

City of Newaygo
(Newaygo County, Michigan)

ZONING ORDINANCE

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28 State Road
PO Box 308
Newaygo, MI 49337

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SCHEDULE OF DISTRICT REGULATIONS

CHAPTER 1 TITLE AND PURPOSE

Section 1.01 Title

This Ordinance shall be known as the Zoning Ordinance of the City of Newaygo.

Section 1.02 Purpose

The provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, and general welfare. This Zoning Ordinance is used as an enforcement tool to ensure the Master Plan for the City is being adhered to and that the Community as a whole is uniform and protected. The provisions of this Ordinance are also intended to meet the needs of the City's residents for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; and to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs. For these purposes this Ordinance divides the City into districts of the number, shape, and area considered best suited to carry out this section. For each of those districts, regulations are imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designated the trades, industries, and other land uses or activities that shall be permitted, excluded or subjected to special regulations.

Section 1.03 Scope

It is not intended by this Ordinance to repeal, abrogate, annul, or in any other way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by this Ordinance, or any private restrictions placed upon property by covenant, deed or other agreement, provided, however, where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or lot coverage, or specifies a definite land use or requires greater lot area or larger yards or other open spaces than are imposed or required by such rules, regulations or permits or by such private restrictions, the provisions of this Ordinance shall control. Such construction of terms, such as "should" "shall" "may" "must" "and" "or" "either...or" etc., used in this Ordinance to clarify their parameter, shall meet the meanings as denoted in an accredited dictionary.

CHAPTER 2 DEFINITIONS

Section 2.01 Purpose

For the purpose of this Ordinance, certain words and terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The word “shall” is always mandatory and not merely directory. The word “building” includes the word “structure”. The term “person” shall mean an individual, partnership, corporation, or other association or their agents. Terms not herein defined shall have the meanings found in an accredited dictionary, if located neither, the customarily accepted meaning will be used.

Section 2.02 Definitions – A through B

- A. Abutting: A lot or parcel, which shares a common border with the subject lot or parcel.
- B. Accessory Buildings: A building or portion of a building, the use of which is customarily incidental to that of the main building located on the same lot. Where an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.
- C. Accessory Use: Accessory uses shall be deemed to be such uses as are customarily incidental and devoted exclusively to the main use of the building on the same lot.
- D. Adult Day Care Facility: An unlicensed facility which provides care for the elderly and/or functionally impaired adults in a protective setting for a portion of a twenty-four (24) hour day.
- E. Adult Foster Care Family Home: A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, develop mentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation center, or a residential center for persons released from or assigned to a correctional facility.
- F. Adult Foster Care Group Home: A private home with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day,

five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

- G. Adult uses: Those uses that primarily deal in or with explicitly sexual material or activity, such as adult bookstore, adult cabaret, live entertainment theater, or massage parlors.
- H. Alley: A public way designated as an alley on a recorded plat or other recorded instrument, or if not so designated, then a public way which does not exceed twenty (20) feet in width.
- I. Area of Special Flood Hazard: The land in the floodplain subject to a one-percent (1%) or greater chance of flooding in any given year.
- J. Attic: A room or a space immediately below the roof of a building.
- K. Automobile Repair: Any major commercial activity involving the general repair, rebuilding, or reconditioning of motor vehicles, engines, or trailers; collision service, such as body frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.
- L. Automobile Service Station: A building designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water, and other operating commodities for motor vehicles (including trucks), aircraft, and boats.
- M. Automobile Wash Establishments: A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.
- N. Base Flood: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.
- O. Basement: A portion of a building having more than one-half (1/2) of its height below grade.
- P. Bed and Breakfast operation: A use within a single-family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.
- Q. Berm: A mound of earth graded, shaped and improved with landscaping in such fashion as to be used for visual and/or audible screening purposes.
- R. Board of Appeals: The Zoning Board of Appeals for the City of Newaygo.
- S. Boarding House: A dwelling other than a hotel, where lodging and/or meals are provided for compensation to five (5) or more persons.

- T. Building: An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the enclosure of persons, animals, or chattels, or carrying on business activities or other uses.
- U. Building Heights: The vertical distance measured from the established grade at the front of the building to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.
- V. Building (Principal): The building in which the principal use of the lot is being conducted.
- W. Building Setback: The minimum horizontal distance between the front of the building, excluding steps and enclosed porches, and in the street right-of-way line or front lot line.

Section 2.03 Definitions – C through F

- A. Child Caring Center: A facility, other than a private residence, receiving one (1) or more preschool or school age children for care for periods less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. The term includes a facility, which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The term includes any facility referred to as child care center, day care center, day nursery, nursery school, drop-in center and parent cooperative preschool. A child care center does not include a Sunday school, vacation bible school, or religious organization where children are in attendance for not greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
- B. Clinic: A facility with its operations being the diagnosis and treatment of outpatients, but not including overnight stays.
- C. Commission: The Planning Commission for the City of Newaygo.
- D. Convalescent or Nursing Home: A convalescent home or nursing home is a home for the care of children, or the aged, or the infirm, or a place of rest for those suffering bodily disorders, wherein seven (7) or more persons are cared for. Said home shall conform to, and qualify for a license under applicable State Law.
- E. Cul-de-sac: A dead-end public or private street, generally short in distance, which terminates in a circular or semicircular section of street which allows for vehicle turnaround.

- F. Demolish: The act of tearing down any principal building on a piece of property or any building having dimensions that exceed twenty feet by twenty feet (20' X 20') that contains plumbing or electrical work.
- G. Development: To make a piece of property or land more available or useable.
- H. Drive-in Business: A commercial business establishment whose principal retail and/or service character is dependent primarily on providing a driveway approach and parking spaces for motor vehicles in order to serve patrons while in or momentarily stepped away from the vehicle. This may include, but is not limited to, banks, cleaners, restaurants, laundry pick-up, etc.
- I. Drive-in Restaurant: A drive-in establishment that furnishes the patron with food in a ready-to-consume state, primarily in plastic, paper, or other disposable containers, and where the consumption of food is allowed either in (1) the main building, (2) a motor vehicle parked on the premise, (3) another facility on the premises outside the main building, or (4) off the premises.
- J. Dwelling, Dwelling Unit: A dwelling unit is any building or portion thereof having cooking facilities, which is occupied wholly as the home, residence, or sleeping place of one (1) family, but in no case shall a hotel, motel, or recreational vehicle be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provisions thereof relative to dwellings.
- K. Dwelling, Multiple: A building or portion thereof, used or designed for use as a residence for three (3) or more families living independently of each other and each doing their own cooking in said building. This definition includes three-family buildings, four-family buildings, apartments, and townhouses.
- L. Dwelling, Single Family: A detached building designed to be occupied by one (1) family.
- M. Dwelling, Two Family: A detached building designed for use by two (2) families living independently of each other and each doing their own cooking in each unit. It may also be termed a duplex.
- N. Earth Sheltered Dwelling: A dwelling partially or entirely covered by earth, provided at least one (1) entire side is completely exposed.
- O. Easement: To grant an easement is to grant an interest of one (1) or more of a property's rights to or for use by another individual or entity.
- P. Erection: The act or process of constructing a structure.

- Q. Essential Public Services: The erection, construction, alteration, or maintenance of public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication supply, or disposal systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories reasonably necessary to provide adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare; but not including buildings other than those that are primarily enclosures or shelters for the above essential service equipment and not including wireless communication towers.
- R. Excavate: To dig or to extract soil from the ground.
- S. Family: A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. A group of individuals occupying a boarding house, lodging house or a hotel shall not be considered a family. An individual or two (2) or more persons related by blood, marriage, or adoption, living together as a housekeeping unit.
- T. Family Child Day Care Home: A private home in which one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
- U. Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation of runoff of surface waters from any source.
- V. Flood Hazard Boundary Map (FHBM): An official map, issued by the Federal Emergency Management Administration (FEMA), where the boundaries of the areas of special flood hazards have been designated as Zone A.
- W. Floodplain: Any land area susceptible to being inundated by water from any source.
- X. Floor Area, Gross: The sum of the gross horizontal area of the several floors of the building measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The gross floor area of a building shall include the basement floor area when more than one-half (1/2) of the basement height is above the established curb level, or finished lot grade, whichever is higher (See definition of Basement). Gross floor area shall not include attic space having headroom of seven and one-half (7 ½) feet or less, or

interior balconies or mezzanines. Any space devoted to off-street parking and loading shall not be included in floor area. Areas of basements (except as provided above), breezeways, porches, or attached garages are not included.

