of detention/retention ponds may be required.
4. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas.

5. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.

#### F. Privacy.

The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

#### ~~Emergency Vehicle Access.~~

~~All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access in accordance with applicable regulations.~~

#### G. Vehicular and Pedestrian Circulation.

1. Safe, convenient, ~~uncontested,~~ well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site.
2. Driveways will be located to minimize conflict with traffic on the abutting street. The number of driveways will be the minimum needed to provide reasonable access to the site.
3. The widths of streets and driveways shall be appropriate for the existing and anticipated volume of traffic.
4. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area.

~~A pedestrian circulation system shall be provided and shall be as insulated as completely as reasonably possible from the vehicular circulation system.~~

~~Drives, streets and other circulation routes shall be designed to promote safe and efficient traffic operations within the site and at ingress/egress points.~~

~~Streets and drives which are part of an existing or planned street pattern which serves the project area shall be capable of safely and effectively accommodating the traffic volume and pattern proposed by the project.~~

~~Where possible, shared commercial access drives shall be encouraged.~~

~~All streets shall be developed in accordance with the Subdivision Control Ordinance, if applicable, and the City specifications.~~

~~In those instances wherein the Zoning Administrator and/or Planning Commission finds that an excessive number of ingress and/or egress points may occur with relation to major or secondary thoroughfares, thereby diminishing the safety or carrying capacity of the thoroughfare, the installation of appropriate alternatives, such as but not limited to marginal access drives, shared approaches, one-way drives, etc. may be required as conditions of approval.~~

#### ~~Fire and Safety.~~

~~The vehicular transportation system shall provide for circulation throughout the site and for efficient ingress and egress to all parts of the site by fire and safety equipment. Fire protection measures shall be provided as deemed necessary by the Fire Chief in conformance with all applicable laws of the State of Michigan for the protection of residents and/or occupants of the structures.~~

**H. Public Safety & Infrastructure.** Circulation around and within the site shall allow efficient ingress and egress to the site by fire and safety equipment. Fire protection measures shall be provided as deemed necessary by the Fire Chief in conformance with all applicable laws of the State of Michigan for the protection of residents and/or occupants of the structures. The scale and design of the proposed development shall consider current City infrastructure and upgrades that may be required, including, but not limited to, water supply, stormwater management, sanitary sewer, and traffic control.

#### ~~Access.~~

~~Every structure or dwelling unit shall have access to a public street, private road, walkway or other area dedicated to common use.~~

#### **I. Loading and Storage.**

All loading and unloading areas and outside storage shall be in accordance with **§3.31**.

#### **J. Snow Storage.**

Proper snow storage areas shall be provided in accordance with **§3.31 (G)**.

**K. Exterior Lighting.**

Exterior lighting shall be in accordance with **§3.26**.

**L. Utilities.**

All utility services shall be provided in a manner least harmful to surrounding properties. All utilities shall be located underground, as applicable, unless specifically waived by the Planning Commission.

**M. Compliance with Other Statutes and Regulations.**

Site plans shall conform to all applicable requirements of federal, state, and local statutes, and approval may be conditioned on the applicant receiving necessary federal, state, and local permits before the actual zoning permit is granted.

**N. Groundwater and Surface Water Protection.**

The following standards relating to groundwater protection shall be complied with, if applicable:

1. The project and related improvements shall be designed to protect land and water resources from pollution, including pollution of soils, groundwater, rivers, streams, lakes, ponds, and wetlands.
2. Storm water detention, retention, transport, and drainage facilities shall be designed to use or enhance the natural storm water system on site, including the storage or filtering capacity of wetlands, watercourses, and water bodies, and/or the infiltration capability of the natural landscape. Storm water facilities shall not cause flooding or the potential for pollution of surface or groundwater, on-site or off-site.
3. General purpose floor drains shall be connected to an on-site holding tank or sanitary sewer line (not a septic system) in accordance with state and county requirements, unless a groundwater discharge permit has been obtained from the **State of Michigan Department of Natural Resources and the Environment**. General purpose floor drains, which discharge to the groundwater or the storm sewer system, are prohibited.
4. Sites at which hazardous substances, hazardous wastes, or potentially polluting materials are stored, used, or generated shall be designed to prevent spills and discharges of such

materials to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.

5. Secondary containment facilities shall be provided for aboveground storage or hazardous substances, hazardous wastes, or potentially polluting materials in accordance with state and federal requirements. Aboveground secondary containment facilities shall be designed and constructed so that the potentially polluting material cannot escape from the unit by gravity through drains or other means directly or indirectly into groundwater.
6. Underground or above ground storage tanks shall be registered, certified, installed, operated, maintained, closed and removed in accordance with regulations of the **State of Michigan Department of Natural Resources and the Environment**.
7. Existing out-of-service or abandoned underground or above ground storage tanks shall be closed and removed in accordance with regulations of the **State of Michigan Department of Natural Resources and the Environment**.
8. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the **State of Michigan Department of Agriculture**.
9. Abandoned water wells (wells that are no longer in use or are in disrepair), abandoned monitoring wells, and cisterns shall be plugged in accordance with regulations and procedures of the **State of Michigan Department of Natural Resources and the Environment** and the District Health Department.
10. State and federal requirements for storage, spill prevention, record-keeping, emergency response, transport and disposal of hazardous substances, hazardous wastes, liquid industrial waste or potentially polluting materials shall be met. No discharge to surface water or groundwater, including direct or indirect discharges of waste, waste effluent, wastewater, pollutants, or cooling water, shall be allowed without approval from state, county and local agencies as required by law.