- Y. Floor Area, Usable: That area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers; or area used in a dwelling unit for living purposes. Floor area which is used to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded from the computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building measured from the interior faces of the exterior walls.
- Z. Foster Day Care Facility: A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than twenty-four (24) hours a day and for not less than (2) consecutive weeks and where the parents or guardians are not immediately available to the child.
- AA. Foster Family Group Home: A private home in which more than four (4) but fewer than seven (7) minor children, who are not related to adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, are provided care for twenty-four (24) hours a day, for four (4) or more days a week for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- BB. Foster Family Home: A private home in which one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage or who are not placed in the household pursuant to the adoption code, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

Section 2.04 Definitions – G through O

- A. Garage, Private: Accessory building or portion of a main building used primarily for the storage of three (3) passenger vehicles.
- B. Garage, Public: Any building used for the storage of more than three (3) vehicles or where vehicles are equipped, repaired, stored, or kept for enumeration, hire, or sale.
- C. Grade: A reference plane representing the average of finished ground level adjoining the building at all exterior walls.
- D. Greenbelt: A strip of land of definite width and location reserved for the planting of shrubs, trees, or grasses to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

- E. Group Child Day Care Home: A private home in which seven (7) but not more than twelve (12) minor children are received for care and supervision for periods less than twenty-four (24) hours a day, unattended by a parent or guardian, expecting children related to an adult member of the family or blood, marriage or adoption. Group day care homes include a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
- F. Half-Story: That part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (1/2) the floor area of said full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven and one-half (7 ½) feet, at its highest point.
- G. Hotel: A building occupied or used as a predominately temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) separate sleeping rooms and in which rooms there is no provision for cooking.
- H. Junk: For the purpose of this Ordinance, this term shall mean any immobile or unlicensed motor vehicles, auto parts, inoperable machinery, appliances, products, or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their use for the purpose of which they were manufactured.
- I. Lodging Houses: Primarily a dwelling where lodging, with or without meals, is furnished on a weekly or monthly basis to five (5) or more persons who are not members of the family occupying and operating the premises, but not necessarily to anyone who may apply.
- J. Lot: A parcel of land occupied or intended to be occupied by one (1) main building and the accessory buildings and uses customarily incidental to such main building, and including such open spaces, and loading spaces as are required by this Ordinance. The word “lot” shall include plot or parcel. A lot need not be a lot of record. Lot shall also include a building site in a site condominium development.
- K. Lot Characteristics:
- (1) Lot Area: Total horizontal area within the lot lines of a lot.
 - (2) Lot Coverage: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures, but not including parking, loading, or drives.
 - (3) Lot Depth: The mean horizontal distance from the front street line to the rear lot line. In the case of an acreage lot, from the front right-of-way line to the rear property line.

- (4) Lot Width: The horizontal distance between the side lot lines, measured at the two (2) points where the building setback line intersects the side lot lines.

L. Lot Lines:

- (1) Front Lot Lines: In the case of an interior lot, the front lot line shall mean the line separating such lot from the abutting street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from that street which is designated as the front street.
- (2) Rear Lot Lines: Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line of the lot shall be considered to be the rear lot line for the purpose of determining depth of the rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot lines.
- (3) Side Lot Line: Any lot line, which is neither a front lot line nor a rear lot line.

M. Lot Types:

- (1) Corner Lot: A lot located at the intersection of two (2) or more streets and at an angle of intersection of not more than one hundred thirty-five (135) degrees.
- (2) Double Frontage Lot: A lot extending through a block from one street to another.
- (3) Interior Lot: A lot other than a corner or double frontage lot with only one (1) lot line abutting a street.

N. Lot of Record: A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds.

O. Manufactured Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a year-round dwelling unit with or without a permanent foundation, connected to required public utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure, excluding, however, a vehicle designed and used as temporary living quarters for recreational, camping or travel purposes, including a vehicle having its own motor power or a vehicle moved on or drawn by another vehicle. Also referred to as a “mobile home” or “modular home” in this ordinance.

Q. Manufactured Home Park: Any parcel or tract of land under the control of a person or entity upon which three or more manufactured homes are located on a continual non-recreational basis, and which is offered to the public for that purpose, together

with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the occupancy of a manufactured home. Also referred to as a “mobile home park” in this ordinance.

Q-1. Medical marihuana dispensary or provisioning center means: Any business, facility, association, cooperative, location, or operation, whether fixed or mobile, where medical marihuana is made available to, sold, delivered, transmitted, dispensed, or distributed by or to one or more of the following:

1. A primary caregiver (as defined by Michigan Initiated Law 1 of 2008, as amended, being MCL 333.26421 *et seq.*, as amended)
2. A qualifying patient (as defined by Michigan Initiated law 1 of 2008, as amended, being MCL 333.26421 *et. seq.*, as amended).
3. Member of the public.

A medical marihuana dispensary or provisioning center shall also include any place, location, facility, or operation, whether fixed or mobile, where medical marihuana is smoked or consumed where either three or more persons are present and smoking or consuming medical marihuana, or where one or more persons are present and smoking or consuming medical marihuana and such medical marihuana smoking or consumption is occurring on the property of a business, association, cooperative, or commercial operation or facility or on a public or government property.

A medical marihuana dispensary or provisioning center does not include the lawful dispensation of medical marihuana by a primary caregiver personally dispensing to not more than five qualifying patients (as defined by Michigan Initiated Law 1 of 2008, as amended (being MCL 333.26421 *et seq.*, as amended), so long as the primary caregiver personally delivers the lawful amount of medical marihuana to the qualifying patient where the qualifying patient resides and is done in full compliance with this Ordinance and the City Code as well as all applicable Michigan and federal laws and regulations.

Q-2. Medical marihuana establishment(s): A facility or establishment authorized to be licensed under the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, as a medical marihuana grower facility, a medical marihuana processor facility, or a medical marihuana safety compliance facility. Medical marihuana provisioning centers, medical marihuana dispensaries and medical marihuana secure transporters are not lawful uses in the City.

Medical marihuana grower facility or “grower”: A commercial entity that is licensed to operate by the state pursuant to the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 and is licensed by the City pursuant

to Ordinance No. 17-01. A grower cultivates, dries, trims or cures and packages marihuana, all in accordance with state law.

Medical marihuana processor facility or “processor”: A commercial entity that is licensed to operate by the state pursuant to the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 and is licensed by the City pursuant to Ordinance No. 17-01. A processor extracts resin from the marihuana or creates or manufactures a marihuana-infused product, all in accordance with state law.

Medical marihuana safety compliance facility or “safety compliance facility”: A commercial entity that is licensed to operate by the state pursuant to the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016 and is licensed by the City pursuant to Ordinance No. 17-01. A safety compliance facility receives marihuana from a medical marihuana establishment or a registered qualifying patient or a registered primary caregiver, and tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, all in accordance with state law.

- R. Motel: (See Hotel)
- S. Non-conforming Building: A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance in the Zoning District in which it is located.
- T. Non-conforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto, and that does not conform to the provisions of the Ordinance in the Zoning District in which it is located.
- U. Off-Street Parking Area: An open or enclosed area directly accessible from a drive or aisle for parking of automobiles of owners, occupants, employees, customers or tenants of the main use.
- V. Open Space: An open, undeveloped portion of a lot or parcel permanently reserved from development through a legal instrument and intended to preserve natural features or open land.

Section 2.05 Definitions – P through Z

- A. Parking Area: An open area other than a public right-of-way, used for parking motor vehicles for a fee or as an accommodation to clients, customers, residents, or employees.
- B. Parking Space: An off-street space of at least one hundred eighty (180) square feet of necessary driveways, aisles, or maneuvering areas suitable to accommodate one (1) vehicle and having direct, unobstructed access to a street or alley.

- C. Performance Guarantee: A financial security required by the City from a land developer/owner to insure that required improvements and/or requirements are actually constructed. Examples of such performance guarantees include cash, surety bond, and irrevocable bank letter of credit.
- D. Pond: An artificially confined body of water, usually smaller than a lake.
- E. Principal Building: The building in which the principal use takes place.
- F. Principal use: The main or dominant activity for a piece of property or a building.
- G. Public Nuisance: Whatever annoys, injures or endangers the safety, health, comfort or repose of the public; offends public decency; interferes with, obstructs or renders dangerous any street, or highway; or in any way renders the public insecure in life or property, is hereby declared to be a public nuisance. Public Nuisances shall include, but not be limited to, whatever is forbidden by any provisions in either this Zoning Ordinance or the Code of Ordinances. No person shall commit, create, or maintain any nuisance.
- H. Residential floor area: The total area of all the floors of the residence, measured from the inside of the exterior walls. The areas used for storage, mechanical equipment, stairwells, etc. are included in the total. The floor area of a garage is not included.
- I. Restoring (non-conforming): Only and exclusively for the safety of the structure and strengthening therein. No cosmetic work or improvements shall be made to the structure, only the adding of a type of support or brace.
- J. Seating Capacity: The number of seating units installed or indicated on plans for places of assembly. Where not indicated on plans, it shall be assumed that a seating unit will occupy six (6) square feet of floor area exclusive of all aisles. Where benches, pews, or similar seating is provided, each twenty (20) inches of such seating shall be counted as one (1) seat.
- K. Setback: The minimum distances that a building or structure must be from any lot line to meet the requirements of this ordinance.
- L. Solid Waste: Rubbish, cardboard, paper, yard clippings, used building materials, glass, or any such item that would be considered garbage. Does not include human or industrial waste or such related by-products.
- M. State Licensed Residential Facility: Structure constructed for residential purposes and licensed by the State pursuant to the Adult Foster Care Licensing Act (PA 218 of 1979) or the Child Care Organizations Act (PA 116 of 1973) that provides resident services or care for six (6) or fewer persons under 24 hour supervision for persons in need of that supervision or care.

- N. Stop Work Order: An administrative order that directs a property or business owner not to continue or allow the continuation of an activity which is in violation of this or any Ordinances applicable within the City of Newaygo.
- O. Story: That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.
- P. Street: A public or private thoroughfare, which affords the principal means of access to abutting property.
- Q. Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having more or less permanent location on the ground.
- R. Structural Alterations: Any changes in the bearing walls, supporting beams or girders or any other supporting members of a building, also any changes in the configuration of the roof or main exterior walls.
- S. Townhouse: A dwelling unit in a structure containing at least three (3) such units, each unit having its own main entrance on the first floor and sharing a common wall but not having a common floor/ceiling.
- T. Variance: The granting of specific authorization by the Zoning Board of Appeals to “vary” from the requirements of the Ordinance in what would otherwise be a violation, when certain findings have been made.
- U. Yard: A required yard is an open area of prescribed width or depth on the same land with a building or group of buildings, which open area lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein:
- (1) Front Yard: An open unoccupied area extending the full width of the lot from the front of the main building to the front lot line measured at its nearest point.
 - (2) Side Yard: An open unoccupied area on the same lot with the main building and lying between the foundation line of such building or any garage or other accessory building on said lot and the side lot line, and extending from the front yard to the rear yard.
 - (3) Rear Yard: An open unoccupied area, except for accessory buildings as hereinafter permitted, extending for the full width of the lot, between the foundation line of the main building and the rear lot line, or to the center of an alley if an alley exists.
- V. Zoning Administrator: The person appointed by the City Council to administer and enforce the provisions of this Ordinance.

CHAPTER 3 GENERAL PROVISIONS

Section 3.01 Purpose

The purpose and intent of Chapter is to provide regulations and requirements for general provisions.

Section 3.02 Effect of Zoning

For the purpose of this Ordinance, except as hereinafter specifically provided otherwise, no lot or land or premises shall hereafter be used, maintained, or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged, or altered, except in conformity with the regulations herein specified for the Zoning District in which it is located; these limitations being construed as the minimum legislation necessary to promote and protect the general safety and welfare of the community. In case any building or part thereof is used, erected, altered, or occupied contrary to Law or to the provisions of this Ordinance, such building shall be declared a nuisance and may be required to be vacated, torn down, or abated by any legal means and shall not be used or occupied until it has been brought into conformance. If construction on a building is lawfully begun prior to adoption of this Ordinance, nothing in this Ordinance shall be deemed to require any change in the planned or designed use of any such building, provided that actual construction is being diligently carried on, and further provided that such building shall be entirely completed for its planned or designed use within one (1) year from the effective date of this Ordinance.

Section 3.03 Restoring Unsafe Buildings

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any building or structure, or part thereof, declared unsafe by the Zoning Administrator, or required to comply with his/her lawful order.

Section 3.04 Required Area or Space

No lot or lots in single ownership, and no yard, court, parking area, or other space shall be so divided, altered, or reduced to make said area or dimension less than the minimum required under this Ordinance. If already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

The Zoning Administrator shall approve or disapprove any and all lot or lots being divided, altered, reduced, or increased in accordance with the City's zoning requirements. Any action taken without prior approval shall make any split or enlargement void. Pursuant to the "Land Division Act" as amended by P.A. 1996, No. 591 Section 1, effective March 31, 1997.

Section 3.05 Existing Platted Lots

Where an existing platted lot has an area of not less than ninety percent (90%) of its Zoning District requirements and where such lot can provide the side and front yard requirements of its zone, the permitted uses of the District shall be allowed. An existing platted lot, in single ownership, of less than ninety percent (90%) of its Zoning District requirements may be utilized for such permitted uses, and for such purposes the required side yards may be reduced by the same percentage the area of such lot bears to its Zone District requirements, provided that no side yard provision may be reduced to less than ten (10) feet and that off-street parking requirements are also met. Where four (4) or more adjacent lots are in single ownership and where such lots individually contain less than ninety percent (90%) of their Zoning District requirements, such lots shall be utilized only in complete conformance with the Zoning District's unreduced minimum requirements. In the event of two (2) or three (3) adjacent lots are in a single ownership and the Zoning Board of Appeals shall find that there is no practical possibility of obtaining additional land, it may permit their use as separate lots having less than the required lot area if it shall determine that they can be so used without adversely affecting the character of the neighborhood; provided, however, that no side yard provision may be reduced to less than ten (10) feet and that off-street parking requirements are also met.

Section 3.06 Yards

Every lot must provide front, rear, and side yards as required by its Zoning District. All front yards must face upon a dedicated public street or private street approved by the City, except that the front yard for waterfront property shall be the yard that fronts on the water. No lot may contain more than one (1) principal building unless specified by its Zoning District. On streets with right-of-way or easements less than sixty-six (66) feet in width, the required front yard shall increase by one-half (1/2) the difference between the width of the right-of-way or easement and sixty-six (66) feet.

Section 3.07 Accessory Buildings

Except as otherwise permitted in this Ordinance, accessory buildings shall be subject to the following regulations:

- A. Where the accessory building is attached to or within ten (10) feet of a principle building, it shall be subject to and must conform with, all regulations of this Ordinance applicable to such principle buildings. (i.e. height, setback, etc...)
- B. Accessory buildings shall not be erected in any *required* front yard. In the case of waterfront property, a small accessory building (10' x 10') may be exempt from this requirement subject to approval of the Zoning Administrator. In the case of row housing or apartment developments, parking garages or covered bays may be exempt from this requirement subject to approval of the Zoning Administrator.

- C. For *detached* accessory buildings located greater than ten (10) feet from a principle building, the following heights and setbacks shall apply. The regulations of this Section “C” supersede those found in the Schedule of Regulations (Chapter 25) of the City of Newaygo Zoning Ordinance.
- 1) An accessory building less than fifteen (15) feet in height shall not be located closer than ten (10) feet to any street right-of-way line, nor shall it be located closer than five (5) feet to any side or rear lot line, except where the rear lot line is contiguous with any alley line this may be reduced to one (1) foot.
 - 2) An accessory building greater than fifteen (15) feet in height but less than the height of the principal building shall have a minimum side and rear yard setback of ten (10) feet and a minimum setback of thirty (30) feet from the principle building on any neighboring lots.
 - 3) For the RR, B2, I1, and PUD zoning districts, the height of the accessory building may exceed the height of the principal building if the setbacks for the underlying zoning district are met as defined in the Schedule of Regulations (Chapter 25) for the City of Newaygo Zoning Ordinance. The maximum height of the accessory building shall not exceed the maximum height specified for the underlying zoning district as defined in the Schedule of Regulations (Chapter 25) for the City of Newaygo Zoning Ordinance.
 - 4) The Zoning Administrator may require a larger setback for an accessory building if it is determined that there is a visual obstruction to vehicles or pedestrians that would cause safety problems.
- D. When an accessory building or accessory structure is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, the accessory building or accessory structure shall not project beyond the front line of the existing principal building or the *required* front yard setback, whichever is less, on the lot in rear of such corner lot.
- E. Maximum lot coverage by all buildings and structures shall be as specified for the underlying zoning district in the Schedule of Regulations (Chapter 25) for the City of Newaygo Zoning Ordinance.
- F. All accessory buildings will be completed with a finished exterior, subject to approval of the Zoning Administrator. Zoning Administrator may establish reasonable time tables for completion of accessory buildings.
- G. All accessory buildings are prohibited within a dedicated City easement.
- H. All construction of accessory buildings must meet or exceed all building standards for accessory buildings. If a building is located within ten (10) feet of the principal

building, then it shall be considered an extension of that principle building and must conform to all building standards for that principal building.