## Section 6.7 Site Plan Approval

### A. Approval Based on Findings of Fact.

The Zoning Administrator or Planning Commission shall approve, approve with conditions, or deny the proposed site plan based upon the above approval standards. The decision of the Zoning

<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

Administrator or Planning Commission shall be incorporated into a written statement of findings and conclusions relative to the site plan which specifies the basis for the decision and any condition(s) imposed.

B. No construction, reconstruction, demolition, or other site work may progress in the interim between submittal and final approval of a site plan, and no building permit(s) shall be issued prior to the approval of the site plan.

C. **Signed Copies.**

Upon approval of the site plan, and after any required modifications, a paper and/or digital copy with any applicable notes shall be signed and dated by Zoning Administrator and shall be provided to the applicant. A copy shall also be retained by Zoning Administrator as part of the City's permanent zoning file.

~~Upon approval of the site plan, three (3) ~~two (2)~~ copies of the site plan shall be signed and dated by the applicant and Zoning Administrator. One (1) signed and dated site plan shall be provided to the applicant and two copies ~~one (1) copy~~ shall be retained by Zoning Administrator as part of the City's permanent zoning file. If required by staff, A digital copy of the final approved site plan shall be provided by the applicant.~~

## Section 6.8 Conformity to Site Plan Required/Revocation

Following approval of a site plan by the Zoning Administrator or Planning Commission, the applicant shall construct the site improvements in complete conformity with the approved site plan and conditions imposed. Failure to do so shall be deemed a violation of this Ordinance ~~and the Zoning Permit may be revoked by the Planning Commission if approval was given by the Planning Commission or by the Zoning Administrator in the case of an administrative approval.~~ The Zoning Administrator shall give the permittee ~~notice of violation of the site plan~~ at least ten (10) days prior to the revocation by the Planning Commission or Zoning Administrator to provide time for corrective action ~~prior to issuing a violation notice.~~ ~~The Planning Commission or Zoning Administrator may revoke such permit if it is determined that a violation in fact exists and has not been remedied since the notification of the intention to revoke a permit.~~

## Section 6.9 Amendment to an Approved Site Plan

a. The owner of property for which a site plan has been approved shall notify the Zoning Administrator of any desired change to the approved site plan. Changes to an administratively approved site plan may be approved by the Zoning Administrator provided that such changes

**1** Purpose

**2** Definitions

**3** General Provisions

**4** Signs

**5** District Regulations

**6** Plan Review

**7** Supplemental Regulations

**8** Zoning Board of Appeals

**9** Administration

**10** Adoption & Amendments



conform to the Zoning Ordinance. Minor changes to a site plan which have been approved by the Planning Commission may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor amendments shall include the following as deemed appropriate by Zoning Administrator:

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building(s). Relocation of building entrances or exits, or shortening of building canopies.
2. Reduction of the size of any building ~~and/or sign~~.
3. Changing to a more restricted use provided there is no reduction in the amount of required off street parking as originally provided.
4. Changing the angle of parking or aisle width provided there is no reduction in the amount of required off street parking or in reduction of aisle width below ordinance requirements. Internal re-arrangement of parking lot which does not affect the number of parking spaces or alter access locations or design.

~~Moving of ingress and egress drives a distance of not more than twenty-five (25) feet if required by the appropriate state, county or other local road authority with jurisdiction.~~

5. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
6. Changes that will preserve the natural features of the site without changing the basic site layout.
7. Change type and design of lighting fixture provided ~~an engineer or architect certifies~~ there will be no change in the intensity of light at the property boundary.
8. Increase peripheral yards.
9. ~~Changing the location of signs by no more than ten (10) feet.~~ Sign modifications to location, sign face, landscaping, and lighting, provided the general sign design, number of signs, and dimensional requirements are maintained.

10. Changing the location of an exterior building wall or location not more than ten (10) feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.
  11. Changes related to item 1 through 11 above, required or requested by the City of Alpena or other state or federal regulatory agencies in order to conform with other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.
- b. All amendments to a site plan approved by the Zoning Administrator shall be in writing. After approval by the Zoning Administrator, **Zoning Administrator may require** the Applicant ~~shall~~ **to** prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for Zoning Administrator to sign and date all approved amendments. **If Zoning Administrator does not require a revised site plan, then the amendments shall be noted on the approved site plan on file. Such revised site plan shall be signed and dated by the Zoning Administrator.**
  - c. For amendments to site plans that do not qualify as a minor amendment or which require Planning Commission action, the same application process and fees as for site plan reviews shall apply.
  - d. No fees shall be required for minor site plan amendments approved by Zoning Administrator.
  - e. If Zoning Administrator finds that a proposed amendment to a Planning Commission-approved site plan does not qualify as a minor change, he or she shall immediately notify the permit holder in writing that site plan approval has been suspended pending approval of the proposed amendment. ~~The permit holder's notice shall be delivered by mail or in person.~~ If construction has begun, a stop work order shall be issued by Zoning Administrator for that portion of the project which is not in compliance with the approved site plan. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the approved site plan or ~~of~~ restarting the Site Plan Review process. ~~When the issue has been resolved the Zoning Administrator shall send a written notice to the permit holder that the project's site plan has again been approved.~~ **Once the site plan modifications have been reviewed, Zoning Administrator shall send a written notice to the permit holder with the outcome of the review.** This provision is not to be construed to prohibit phased development of a project provided that each phase is developed in accordance with an approved site plan.

## Section 6.10 Expiration of Site Plan Approval

The approval of any site plan under this provision shall expire one (1) year after the date of such approval, unless actual construction and development have been commenced in accordance with said site plan prior thereto ~~or if no building permit has been issued within this one (1) year period~~. If such construction and development is commenced within said one (1) year period, then such approval shall continue for a period of five (5) ~~three (3)~~ years from the date thereof; provided, however, that a lapse of more than one (1) year of ~~if~~ continuous substantial construction and development does not occur ~~lapses for a one (1) year period~~, in which event, said approval shall expire. The Building Official shall not issue a building permit for any type of construction on the basis of the approved site plan after such approval has expired. In the instance of ~~manufactured housing communities~~ mobile home park developments, the rules of the Mobile Home Commission shall govern.

- A. The approval of any site plan under this provision shall expire one (1) year after the date of approval, unless a building permit has been issued and/or actual construction and development have commenced per approved site plans. Construction and development shall commence within the one (1) year period that the Building Permit is valid. The site plan approval shall be valid for a period of three (3) years from original approval of the site plan. The Building Official shall not issue a building permit for any type of construction on the basis of the approved site plan after such approval has expired. In the instance of manufactured housing communities, the rules of the Mobile Home Commission shall govern.
- B. Any subsequent re-submittal of a site plan due to expiration shall be processed as a new request with new fees.

## Section 6.11 Special Land Use Applications

### A. General Requirements.

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.

**1 Purpose**

**2 Definitions**

**3 General Provisions**

**4 Signs**

**5 District Regulations**

**6 Plan Review**

**7 Supplemental Regulations**

**8 Zoning Board of Appeals**

**9 Administration**

**10 Adoption & Amendments**

**B. Special Land Use Applications.****1. See Section 6.5 for submittal and approval procedures.**

~~If site plan is 11"X17" or smaller and black/white, then one (1) copy is required. If site plan is larger than 11"X17" or in color, then twelve (12) copies of the proposed site plan, including all required additional or related information, shall be presented to the Zoning Administrator by the petitioner or property owner or his designated agent. Staff may accept a digital copy as a substitute for printed copies of the site plan. The appropriate number of copies of the site plan and an application for a Special Land Use shall be submitted to Zoning Administrator at least thirty (30) days prior to the Planning Commission meeting at which the application will be reviewed, and shall include items listed below:~~

2. The appropriate number of copies of the site plan and an application for a Special Land Use shall be submitted to Zoning Administrator at least thirty (30) days prior to the Planning Commission meeting at which the application will be reviewed, and shall include items listed below:
  - a. Uses which require a site plan shall submit a site plan prepared under the requirements of **§6.4**. Uses which require a plot plan shall submit a plot plan prepared under the requirements of **§6.1**. **Zoning Administrator may waive the plot plan or site plan requirements if no structural changes are proposed on the property.**
  - b. Written description of proposed use, including parking facilities, if required, and any exceptional traffic situation the use may occasion.
  - c. A statement prepared by the applicant appraising the effect on the neighborhood.
  - d. Other information as may be required by the Planning Commission to assist in the consideration of the Special Land Use application.
3. The application shall be accompanied by the **fee established by the City Council**.

**C. Application Review for Completeness and Required Public Hearing.**

The Zoning Administrator will review the materials submitted to ~~assure~~ **ensure** all information required by the Ordinance has been provided. If the application is incomplete, the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If the site plan, including all required additional or related information, is determined to be complete, the Zoning Administrator shall ~~cause the submittal to be placed~~ **place the review** on the agenda of

<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

the Planning Commission meeting as a public hearing after notice has been provided in accordance with §9.6.

## 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 **discretionary** 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 **Neighborhood**. ~~Adjacent Uses.~~

1. 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.
- ~~2. 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:~~
  - ~~a. Use activities, processes, materials, equipment, or conditions of operation;~~
  - ~~b. Vehicular circulation and parking areas;~~
  - ~~c. Outdoor activity, storage and work areas;~~
  - ~~d. Hours of operation;~~
  - ~~e. Production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light;~~
  - ~~f. The relative ease by which the impacts above will be mitigated.~~
3. **Site Area and Potential Future Expansion Areas.** That the Planning Commission has determined that there is sufficient site area for the proposed use to prevent nuisances to neighboring uses, and that there is the potential for reasonable anticipated expansion of the use without nuisances to neighboring uses.

**1 Purpose**

**2 Definitions**

**3 General Provisions**

**4 Signs**

**5 District Regulations**

**6 Plan Review**

**7 Supplemental Regulations**

**8 Zoning Board of Appeals**

**9 Administration**

**10 Adoption & Amendments**

4. **Number of Persons or Employees.** ~~The proposed or estimated assembly of persons or employees shall not be hazardous to the neighborhood or incongruous or conflict with normal traffic or activity in the vicinity.~~ The potential impact of persons or employees shall be in harmony with the neighborhood in terms of traffic, parking, and activities.
5. **Time of Use, and Physical and Economic Relationship.** The proposed or estimated time(s) of use and the physical and economic relationship of one type of use to another are not in conflict with each other or with surrounding properties and uses.
6. **Operations of Use.** The nature and intensity of operations involved in or conducted in connection with the proposed use is appropriate for the site and not in conflict with surrounding properties and uses.
7. **Design Characteristics.** Elements shall relate the design characteristics of an individual structure or development to existing or planned developments in a harmonious manner, resulting in a coherent overall development pattern and streetscape.