Section 3.08 Basis for Determining Front Yard Requirements

The required front yard shall be measured from the right-of-way line to the nearest foundation or building wall of the designated principal building or structure; provided that where an existing setback line had been established by existing buildings occupying fifty percent (50%) or more of the frontage within the same block or where unplatted, within two hundred (200) feet of the proposed building, such established setback shall apply. Unenclosed porches, steps, or similar facilities may project into a required front or rear yard for a distance not to exceed ten (10) feet.

Section 3.09 Basement Dwellings

The use of a basement or the basement of a partially built or planned building as a residence or dwelling unit is prohibited in all zones. A basement apartment is permitted if a separate ingress and egress exists and it meets all building and health code requirements for an apartment use and is located in a district where it is a permitted use.

Section 3.10 Home Occupations

Home Occupation: An occupation conducted in a residential district within a dwelling unit. The following requirements apply to all home occupations:

- (1) No person other than immediate members of the family residing on the premises shall be engaged in such occupation.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation.
- (3) There shall be no change in the outside appearance of the building or the premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding two (2) square feet in area, non-illuminating, and mounted flat against the wall of the main building.
- (4) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the premises, if the occupation is conducted in a single family

- dwelling, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off the premises; and
- (6) Permitted activities include, but are not limited to; dressmaker, drafting or architecture services, music instruction, financial planning, private tutoring, consulting services, and computer related activities excluding retail,
 - (7) Activities not permitted include, but are not limited to; clinics, hospitals, nurseries, day care centers, boarding houses, pet grooming services, veterinarian's offices, animal hospitals, kennels, millinery shops, among other related uses,
 - (8) No home occupation shall be conducted within an accessory building.

Section 3.11 Fences and Walls

- A. Unless specifically provided for elsewhere in this Ordinance, no fence may exceed a height of three (3) feet within the front yard. In the case of a corner lot, both yards fronting a street are considered front yards for the purpose of this ordinance. No fence may exceed a height of six (6) feet in any other yard. It shall be unlawful to construct any fence in a public right-of-way or across a utility easement. No fence shall be erected or maintained on any corner lot or parcel which will, in the opinion of the Zoning Administrator, obstruct the view of a vehicle driver approaching the intersection.
- B. A required wall or fence shall be located within one (1) foot of the property line-and may be no taller than six (6) feet. A security fence in a non-residential zone, or a security fence for protection of public utility buildings or improvements may be extended by a barbed arm at least six (6) feet from the ground which increases the height of a fence to a maximum of seven (7) feet.
- C. When required walls are necessary to screen features taller than six (6) feet, they may be constructed to a height up to twelve (12) feet if approved by the Zoning Board of Appeals. In reviewing such requests, the Zoning Board of Appeals shall consider the visual impact of such wall upon neighboring properties. The design of all walls, including openings for vehicular traffic or other purposes, shall only be as permitted by the Zoning Administrator.
- D. Fences may be constructed of wood of a suitable type for fences and walls, or constructed of either brick, blocks with some adhesive material, chain link or an approved, specialized, interlocking block. Fences shall be installed so as to have the finished side facing adjacent property owners.

- E. All plans and construction materials for all proposed fences or walls must be submitted to the Zoning Administrator for approval or disapproval.
- F. No fence located on a residential property shall contain any barbed wire or electrification, except as provided in Section 3.11.B.

Section 3.12 Greenbelts and Screening

- A. No planting shall be established or maintained on any corner lot, which will obstruct the view of a vehicle driver approaching the intersection. Such unobstructed corner shall mean a triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or in case of a rounded property corner from the intersection of the street property lines extended. This shall not prohibit the establishment of shrubbery less than thirty (30) inches in height.
- B. In order to provide protective screening for residential areas adjacent to or near non-residential areas, a landscaped greenbelt must be provided by the non-residential property owners. Such greenbelt may be a strip of land up to twenty (20) feet in width but not less than ten (10) feet which is planted and maintained with one of the following:
 - 1) Evergreens such as spruce, pines, or firs at least five (5) feet in height and planted in either at least two (2) staggered rows in order to provide an instant and immediate visual and audio barrier,
 - 2) A hedge of evergreens at least four (4) feet in height,
 - 3) A berm, at least four (4) feet in height measured from the top point of the berm to the existing ground around it with trees or shrubs planted on top and landscaping on the berm (grass, rocks, bark, etc.)
- C. All greenbelts and screening shall be situated so as to provide an effective sound and visual permanent buffer. The portion of the landscaped area not covered by plantings shall be a well-kept lawn. All landscaping required shall be kept in a healthy growing condition, neat and orderly in appearance.
- D. The planting plans for required protective screening/greenbelts shall first be submitted to the Zoning Administrator for approval; as to suitability of planting materials and arrangement thereof. Excluded from approval are Ailanthus, Chinese Elm, Soft Maple, Willows, Poplars, Horse Chestnut, Box Elders, and Catalpa.
- E. Any trees, shrubs, bushes, or other growing plants which project into or across adjacent land may be trimmed back to the property line by adjacent property owners.

Section 3.13 Height Exceptions

Subject to other provisions of law, the height requirements of all zoning shall be subject to the following exceptions: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, radio and television towers and antennas (not including satellite dish antennas), silos, stacks, stage towers and scenery lots, water tanks, monuments, cupolas, domes, spires, steeples, penthouses, housing necessary mechanical appurtenances, and similar structure, provided they are located the same distance from any adjoining property line.

Section 3.14 Essential Public Services

The erection, construction, alteration, or maintenance of essential services, shall be permitted as authorized or regulated by law and other such ordinances in any use District, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this Ordinance, except those which may be considered a danger to the community health, safety, and welfare.

Section 3.15 Sewer and Water

No building or Zoning Compliance permit shall be issued for a building to be occupied by human beings unless a provision has been made to provide public sewer and water to such building. In the absence of public sewer and/or water, plans, soil test data, health and any other required permits shall be presented to the Zoning Administrator who shall ensure that the proposed plans for water and sewage disposal meet state and municipal standards before issuing a permit. It shall be unlawful to operate a business or occupy any building without adequate water and sewer services.

Section 3.16 Refuse

It shall be unlawful for any person to dump rubbish or waste materials or store junk on any land in the City of Newaygo except in private or public dumping grounds approved for this purpose. Junkyards shall only be permitted in Industrial Zoning Districts, pursuant to Michigan State Law.

Section 3.17 Removal of Above Ground or Underground Storage Tanks

- A. In the event that previously used underground and above ground storage tanks used for gasoline or other hazardous liquids have been abandoned or not used for a period of more than one (1) year, all storage tanks shall be removed from the premises in accordance with applicable county, state and federal regulations.
- B. A Demolition/Removal permit must be issued before any work shall be performed. All necessary information and required permits/approvals must be submitted to the Zoning Administrator who shall review all information to ensure the safety and welfare of the Community before issuing a permit. It is the

responsibility of the property owner to obtain any and all county, state or federal permits and/or approvals.

Section 3.18 Mixed Occupancy

Before issuing a building permit for any construction on a premises intended for a combination of dwelling and non-residential occupancy, or which would result in an increased area devoted to business and industrial usage within a building partly occupied as a dwelling, the Zoning Administrator shall refer the plans to the fire chief and the health officer and request their reports as to any fire or health hazards that exist or may be expected to exist. Their recommendation as to additional provisions or changes in compliance with requirements of the Building Officials Code of America (BOCA) and State of Michigan Building Code in the interest of safety and health shall be complied with before issuance of a permit.

Section 3.19 Residential Occupancy by Unrelated Individuals

The collective number of unrelated individuals domiciled together in a single-family dwelling unit, whose relationship is of a continuing, non-transient domestic character and who are cooking and living as single non-profit housekeeping unit shall not exceed four (4) persons. This requirement is intended to avoid the occupation of single-family dwelling units in single-family districts by any society, coterie, club, fraternity, sorority, association, or other assembly of persons that may impact the low-density character of such zoning districts.

Section 3.20 Outdoor Storage in Residential Districts

The outdoor storage or parking of large commercial vehicles (i.e. semi trucks and trailers, flat bed trucks, etc.) and recreational vehicles such as trailers, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light duty trucks, snowmobile, and other equipment or vehicles of a similar nature, shall be prohibited in all residential districts, except where otherwise permitted by this Ordinance, unless the following minimum conditions are met:

- A. All such vehicles and equipment shall be placed within a completely enclosed building or located so as not to obstruct views of on-coming vehicles or pedestrians along City streets and not to create a visual nuisance within residential areas, provide that no such vehicle or equipment shall be located within ten (10) feet of any road right-of-way line.
- B. Storage or parking shall be limited to a lot or parcel of land upon which is located an inhabited dwelling unit and the vehicle or equipment so stored or parked is owned by the occupant.

- C. Travel trailers and other vehicles or equipment intended or adaptable for sleeping purposes shall remain unoccupied and shall not be connected to sanitary sewer facilities or have a fixed connection to electricity, water or gas.