**C. Public Services.**

1. ~~The proposed Special Land Use will not place demands on fire, police, water and sewer, or other public resources in excess of current capacity.~~ Based on information readily available, the use shall be served adequately by existing or proposed public and private infrastructure and services, including but not limited to, streets and highways, police and fire protection, refuse disposal; water, wastewater and storm sewer facilities; electrical service, and schools.
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.**

<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

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 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.**

1. 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.
2. 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, **outdoor storage or activity**, or traffic. The proposed Special Land Use shall comply with **§3.34 Performance Standards**. *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.*

**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.

<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



**I. Compliance with Supplemental Site Development Standards Regulations.**

The proposed Special Land Use complies with all applicable supplemental site development standards as contained in **Article 7** of this Ordinance.

## Section 6.13 Special Land Use Approval

**A. Decision.**

1. After the required public hearing and review of approval standards, the Planning Commission shall act to approve, approve with modifications and/or conditions, ~~or disapprove~~ **deny, or postpone the decision on** the Special Land Use.
2. The decision on a Special Land Use shall be incorporated into a written statement of findings and conclusions relative to the Special Land Use which specifies the basis for the decision and any condition(s) imposed.
3. In the case of a Special Land Use, the decision of the Planning Commission may not be appealed to the Zoning Board of Appeals. Appeals shall be made to the Circuit Court of Alpena County.

**B. Inspection.**

The Zoning Administrator shall have the right to inspect any Special Land Use to ensure continued compliance with the conditions of the Special Land Use.

**C. Compliance with Other Regulations.**

1. All applicable federal, state, and local licensing regulations shall be complied with. Initial and annual proof of such compliance may be a condition of Special Land Use approval and the continuance thereof.
2. As a minimum, or unless specifically modified by the provisions of **Article 7 (Supplemental Site Development Standards)**, the ~~dimensional standards and landscape, buffering and parking regulations otherwise applicable to the use and/or zoning district in Articles 3 and 5~~ shall be maintained as outlined within the other various applicable articles of this

<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

Ordinance. ~~In such cases where there are conflicting standards, the most restrictive shall apply unless specifically modified by the provisions of Article 7.~~

## Section 6.14 Amendment of an Approved Special Land Use

Amendments to an approved Special Land Use shall be processed in the same manner as the original application. Minor amendments may be approved by Zoning Administrator pursuant to §6.9 (A) (1-12).

## Section 6.15 Expiration & Revocation of a Special Land Use

### A. Special Land Use Expiration.

The Special Land Use permit shall expire unless the use has begun within one (1) year of approval. Thirty (30) days prior to expiration of an approved Special Land Use permit, an applicant may ~~make application to~~ request, from the Planning Commission, for a one (1) year extension of the Special Land Use permit at no fee. The Planning Commission shall grant the requested extension for this additional one year if it finds good cause for the extension.

### B. Special Land Use Superseded.

The Special Land Use permit shall expire if replaced or superseded by a subsequent permitted use or Special Land Use permit or if the applicant requests the rescinding of the Special Land Use Permit.

### C. Special Land Use Abandonment.

~~The Special Land Use permit shall expire if the Special Land Use has been abandoned for a period of one (1) year or more.~~ If a property owner has an intent to abandon a Special Land Use and in fact abandons this Special Land Use for a period of one (1) year or more, then the Special Land Use shall be deemed abandoned and any subsequent use of the property shall conform to the requirements of this Ordinance. When determining the intent of the property owner to abandon a Special Land Use, the Zoning Administrator shall consider the following factors: *(a land use attorney suggested "intent to abandon")*

1. Whether utilities such as water, gas, and electricity to the property have been disconnected.
2. Whether the property, buildings, and grounds have fallen into disrepair.

3. Whether signs or other indications of the existence of the Special Land Use have been removed.
4. Whether equipment or fixtures necessary for the operation of the Special Land Use have been removed.
5. Other information or actions that evidence an intention on the part of the property owner to abandon the Special Land Use.

**D. New Ownership of a Special Land Use.**

A Special Land Use Permit does not expire on transfer or sale of the property.

**E. Revocation of a Special Land Use.**

Following approval of a Special Land Use by the Planning Commission, the applicant shall construct the Special Land Use in complete conformity with the approved plot plan or site plan (if applicable) and conditions imposed. Failure to do so shall be deemed a violation of this Ordinance and the Zoning Permit may be revoked by the Planning Commission. The Zoning Administrator shall give the permittee notice of violation of the Special Land Use at least ten (10) days prior to the revocation by the Planning Commission to provide time for corrective action. The Planning Commission may revoke such permit if it is determined that a violation in fact exists and has not been remedied since the notification of the intention to revoke a permit.

*(Section 6.16 – review of condominiums – is being moved to Article 7)*



# Article 9

## Administration

Sec	Name	Pg
9.0	Enforcement	
9.1	Duties of the Zoning Administrator	
9.2	Permits	
9.3	Inspections	
9.4	Fees	
9.5	Performance Guarantee	
9.6	Public Notification	
9.7	Violations	
9.8	Planning Commission & City Council	
9.9	Conditions	
9.10	Rehearing Process	
9.11	Appeals	
9.12	Interpretation & Conflicts	
9.12	Approval Reference Chart	

### Section 9.0 Enforcement

- A. The provision of this Ordinance shall be administered in accordance with the **Michigan Zoning Enabling Act, 2006 PA 110**, as amended.
- B. The Provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such delegates as assigned by the Zoning Administrator or City Manager. For the purpose of this Ordinance, Zoning Administrator may also be the Building Official, Building Department staff, Zoning Department staff, Planning staff, or Zoning staff as designated by the City Manager.

~~The provisions of this Ordinance shall be administered and enforced by the Building Official, the Zoning Administrator, Planning Director or by such deputies of the Planning department as the Building Official or Zoning Administrator or Planning Director may delegate to enforce the provisions of this Ordinance. For purpose of this Ordinance, the Zoning Administrator~~

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

~~may also be the Building Official, Building Department, Zoning Department, Planning Director, or Zoning Director as designated by the City Manager.~~

~~Building Official may also be called Building Department, Zoning Administrator, Zoning Department or other titles as designated by the City Manager.~~

## Section 9.1 Duties of the Zoning Administrator

- A. **Grant Zoning Permits.** The ~~Building Official or Planning Director~~ **Zoning Administrator** shall have the power to grant zoning compliance permits and to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Ordinance. The Building Official shall have the power to grant certificates of occupancy. It shall be unlawful for the Building Official or ~~Planning Director~~ **Zoning Administrator** to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until the City has inspected such plans in detail and found them to conform with this Ordinance.
- B. **Review Applications for Planning Commission Submittal.** The Zoning Administrator shall receive and review for completeness all applications for which the Planning Commission is required to decide under this Ordinance and refer such applications to the Planning Commission for determination.
- C. **Review Applications for Zoning Board of Appeals Submittal.** The Zoning Administrator shall receive and review for completeness all applications for appeals, variances, or other matters which the Zoning Board of Appeals is required to decide under this Ordinance and refer such applications to the Zoning Board of Appeals for determination.
- D. **Review Applications for Ordinance Amendment.** The Zoning Administrator shall receive and review for completeness all applications for amendments to this Ordinance and refer such applications to the Planning Commission and City Council for determination.
- E. **Records.** The Zoning Administrator shall maintain permanent and correct records of the Ordinance including, but not limited to, zoning permits issued, maps, amendments, Special Land Use permits, variances, and appeals.
- F. Under no circumstances is the ~~Building Official or Planning Director~~ **Zoning Administrator** permitted to make changes to this Ordinance nor to vary the terms of this Ordinance in carrying out his/her duties as **Zoning Administrator** ~~Building Official or Planning Director~~.

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

- G. The ~~Building Official or Planning Director~~ **Zoning Administrator** shall not refuse to issue a permit when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit.

## Section 9.2 Permits

*This section has been replaced with new text.*

### A. Fees Required.

Applications shall not be reviewed until the required fees have been paid. No separate fee shall be required for accessory buildings, signs, fences, or structures when application thereof is made at the same time as the principal building or structure. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the City Council.

### B. Permits Required.

1. **Zoning Permits.** The term “zoning permit” in this Ordinance is used as a general category and also includes sign permits, fence permits, Plot or Site Plan approvals, Special Land Use permits, and other specific zoning-related permits.
2. **Trade and Regulatory Permits.** Building permits, and other trade or regulatory permits governed by the State of Michigan, must be pulled in accordance with the requirements of the State of Michigan.
3. **Permit Required.**
  - a. Any use subject to the provisions of this Ordinance shall not begin until a Zoning Permit or Building Permit application has been filed with the City of Alpena and a permit has been issued, except as otherwise provided for in this Ordinance.
  - b. No building or structure, or part thereof, shall be hereafter erected, altered, demolished, moved or repaired unless a permit has been issued for such work. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the applicable building code, property maintenance code or this Ordinance, except for minor repairs or

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

changes not involving any of the abovementioned features. Demolition shall be in accordance with standards established by the Building Official. Land Use requirements outlined in Article 5 shall be met.

4. **New Use of Buildings.** No building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type, as outlined in the building code, unless a certificate of occupancy is first obtained for the new or different use

#### C. **Conformance with Approved Plans.**

Permits issued based on plans and applications approved by the Zoning Administrator, Planning Commission, or Building Official ~~Building Official or Planning Director~~ authorize only the use, arrangement and construction set forth in such approved plans and applications. Any other use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance.

#### D. **Expiration.**

The permit will expire after one (1) year from date of issuance for any zoning or building permit under which no construction has occurred or no substantial construction has been done in the furtherance of the permit. Other trade or regulatory permits may be subject to different expiration dates.

1. See **Section 6.10** for expiration of site plan approval.
2. See **Section 6.15** for expiration of Special Land Use approval.
3. See **Section 8.3.M** for expiration of Zoning Board of Appeals approval.
4. See **Section 10.3.G** for expiration of Conditional Rezoning approval.

#### E. **Revocation.**

The Zoning Administrator or Building Official shall have the power to revoke or issue a stop work order on any permit in case of failure or neglect to comply with the provisions of the Ordinance or approved plans or in the case of a false statement or misrepresentation made in the application. The owner shall be notified of such revocation in writing. See **Section 9.7 Violations** for more information.

<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



**F. Failure to Pull a Permit.**

Any person, partnership, limited liability company, corporation, association or other entity who fails to obtain any necessary permit, whether it be a zoning permit, building permit, etc. may be subject to an additional fee as outlined in the fee schedule and, if not rectified, shall be subject to **Section 9.7**.