Section 3.21 Outdoor Storage and Waste Disposal

Except for generally accepted agricultural practices in the RR district, all outdoor storage and waste disposal shall conform to the following requirements:

- A. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property.
- B. All materials or wastes which might cause fumes, odors or dust or constitute a fire hazard, or which may be edible by rodents or insects, shall be stored outdoors in closed containers and screened from the street or adjacent property.
- C. No materials or waste shall be deposited on the premises in such form or manner that they may be moved off the premises by natural causes or forces.
- D. Waste materials shall not be allowed to accumulate on the premises in such manner as to be unsightly, constitute a fire hazard or contribute to unsanitary conditions.
- E. All outdoor storage facilities for fuel, raw materials and products for every use, as enumerated and limited herein located less than one hundred (100) feet from any other district, shall be enclosed by a solid fence or wall not less than six (6) nor more than ten (10) feet in height.

Section 3.22 Dismantled or Inoperable Motor Vehicles

No persons shall park, store or permit or suffer to be parked or stored any dismantled, partially dismantled or inoperable motor vehicle upon any private or public premises within the City for a period of time exceeding ten (10) days. For the purposes of this section, the following rules and procedures shall apply:

- A. This section shall apply to the registered owner of such vehicle and to the owner or lessee of the premises wherein such a vehicle is parked or stored.
- B. This section shall not apply to any vehicle parked or stored within a wholly enclosed garage or other wholly enclosed structure.
- C. This section shall not apply to any premises owner or lessee who is not the registered owner of such a vehicle, if they notify the enforcing officer in writing, that such a vehicle is on the premises, without the consent of the owner or lessee, and shall authorize the enforcing officer to remove said vehicle, pursuant to Act 99, Public Acts of 1963, being Section 9.1952 M.S.A.

- D. The zoning administrator shall notify in writing the vehicle owner, premises owner and premises lessee, the identity and location of a vehicle which he believes violates this Section. The notice shall contain a warning that failure to comply with this Section within ten (10) days of receipt of the notice constitutes a misdemeanor offense. The notice may be served by personal service or by certified mail. If served by mail the notice shall be sent to the following addresses:
1. The last known address of the owner of the motor vehicle, as shown by the records of the Secretary of State from the registration of the vehicle.
 2. The last known address of the premises owner as shown by the tax records of the City.
 3. The mailing address of such premises.
- E. Mailing of notice shall be effective notice if delivered to the vehicle owner, property owner, or lessee, whether or not such notice is addressed as set forth above. Proof of mailing shall constitute prima facie proof of service of the notice, even if refused by the addressee. Notice by personal service shall be effective if delivered to the vehicle owner, premises owner, or premises lessee, or if left with a person of suitable age and discretion who resides with or works with the vehicle owner, premises owner, or premises lessee.

Section 3.23 Satellite Dish Antennas

The purpose of this ordinance is to protect the health and safety of the residents of Newaygo, as well as provide an aesthetically pleasing environment free from unnecessary visual distractions. To this end the following regulations and requirements are deemed necessary and shall apply to all satellite dishes exceeding twenty-four (24) inches in diameter. All others shall be exempt from these regulations.

- A. In any Commercial or Industrial Districts the following restrictions shall apply:
- (1) The dish antenna shall be permitted in the side and rear yard only.
 - (2) The side yard setback shall be at least one-half (1/2) the required side yard setback, and fifteen (15) feet from the rear lot line.
 - (3) The height shall comply with height restrictions in the district in which the proposed device is to be located.
 - (4) All plans shall be submitted to the Zoning Administrator for approval prior to issuance of a Zoning Compliance permit.
- B. In Residential Districts the following restrictions shall apply:

- (1) The dish antenna shall be permitted in the side and rear yard only. If adequate reception cannot be achieved through placement in the rear yard, evidence must be submitted to the Zoning Administrator supporting this. The Zoning Administrator may allow for placement in a location other than the side or rear yard if necessary.
- (2) The antenna shall be at least ten (10) feet from any property line and cannot be placed in the road right-of-way.
- (3) The receiving unit shall be permanently anchored to the foundation to protect the health, safety and welfare of residents and property.
- (4) The antenna shall be white or another unobtrusive color, as approved by the Zoning Administrator.
- (5) A plan shall be submitted to the Zoning Administrator for approval prior to the issuance of a Zoning Compliance permit.

Section 3.24 State Licensed Residential Facilities:

As defined in Chapter 2 Definitions, the following land uses are allowed only provided for in the following Table of Facilities and Zoning Districts. Refer to Chapter 20 Special Land Use Approval for applicable conditions.

- P: Land and/or buildings may be used for the purposes listed by right.
- SLU: Land and/or buildings may be permitted by obtaining Special Land Use approval when all applicable standards as cited in Chapter 20 and elsewhere are met:
- SLU Land and/or buildings may only be allowed as an accessory to an approved use, such as a church, school, recreation facility, office or other similar use upon review and approval of a Special Land Use approval, in accordance with general and specific standards.

Type of Facility per District	RR	R-1, 2, 3	B-1	B-2	I-1
Adult foster care family home	P	P	--	--	--
Adult foster care group home	--	SLU	--	--	--
Adult day care facility	--	SLU	--	--	--
Foster family home	P	P	--	--	--
Foster family group home	--	SLU	--	--	--
Family child day care home	P	P	--	--	--
Group child day care home	--	SLU	--	--	--
Child Care Center	--	--	P	P	SLU as accessory and freestanding

Section 3.25 Building Demolition or Removal

- A. No building shall be either demolished or removed/placed within the City limits without a permit from the Zoning Administrator.
- B. Removal/Placement is to mean removing a building from a parcel of land. Information needed for this permit includes time, place, route or path removal/placement will take, company responsible for removal/placement and submission of other approvals needed (i.e., electric company for power lines, etc.).
- C. A Zoning Compliance Permit shall be required if any building is to be relocated upon any parcel or lot in the City.
- D. The City may require a bond, financial guarantee satisfactory to the City to insure against damage to City roads or other public property and also to provide for proper relocation of any building. The permittee shall be responsible to pay all costs incurred by the City, which are attributable to the building relocation.
- E. The permit shall at least include the following: the route taken, time, location and all other approvals needed, all information must be approved by the City.

Section 3.26 Solid Waste Receptacle Areas

All outdoor commercial, industrial, institutional and multi-family waste receptacles shall comply with the following regulations:

- 1) All receptacles shall be placed on an asphalt or concrete pad.
- 2) All receptacles shall be surrounded by an approved masonry wall or wood fence, not to exceed six (6) feet in height and to provide total visual screening, including a gate.
- 3) In a multi-family development, receptacles shall be located no closer than seventy-five feet (75') from any residential building and not exceeding five hundred feet (500') from the dwellings they are intended to serve.
- 4) In all districts, receptacles shall be emptied on a regular basis and shall be kept in a reasonable sanitary condition.

Section 3.27 Principal and Accessory Buildings

All lots or parcels containing an accessory building or structure must have a principal building or structure located on that same lot or parcel. No accessory buildings or structures will be permitted to be built and no permits will be issued prior to having a principal building for it.

Section 3.28 Swimming Pools or Spas

A swimming pool or spa having a depth of two feet (2') or greater shall require both a zoning and building permit. All of the following requirements must be met:

- A. All necessary plans and details, including fencing, decks and location shall be submitted to the Zoning Administrator.
- B. The swimming pool must meet all City and County building Codes.
- C. Swimming pools and spas shall not be located closer than ten feet (10') to any property line.

Section 3.29 Use of Manufactured Home Outside of Manufactured Home Park

A manufactured home may be used outside a manufactured home park as a single family dwelling subject within an RR, R-1, and R-3 District provided a building permit is obtained from the building Inspector and that the following conditions are met:

- A. The manufactured home shall meet the minimum floor area, lot size, yard requirements and other applicable regulations of the District in which it is located.
- B. The manufactured home shall contain a minimum of nine hundred sixty (960) square feet of living area.
- C. There shall be a minimum width throughout the entire length of the manufactured home of twenty-two (22) feet.
- D. The manufactured home shall be located and permanently attached to an approved wooden poured concrete or concrete block foundation.
- E. The manufactured home shall be firmly attached to the foundation so as to be reasonably watertight.
- F. All wheels, hitches, axles, and towing and lifting devices shall be removed.
- G. There shall be permanently attached to the foundation steps and/or porch areas where an elevation differential exists between any manufactured home door and the surrounding grade.
- H. Skirting shall extend to the foundation on all sides of the manufactured home so that none of the manufactured home's undercarriage shall be visible from outside the manufactured home.