**G. Certificates Of Occupancy.**

No building, or part thereof, shall be occupied for use unless and until a certificate of occupancy has been issued for such use. The following shall apply in the issuance of any certificates:

1. **Certificate Not To Be Issued.** No certificates of occupancy shall be issued for any building, structure or part thereof, which is not in accordance with all the provisions of this Ordinance.
2. **Certificates Required.** No building or structure, or part thereof, which is hereafter erected, or altered, shall be occupied or used, unless and until a certificate of occupancy has been issued for such building or structure. Certificates of occupancy shall be required for any change in occupancy of any building, structure or land in all districts.
3. **Certificates For Existing Buildings.** Certificates of occupancy shall be issued for existing buildings, structures, or parts thereof, if requested by the property owner, once inspected and found that such buildings, structures, or parts thereof, are in conformity with the provisions of this Ordinance. If such certificate is refused for cause, the applicant shall be notified of such refusal.
4. **Temporary Certificates.** The Building Official may issue a temporary Certificate of Occupancy for a building or structure or part thereof when it has been determined that there are no conditions that would endanger the health, safety or welfare of the occupants or users. Temporary certificates may be issued for a period not to exceed twelve (12) months, unless the building official deems there is cause to extend in conjunction with an open building permit.
5. **Record Of Certificates.** A record of all certificates issued shall be kept on file and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

<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

6. **Building Code Interpretation.** The Building Board of Appeals resolves disputes over interpretations of the Building Codes. The Board meets on an as-needed basis, which is within ten days of receipt of an appeals application.

## Section 9.3 Final Inspections

*This section has been replaced with new text.*

The Zoning Administrator and other designated City staff shall have the right to inspect lots, buildings, and/or structures to determine violations of or compliance with this Ordinance. The Zoning Administrator and other designated City staff may exercise this right to inspection by consent of the person having the right to possession of the lot, building, or structure or any part thereof, or by administrative search warrant issued by a court of competent jurisdiction.

- A. **Inspection Prior to Construction.** Inspection shall occur at the time of staking out of the building foundation or location of the structure. The property owner is responsible for determining and marking the correct location of lot lines from which setbacks are measured. The recipient of any permit for the erection, construction, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Building Official immediately when the property is staked out and ready for inspection.
- B. **Inspection During Construction.** Inspections shall occur during the course of construction. The recipient of any permit for the erection, construction, alteration, repair, or moving of any building, structure, or part thereof, shall notify the inspector as required upon the issuance of the permit.
- C. **Inspection at Completion of Construction.** Inspection shall occur upon completion of the construction authorized by the permit. The recipient of any permit for the erection, construction, alteration, repair, or moving of any building, structure, or part thereof, shall notify the inspector immediately upon the completion of the work authorized by the permit for a final inspection.
- D. **Violations.** If, during an inspection, it is determined that the building or structure is not located according to the plan filed or is in violation of any provision of this Ordinance or any other applicable law, he/she shall notify the holder of the permit or their agent. Further construction shall be put on hold until the violation has been corrected upon re-inspection. See **Section 9.7 Violations** for more information.

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

## Section 9.4 Fees

- A. To assist in defraying the costs of investigating, reviewing and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in costs to the City, the City Council shall adopt, by resolution, a fee to cover the cost of inspection and supervision resulting from enforcement of this Ordinance.
- B. The amount of these zoning fees shall cover the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, and time spent by City staff,. The basic zoning fees shall be paid before any application required under this Ordinance is processed. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant **or when the application is denied by the Zoning Administrator or the Planning Commission.**
- C. If the ~~Planning Director~~ **Zoning Administrator** determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the ~~Planning Director~~ **Zoning Administrator** determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary or advisable, then the applicant shall deposit, with the City Clerk, such additional zoning fees in a reasonable amount determined by the ~~Planning Director~~ **Zoning Administrator** equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten (10) percent of the initial escrow deposit or less than ten (10) percent of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the ~~Planning Director~~ **Zoning Administrator** may require the applicant to deposit additional fees into escrow in a reasonable amount determined by the ~~Planning Director~~ **Zoning Administrator** to be equal to the estimated costs to complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete thereby justifying the denial of the application. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal.

<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

## Section 9.5 Performance Guarantee

In connection with the construction of improvements through site plan approval, Special Land Use approval, or a PUD project, the Planning Commission may require the applicant to furnish the City with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean, by way of example and not limitation, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, **site clean-up**, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this Section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the City Clerk at or before the time the City issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the City Clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

- A. One-third (1/3) of the cash deposit after completion of one-third (1/3) of the public and site improvements;
- B. Another one-third (1/3) of the cash deposit after completion of two-thirds (2/3) of the public and site improvements; and
- C. The balance at the completion of the public and site improvements.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the City as a third-party

<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

beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a portion of the performance guarantee required by this section.

## Section 9.6 Public Notification

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, and the other provisions of this Section with regard to public notification.

### A. **When Published Notice is Required.**

A published notice is required for all public hearings including Special Land Uses, appeals and interpretation requests to the Zoning Board of Appeals, zoning ordinance text amendments, zoning ordinance map amendments (rezonings), and in other circumstances when the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published. The Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the city of Alpena and mailed or delivered as provided in this Section.

### B. **Content.**

All mail, personal and newspaper notices for public hearings shall:

1. **Describe the Nature of the Request.** Identify whether the request is for a rezoning, text amendment, Special Land Use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
2. **Location.** Indicate the property that is subject to the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.
3. **When and Where the Request will be Considered.** Indicate the date, time, and place of the public hearing(s).

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

4. **Written Comments.** Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

5. ~~**Disabled Access.** Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.~~

C. ~~**Personal and Mailed Notice.**~~

1. Except as noted in **Section 9.6.C.2** and **Section 9.6.C.3** below, notices for all public hearings shall be given as follows:

- a. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.
- b. Notice of the hearing shall be published in a newspaper of general circulation.
- c. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered and the applicant, if different than the owner(s) of the property.
- d. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300) feet of the property and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the City.