- I. The manufactured home shall be connected to public water and sewer service, if available. If not available, to a private water well and/or sanitary sewer septic system approved by the Newaygo County Health Department.
- J. No storage of any personal property except legally operable vehicles shall occur outside the interior of the manufactured home or any accessory building as may be permitted.
- K. The arrangement of the manufactured home on the lot, exterior appearance, building materials, and landscaping shall be consistent with that established by fifty percent (50%) or more of the existing dwellings within three hundred (300) feet of the boundaries of the lot.
- L. Construction of the manufactured home and all plumbing, electrical, heating and air conditioning, and insulation within and connected to the mobile shall be of a type and quality conforming to the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
- M. There shall be a minimum of a double pitched roof of not less than two and one-half (2-1/2) for each twelve (12) feet of run, and the roof shall be covered by either asphalt, fiberglass or shake shingles. If twenty percent (20%) or more of the residences, excluding manufactured homes, within one-half (1/2) mile of the manufactured home have a double pitched roof of less than two and one-half (2-1/2) feet of rise for twelve (12) feet of run, then a double pitched roof equal to the average pitch of area residences may be used.
- N. The manufactured home shall have exterior siding consisting of horizontal lap siding or other siding of the same materials and attached in the same manner as permitted under the Construction Code as adopted by the City or as required by the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards.
- O. There shall be no additions to the living space of the manufactured home, except as otherwise permitted by law.
- P. There shall be a minimum of two (2) doors to provide means of ingress and egress from the manufactured home.
- Q. Plans, floor plan layouts and certification of meeting the United States Department of Housing and Urban Development Manufactured Home Construction and Safety Standards shall be presented, along with a site plan showing compliance herewith and with all other requirements of the Zoning Ordinance, including, but not limited to, the requirement of the District in which it is to be located, to the Building Inspector prior to the issuance of a building permit.

Section 3.30 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odors

Every use shall be so maintained, conducted or operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond any boundary line of the lot or parcel of land on which the use is located.

Section 3.31 Zoning Agreements

- A. An owner of land may voluntarily offer in writing, and the City may approve at the City's discretion, use and development restrictions regarding the land as a condition of rezoning the land or an amendment to a zoning map (including a planned unit development involving a rezoning). Such stipulation or agreement shall be referred to in this ordinance as a "zoning agreement."
- B. A zoning agreement shall be reduced to writing and signed by both the owner of the land involved and the City. The zoning agreement shall contain the legal description for the land involved and shall be in a form which can be recorded with the county register of deeds records. Furthermore, the executed zoning agreement shall be recorded with the county register of deeds records if the rezoning occurs. A zoning agreement shall be executed on behalf of the City only if it is first approved by the City Council (or by any body or official which the City Council may designate by resolution from time to time). Prior to any approval of the zoning agreement, the City Attorney and City Planner shall review the proposed zoning agreement and make recommendations to the City Council. Unless modified as specified in Subsection E hereof, a zoning agreement shall be permanent and shall run with the land involved. A zoning agreement shall bind not only the landowner, but also the landowner's successors, signs, transferees, and creditors.
- C. Without limitation, a zoning agreement may establish a time period during which the conditions and restrictions within the zoning agreement shall apply to the land involved. Except for an extension approved by the City, if the conditions are not satisfied within the time period specified in the zoning agreement, the land shall automatically revert to its former zoning classification without the need for further action by the City unless the zoning agreement expressly specifies otherwise or the City elects to take other legal action as specified in Subsection J hereof. The time period imposed in the zoning agreement may be extended upon the application of the landowner and with the written approval of both the landowner and the City.
- D. The restrictions and conditions contained in a zoning agreement shall be in addition to any other conditions or requirements associated with a zoning approval granted by the City.
- E. The City shall not add to or alter the conditions contained in a fully-executed and valid zoning agreement during the time period covered by such zoning agreement, unless any such change is expressly agreed to in writing by the landowner. Such prohibition shall not apply to any restrictions or conditions contained in the zoning

regulations which are otherwise applicable to the rezoning or proposed use or activity.

- F. The City shall not require a landowner to execute a zoning agreement as a requirement for rezoning. The lack of an offer by a landowner to enter into a zoning agreement shall not otherwise affect a landowner's rights under state law or any City ordinances.
- G. Nothing herein shall be interpreted to limit the ability of the City to enter into a planned unit development, development agreement, or other agreement with a property owner. Such agreements are different than a zoning agreement. The terms and provisions of a zoning agreement may be combined in the same document with a development agreement or similar agreement between the parties.
- H. All costs associated with the negotiation and drafting of a zoning agreement shall be reimbursed to the City by the landowner (including, but not limited to, the reasonable attorney fees of the City, City Planner fees, and similar fees and costs).
- I. Whenever this Section refers to the owner of land or a landowner, it shall mean all of the owners of the land involved.
- J. If a condition is not satisfied within the time period specified in the zoning agreement, rather than have the land automatically revert to its former zoning classification, the City, at its sole option and discretion, can take appropriate legal action to enforce the condition (whether by a lawsuit or other enforcement action) in lieu of a zoning revision. With regards to a restriction (rather than a condition), there shall be no reverting to the former zoning classification if such restriction is breached or violated, and the City may pursue appropriate legal action for violation of the restriction (including a civil lawsuit or other enforcement). A violation of a zoning agreement (whether by the landowner or successors) shall also be deemed a violation of the zoning ordinance. Finally, all the above-mentioned remedies and enforcement mechanisms available to the City (including any additional ones authorized by law) shall be deemed cumulative and, by pursuing one remedy for a breach or violation of a zoning agreement, the City shall not be deemed to have waived the other remedies or enforcement mechanisms.
- K. The City's zoning board of appeals shall be without authority to grant variances or otherwise change or vary any aspect of a zoning agreement. A zoning agreement can only be changed by the written consent of the landowner and the City as specified in Subsection E hereof.
- L. After a zoning agreement has been approved, notice of any violation of the zoning agreement will be deemed received by the landowner (or the landowner's successors) upon the City sending a notice by regular mail to the name and address shown on the City's most current property tax record.
- M. Normally, a draft zoning agreement as proposed by the landowner shall be submitted to the City together with the initial application for rezoning. If a zoning agreement is

to be approved by the parties, it shall be approved and executed prior to final action by the City Council on the rezoning request. If a draft zoning agreement is not submitted by the landowner to the City before the date of the first City hearing regarding the rezoning request, then the City shall have the option of beginning the rezoning process over again and the landowner shall repay any attendant fees.

- N. Should any disagreement arise between the landowner and the City regarding interpretation or implementation of any provision of an executed zoning agreement, the City Zoning Administrator shall render an interpretation. If either the landowner or the City disagrees with the interpretation of the provision involved by the City Zoning Administrator, either party may appeal that determination in writing to the City's zoning board of appeals within (30) days of the date when the City Zoning Administrator renders his/her determination.
- O. The City Council may adopt a resolution with policies to implement the provisions of this Section, including developing a checklist for City officials to follow when drafting and executing a zoning agreement.
- P. A zoning agreement can impose restrictions and requirements which are more restrictive than the provisions of the zoning ordinance, but a zoning agreement cannot lessen or waive applicable restrictions or requirements contained in the zoning ordinance or other City ordinance. A zoning agreement shall not permit any use, activity, or other action to occur that would not otherwise be permissible under the new zoning district classification.
- Q. Provisions which may be contained in a zoning agreement include, but are not limited to, the following:
 - (1) Language regarding whether or not all or part of the land involved reverts to the prior zoning classification should a condition of the zoning agreement be violated or not be satisfied within the time period specified in the zoning agreement.
 - (2) Specify a process to be utilized should an apparent violation of a restriction occur or a condition is not satisfied within the time period specified.
 - (3) Specify how and when an existing building or uses are deemed lawful nonconforming uses should a condition be violated or not be satisfied within the time period specified in the zoning agreement and the land involved reverts back to its former zoning classification.
 - (4) Provisions for what occurs upon a breach or violation of a restriction.
 - (5) Defining what shall be deemed a material nonsatisfaction of a condition.

- (6) The extent and nature of offsite improvements that may be included, required, or implemented pursuant to a zoning agreement.
- (7) An indemnification provision in favor of the City.
- (8) Provisions governing the dedication, granting or transfer of any property or easements to the City or other governmental units.
- (9) Provisions for having the landowner post adequate security pursuant to a bond, letter of credit or cash deposit.
- (10) Specifying what occurs if applicable provisions of the City's zoning ordinance change before a condition in a zoning agreement has been met or satisfied.
- (11) A provision that indicates which portions of the zoning agreement shall survive (including restrictions, security agreements, indemnification clauses, etc.) should a condition not be satisfied within the time period specified.

R. If applicable, a zoning agreement shall have a site plan attached to it and incorporated as a part thereof regarding the proposed use of the land. A zoning agreement shall not abrogate or otherwise change any requirements for site plan reviews, special use procedures, or other zoning approvals which are not part of the agreement.

S. If a zoning agreement has been executed by both the landowner and the City, the landowner shall be deemed to have waived all objections regarding compliance of the zoning agreement with Michigan law and enforceability of the agreement.

T. A zoning agreement shall be null and void if the rezoning to which the zoning agreement applies is not approved by the City or does not become effective.

Section 3.32 Prohibition on Medical Marihuana Dispensaries

No medical marihuana dispensary shall be commenced, conducted, operated, or utilized in any zoning district or on or from any property within the City. Furthermore, no person shall frequent, patronize, or obtain or purchase any marihuana from any medical marihuana dispensary within the City.

Section 3.33 Unclassified Uses

Any use, use of land, activity, structure, or development activity not expressly allowed by this Ordinance is prohibited, unless the Zoning Administrator finds that the use is substantially similar in character to a use or item listed in this Ordinance. Uses, activities, enterprises, or purposes that are contrary to, or violate federal, state, or county laws or regulations, this Ordinance, or any other City ordinances or Code are prohibited. An individual may apply to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include a proposed use in one (1) or more of the zoning

districts of this Ordinance, either as a Permitted Use or a Special Land Use. At their option and discretion, the Planning Commission and the City Council may consider an appropriate amendment to the Zoning Ordinance, but are not required to do so.

CHAPTER 4 NONCONFORMING LOTS, USES AND STRUCTURES

Section 4.01 Purpose

It is recognized that there exists within zoning districts certain buildings and structures, uses, and lots which were lawful before this Ordinance was adopted, and which would be prohibited, regulated, or restricted under the terms of this Ordinance. It is the intent of this Ordinance to permit nonconforming lots, buildings and structures, and uses to continue until they are removed, but not to encourage their survival.

Nonconforming lots, buildings, structures, and uses are declared by this Ordinance to be incompatible with permitted uses in the districts in which they are located. It is the intent of this Ordinance that these nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other buildings, structures or uses prohibited elsewhere in the district.

Section 4.02 General Requirements

- A. No structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations herein specified for the zoning district in which it is located.
- B. No use shall be established on any lot, land or premises except in conformity with the use regulations of the zoning district in which it is located.
- C. No building shall be established on any lot, land or premises except in conformity with the regulations of the zoning district in which it is located.
- D. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently conducted.
- E. The City may acquire, through purchase or condemnation, private nonconforming lots, buildings and structures. The City Council may take these actions in the manner provided for by law.

Section 4.03 Nonconforming Uses

- A. The lawful use of any land or premises exactly as it existed at the time of enactment of the Zoning Ordinance, or amendment thereto, may be continued

although the use does not conform to the current provisions of the Zoning Ordinance.

- B. If a nonconforming use is abandoned for any reason for a period of not less than six (6) months, any subsequent use shall conform to the requirements of this Ordinance.
- C. A nonconforming use shall be considered abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute intent on the part of the property owner to abandon the nonconforming use:
 - 1. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - 2. The property, buildings, and grounds, have fallen into disrepair;
 - 3. Signs or other indications of the existence of the nonconforming use have been removed;
 - 4. Removal of equipment or fixtures that are necessary for the operation of the nonconforming use; or
 - 5. Other actions, which in the opinion of the Zoning Administrator constitute an intention on the part of the property owner or lessee to abandon the nonconforming use.
- D. Uses nonconforming solely because of height, area, parking or loading provisions only may be expanded provided that the Planning Commission determines that all three (3) of the following occur. For the purposes of this subsection expansion shall include extension or enlargement of the use.
 - 1. All Zoning District Requirements are satisfied with respect to the expansion;
 - 2. The expansion shall not substantially extend the life of any nonconforming use by reason of parking and loading provisions; and
 - 3. The nonconforming use is made conforming or less nonconforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the nonconforming use or change in use will not be allowed if it requires even greater parking and/or loading space.

Section 4.04 Nonconforming Structures

- A. Any structure existing and lawful at the time of enactment of the Zoning Ordinance, or amendments thereto, may be continued although the structure does not conform to the current provisions of the Zoning Ordinance.
- B. Repairs and maintenance work may be made as are required to keep a nonconforming building or structure in a sound condition.

- C. In the event fire, wind or an act of God or the public enemy shall damage any non-conforming building(s) or structure(s), it may be rebuilt or restored provided the cost thereof shall not exceed the state equalized value of the building or structure after the rebuilding or restoration. The Building Inspector shall determine the cost of reconstruction.

- D. In the event any non-conforming building(s) or structure(s) shall be damaged by fire, wind or an act of God or the public enemy and the cost of rebuilding or restoration exceeds the state equalized value of the building(s) or structure(s) after rebuilding or restoration, the buildings or structures shall be built in conformance with the requirements of the zoning district in which they are located, unless the Zoning Board of Appeals permits the rebuilding or restoration of the building or structure. The approval of the Zoning Board of Appeals shall be granted only upon finding that at least one (1) of the following is true:
 - 1. That the rebuilding or restoration will not substantially extend the probable duration of the non-conforming building or structure; or
 - 2. There are circumstances that the land previously occupied by the non-conforming use does not permit the reasonable construction of the nonconforming building or structure.

- E. Structures nonconforming solely because of height, area, parking or loading provisions only may be expanded provided that the Zoning Administrator determines that all three (3) of the following occur. Expansion shall include extension, enlargement, alteration or modernization.
 - 1. All Development Requirements are satisfied with respect to the expansion;
 - 2. The expansion shall not substantially extend the life of any nonconforming structure by reason of parking and loading provisions; and
 - 3. The nonconforming structure is made conforming or less nonconforming by the addition of parking and/or loading space. Thereafter any subsequent expansion of the nonconforming structure or change in use will not be allowed if it requires even greater parking and/or loading space.

Section 4.05 Nonconforming Lots

- A. If a lot in use already has less than the minimum required area or dimension required for the zoning district in which it is located, the area or dimension may be maintained but shall not be further divided or reduced.

- B. Existing Platted Lots
 - 1. Where a nonconforming platted lot has an area of not less than ninety (90) percent of its Zoning District requirements and where the lot can provide the

side and front yard requirements of its zone, the permitted uses of the District shall be allowed.

2. A nonconforming platted lot, in single ownership, of less than ninety (90) percent of its Zoning District requirements may be utilized for permitted uses, and the required side yards may be reduced by the same percentage the area of the lot bears to its Zone District requirements, provided that no side yard provision may be reduced to less than five (5) feet and that off-street parking requirements are also met.

C. Adjacent Lots in Common Ownership

1. No lot or lots in common ownership shall be so divided, altered or reduced as to make the area or dimension less than the minimum specified for the zoning district in which it is located.
2. Where three (3) or more adjacent lots are in single ownership and where these lots individually contain less than ninety (90) percent of the Zoning District requirements, the lots shall be utilized only in complete conformance with the Zoning District's minimum requirements.
3. In the event two (2) adjacent lots are in single ownership, the Zoning Board of Appeals may permit their use as separate lots having less than the required lot area if it shall determine that all of the following are met:
 - a. There is no practical possibility of obtaining additional land.
 - b. The lots can be so used without adversely affecting the character of the neighborhood.
 - c. No side yard provision is reduced to less than five (5) feet.
 - d. Off-street parking requirements are met.
4. A nonconforming lot may only be expanded if it is brought into closer conformity with the regulations specified for the zoning district in which it is located.

Section 4.06 Plans Already Filed

In any case where plans and specifications for a building or structure have been filed, which would conform with the zoning regulations effective at the date of such filing but not with the regulations of this Ordinance, and where a building permit for such building or structure has been issued and construction work started at the effective date of this Ordinance, such work may proceed provided it is completed within one (1) year of said date.

CHAPTER 5 SIGNS AND BILLBOARDS

Section 5.01 Intent And Purpose

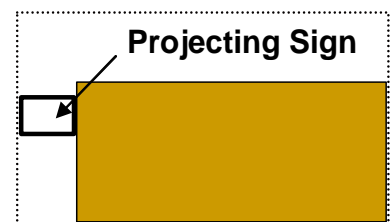
This Chapter is intended to protect and further the health, safety, and welfare of the residents of Newaygo; to maintain and improve the appearance of the City; to conserve community character; to prevent traffic hazards; to provide safer conditions for pedestrians; and to promote economic development by regulating the construction, alteration, repair, maintenance, size, location, and number of signs. The City also recognizes that the proliferation of signs is unduly distracting to motorists and non-motorized travelers, reduces the effectiveness of signs directing and warning the public, causes confusion, reduces desired uniform traffic flow, and creates potential for accidents. The City further recognizes that the principal intent of commercial signs, to meet the purpose of these standards and serve the public interest, should be for identification of an establishment on the premises, and not for advertising special events, brand names or off-premise activities, as these can be advertised more appropriately by other methods.