(1) If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

(2) Notification need not be given to more than one (1) occupant of a structure.

(3) If a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses, or organizations, notice may be given to the manager or owner of the structure who

<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

shall be requested to post the notice at the primary entrance to the structure. *I think this means that if there are up to 4 dwelling units, notice shall be given to each. If there are more than 4, only one notice is given. The MZEA doesn't exactly state it that way – it states it in the way written above.*

2. Newspaper publication as required in **Section 9.6.C.1** above shall be the only notice required for an amendment to the Zoning Ordinance or the zoning map that affects eleven (11) or more properties.
3. For requests to the Zoning Board of Appeals that do not affect a specific property, the only notice required shall be by newspaper publication, as required in **Section 9.6.C.1** above.

**General.** ~~When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:~~

- ~~a. The owners of the property for which approval is being considered and the applicant, if different than the owner(s) of the property.~~
- ~~b. Except for rezoning requests involving eleven (11) or more adjacent properties or an Ordinance interpretation request that does not involve a specific property, notice shall be given to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or the occupant is located within the City of Alpena. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.~~
- ~~c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to §9.6(E).~~
- ~~d. Other governmental units or infrastructure agencies within one (1) mile of the property involved.~~

<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

4. **Notice Deemed Given.** The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered. Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, property addressed, postage paid.

- D. ~~TIMING OF NOTICE: Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:~~

~~For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or Ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.~~

- E. **Registration To Receive Notice By Mail.**

1. **General.** ~~Any neighborhood organization, public utility company, railroad or any other person may register with the City Clerk to receive written notice of all applications for development approval pursuant to §9.6(C)(1)(c) or written notice of all applications for development approval within the zoning district in which they are located. Each electric, gas, and pipeline utility company, each railroad, each telecommunication service provider, and the airport manager of each airport may register its name and address with the City to receive written notice of all public hearings.~~ The City Clerk shall be responsible for providing this notification, as established by the City Council.
2. **Requirements.** The requesting party must provide the City Clerk information on an official form to ensure notification can be made. All registered persons must register annually to continue to receive notification pursuant to this section.

## Section 9.7 Violations

- A. **Violations.**

1. Any person, partnership, limited liability company, corporation, association or other entity who creates or maintains a nuisance per se or who violates or fails to comply with this Ordinance or any permit issued pursuant to this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than five hundred (\$500.00) dollars and the costs of prosecution, or in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed

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



ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the court, together with the costs of prosecution.

Notwithstanding the provision above that makes a violation of the Zoning Ordinance a misdemeanor, the City may, in its discretion for minor violations or for a first offender, choose to treat the violation as a municipal civil infraction subject to a fine of not more than five hundred (\$500.00) dollars.

Every day that such violation continues constitutes a separate and distinct offense under the provisions of this Ordinance. Nothing in this section shall exempt the offender from compliance with provisions of this Ordinance or prohibit the City from seeking additional and/or equitable relief from any court to ensure compliance with the provisions of this Ordinance.

2. The City Building Official, **or any other City Manager designee**, is hereby designated as the authorized City official in conjunction with the City Attorney and may issue misdemeanor citations/municipal civil infractions directing alleged violators of this Ordinance to appear in Court.
3. In addition to or in lieu of enforcing this Ordinance, either as a misdemeanor or a municipal civil infraction, the City may initiate proceedings in any court of competent jurisdiction to abate, eliminate, or enjoin the nuisance per se or any other violation of this Ordinance.
4. **Stop Work Order.** Upon notice from the Building Official of the occurrence of unauthorized activity or the existence of site conditions contrary to any provisions of this ordinance or the **Michigan Zoning Enabling Act, 2006 PA 110**, as amended, such activity shall be immediately stopped and/or said site conditions shall be immediately abated.

Upon determining that such unauthorized conditions are present or such unauthorized activities are occurring, the Building Official shall post a stop work order on the said premises.

The stop work order shall be in writing and shall also be given to the owner of the property involved, or to the owner's agent, or to the person involved in such activity or the person responsible for such unauthorized site conditions or activity, and shall state the terms under which the stop work order will be rescinded or removed.

<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

Any person, firm or company who continues such activity or fails to correct such site conditions after having been served with the stop work order shall be subject to the penalties recited in this Section.

#### **~~Inspection.~~**

~~The Building Official shall have the responsibility to investigate each alleged violation and shall have the right to inspect any property for which a zoning permit has been issued to ensure compliance with the plans and conditions of the zoning permit or approved site plan.~~

#### **B. Rights and Remedies Are Cumulative.**

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

## **Section 9.8 Planning Commission & City Council**

#### **A. Planning Commission.**

The Planning Commission shall be responsible for the following administrative activities under this Ordinance:

1. **Site Plan Review.** In cases where site plan review is referred to the Planning Commission from the Zoning Administrator, the Planning Commission shall review Site Plans and issue approval, conditional approval, or denial.
2. **Special Land Use Review.** The Planning Commission shall conduct a public hearing on any application for a Special Land Use Permit. Following a public hearing, the Planning Commission shall review and approve, approve with conditions, or deny said application. The Planning Commission shall also take any necessary action to revoke a Special Land Use Permit.
3. **Rezoning or Text Amendment.** The Planning Commission shall conduct public hearings for proposals to rezone property or amend the text of this Ordinance. Following a public hearing, the Planning Commission shall make its recommendation regarding the proposed rezoning or text change to the City Council. The Planning Commission may initiate a text change or rezoning, subject to the requirements for notice, public hearing, and City Council approval.
4. ~~In cases where the Alpena City Planning Commission is empowered to approve certain use of premises under the provisions of this Ordinance, the applicant shall furnish such~~

<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

~~surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter.~~

5. ~~The Planning Commission shall investigate the circumstances of each such case and shall notify such parties who may, in its opinion, be affected thereby of the time and place of any hearing which may be held relative thereto as required under its rules of procedure.~~
6. ~~Any approval given by the Planning Commission, under which premises are not used or work is not started within one (1) year or when such use or work has been abandoned for a period of one (1) year, shall lapse and cease to be in effect.~~ *Already state this in Article 6.*
7. The Planning Commission shall not have the power to change the zoning classification of any property, nor to grant variances from any terms or requirements of this Ordinance except as specifically granted in this Ordinance.

#### B. City Council.

1. **Adopting the Ordinance and Amendments.** On the recommendation of the Planning Commission, the City Council adopts the Zoning Ordinance, making it the enforceable policy of City government. Likewise, the City Council may amend the text of this Ordinance or the boundaries of Zoning Districts (rezoning).
2. **Fee Schedule.** The City Council shall, by resolution, set fees to be charged for any administrative action under this Ordinance. The City Council may also act to waive any fee.

## Section 9.9 Conditions

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on discretionary zoning decisions under its respective jurisdiction. These conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

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

- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration and be necessary to ensure compliance with those standards.

## Section 9.10 Rehearing Process

### A. Rehearing Performed by Planning Commission or ZBA.

This section will be reviewed with  
Bill Pfeiffer

Except as provided in [Article 8 Section 9.11](#), a decision of the Planning Commission or Zoning Board of Appeals shall be final. The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. A rehearing shall mean that the body which originally reviewed the request shall be the body which reviews the same request again. Exceptional circumstances shall mean any of the following:

1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.
2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the public hearing.
3. ~~The City attorney by written opinion states that in the attorney's professional opinion the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.~~

### B. Rehearing Procedure.

A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.

1. **Time Limit.** A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date on which the applicant receives notification regarding the decision for which the rehearing is being requested.

<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

2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.
3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide written notice to the applicant that a rehearing will be considered. The notice may be served upon the applicant by first class mail at the applicant's last known address or may be served personally on the applicant. The notice must be served at least nine (9) days before the time set for the hearing if served by mail, or at least seven (7) days before the time set for the hearing if served by personal service. Service by mail shall be complete upon mailing. In addition to serving the above notice on the applicant, all other notice requirements for the type of decision being heard shall be completed before the Planning Commission or Zoning Board of Appeals holds a hearing at which it considers whether to grant a rehearing.
4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

## Appeals

### ~~A. Appeal of Administrative and Planning Commission Decisions To The ZBA.~~

~~An applicant may appeal to the Zoning Board of Appeals any administrative order, requirement, decision, or determination made by an administrative official or body charged with enforcement of this Ordinance. Planning Commission decisions may be appealed to the ZBA with the exception of Planning Commission decisions regarding Special Land Uses and Planned Unit Developments (Article 8: Zoning Board of Appeals).~~

### ~~B. Appeal of Zoning Board of Appeals Decisions.~~

~~Any party aggrieved by a decision of the Zoning Board of Appeals may appeal to the circuit court for Alpena County (Article 8: Zoning Board of Appeals).~~

## Section 9.11 Interpretation & Conflicts

In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, ~~morals~~, safety, comfort,

<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

convenience, or general welfare. ~~It is not intended by~~ This Ordinance **is not intended** to repeal, abrogate, annul or in any way ~~to~~ impair or interfere with any existing provision of law or ordinance ~~other than the above-described Zoning Ordinance,~~ or with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued ~~or which shall be adopted or issued~~ pursuant to the law relating to the use of buildings or premises. ~~provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations or permits, the provisions of this Ordinance shall control.~~

**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 9.13 Approval Reference Chart

The following table is a summary of basic requirements for various administrative actions under this Zoning Ordinance. It supplements the preceding text but is not a substitute for it.

<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

**Table 9.12: Approval Process Reference Chart**

Type of action	Parties who may initiate action	Body making decision	Public hearing required	Published notice(s)- Number of days before hearing	Mailed notice to all owners and occupants within 300 feet - days before hearing	Body to which applicant may appeal
Plot Plan Review and Site Plan Review - <b>§6.0</b>	Applicant	ZA or PC	No	-----	-----	ZBA
Special Use - <b>§6.0</b>	Applicant	PC	Yes	Not less than 15 days	Not less than 15 days	Circuit Court
Variance	Applicant	ZBA	Yes	Not less than 15 days	Not less than 15 days	Circuit Court
Interpretation	Applicant, PC, or ZA	ZBA	Yes	Not less than 15 days	-----	Circuit Court
Appeal from decision	Any aggrieved party	ZBA	Yes	Not less than 15 days	Not less than 15 days	Circuit Court
Text amendment or Rezoning	Applicant, ZA, PC, or CC	Step 1: PC recommends to CC	Yes	Not less than 15 days	Not less than 15 days	-----
		Step 2: CC	No	-----	-----	-----
		Step 3: CC publishes Notice of Adoption in newspaper (within 15 days after adoption). Rezoning (map amendment) goes into effect on 8th day after publication.				
Zoning enforcement	ZA	-----	-----	-----	-----	ZBA
ZA = Zoning Administrator PC = Planning Commission CC = City Council ZBA = Zoning Board of Appeals						

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