Section 5.02 Sign Definitions

- A. Awning: A retractable or fixed shelter constructed of non-rigid materials on a supporting framework that projects from the exterior wall of a building.
- B. Awning sign: A sign affixed flat against the surface of an awning.
- C. Balloon sign: A sign composed of a non-porous bag of material filled with air.
- D. Banner sign: A fabric, plastic, or other sign made of non-rigid material without an enclosing structural framework.
- E. Billboard: A sign which advertises an establishment, product, service, or activity not available on the premises on which the sign is located.
- F. Canopy: A freestanding roof-like structure built on one (1) or more support posts, designed to offer protection from the weather.
- G. Canopy Sign: A sign painted or attached directly to and parallel to the exterior face of a canopy roof and extending no greater than twelve (12) inches from the exterior face of the canopy to which it is attached.
- H. Construction Sign: A sign which identifies the owners, financiers, contractors, architects, and engineers of a project under construction.



- I. **Directional Sign:** A sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.
- J. **Electronic Signs:** Any sign whose graphic, pictographic, symbolic, numerical, or alphabetical information content or display can be changed or altered on a display surface composed of electrically illuminated or mechanically driven changeable segments. Examples include digital, L.C.D., L.E.D., trivision, electronic lighting, computer driven and similar sign displays.
- K. **Freestanding Sign:** A sign supported on poles not attached to a building or wall.
- L. **Government Sign:** A temporary or permanent sign erected by the City of Newaygo, Newaygo County, or the state or federal government.
- M. **Ground Sign:** A sign resting directly on the ground or supported by short poles not attached to a building or wall.
- N. **Incidental sign:** A sign that identifies street address, entrances and exits, safety precautions, identifying logos without text, and other such incidental information, and which sets forth no other advertisement intended to be read from the street.
- O. **Marquee:** A permanent structure constructed of rigid materials that projects from the exterior wall of a building.
- P. **Marquee Sign:** A sign affixed flat against the surface of a marquee.
- Q. **Mural:** A design or representation painted or drawn on a wall which does not advertise an establishment, product, service, or activity.
- R. **On-Premise Sign:** Any sign which pertains solely to the use of the property on which it is located, such as to an establishment, product, merchandise, good, service or entertainment which is located, sold, offered, produced, manufactured or furnished at the property on which the sign is located.
- S. **Placard:** A sign not exceeding two (2) square feet which provides notices of a public nature, such as “No Trespassing” or “No Hunting” signs.
- T. **Political Sign:** A temporary sign used in connection with a noncommercial message or an official City, school district, county, state, or federal election or referendum.
- U. **Portable sign:** A sign designed to be moved easily and not permanently attached to the ground, a structure, or a building.



- V. Projecting Sign. A double-faced sign attached to a building or wall that extends more than eighteen (18) inches but not more than seventy-two (72) inches from the face of the building or wall.
- W. Reader Board: A portion of a sign on which copy is changed manually or electronically.
- X. Real Estate Sign: A sign advertising the real estate upon which the sign is located as being for sale, rent, or lease.
- Y. Roof Line: The top edge of a roof or parapet wall, whichever is higher, but excluding any cupolas, chimneys, or other minor projections.
- Z. Roof Sign: A sign erected above the roof line of a building.
- AA. Sign: A device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying an establishment, product, service, or activity.
- BB. Special Event Sign: Temporary and portable signs containing messages concerning special events.
- CC. Temporary Sign: A sign not permanently attached to the ground, a structure, or a building. Temporary signs may include banners, portable signs, and any other sign displayed for a limited period of time.
- DD. Wall Sign: A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than eighteen (18) inches from the exterior face of the wall to which it is attached.
- EE. Window Sign: A sign installed inside a window and intended to be viewed from the outside.

Section 5.03 General Sign Provisions

- A. No person shall erect, alter, place or permit to be placed, or replace any sign without first obtaining a zoning permit, provided the following signs shall not require a zoning permit:
 - 1. Directional signs of six (6) square feet or less in area
 - 2. Government signs
 - 3. Placards

4. Temporary signs of six (6) square feet or less in area (One [1] per street frontage per business. Sign shall not be displayed for more than 60 days in a calendar year.)
 5. Window signs
 6. Political signs (Must remove signs 10 days after election)
- B. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other condition which impairs legibility or intelligibility.
 - C. Sign supports, braces, guys and anchors shall be maintained in such a manner as not to cause a hazard.
 - D. Signs may be internally illuminated or if externally illuminated, except for home occupation signs which shall not be illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or residential property.
 - E. No sign shall be placed in, upon or over any public right-of-way, alley, sidewalk or other public place, except as may be otherwise permitted by this Chapter.
 - F. No light pole, utility pole, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
 - G. No sign shall be erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device, or constitute a nuisance per se.
 - H. No commercial vehicle, which in the opinion of the Zoning Administrator has the intended function of acting as a sign, shall be parked in any area abutting the street, unless no other parking area is available.
 - I. No sign shall employ any flashing, moving, oscillating, blinking, or variable intensity light. However, variable time-temperature signs and intermittent electronic signs may be permitted, provided each message or image shall not change more often than once every five (5) seconds. Message transition time shall be a maximum of one (1) second. Scrolling or moving of messages is prohibited.
 - J. No sign shall contain any moving or animated parts nor have the appearance of having any moving or animated parts.
 - K. No wall sign shall extend beyond the edge of the wall to which it is affixed, and no wall sign shall extend above the roof line of a building.
 - L. Any sign not expressly allowed by this chapter is prohibited.

Section 5.04 Exempted Signs

The following signs shall be exempt from the provisions of this Ordinance.

- A. Government signs.
- B. State and National Historical markers.
- C. Memorial signs or tablets.
- D. Murals.
- E. Signs not visible from any street.
- F. Signs for essential services.
- G. Placards not exceeding two (2) square feet.
- H. Signs with address, owner, or occupant name, of up to one (1) square foot in area attached to a mailbox, light fixture or exterior wall.
- I. Flags or insignia of any nation, state, county, city, community organization, or educational institution.
- J. Scoreboards for public or private school or publicly owned and operated athletic fields.

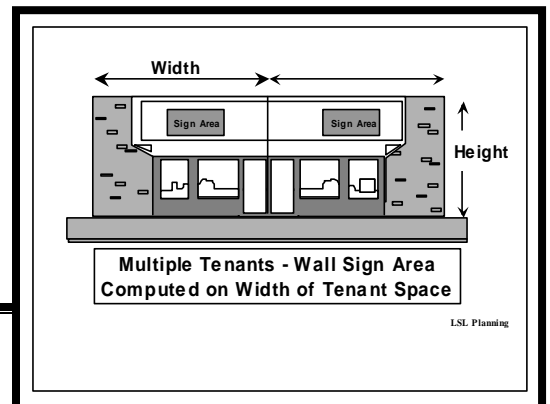
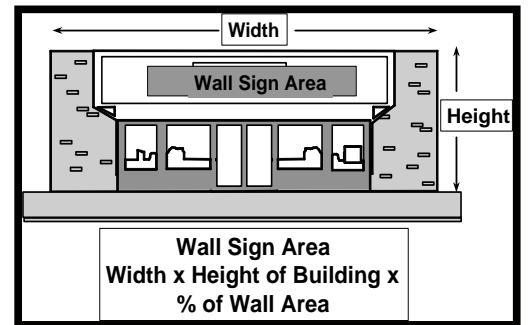
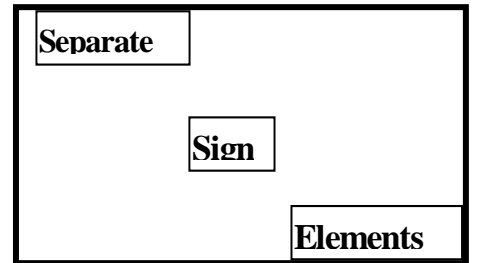
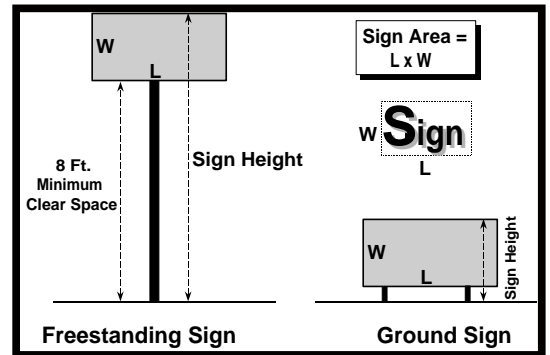
Section 5.05 Non-Conforming Signs, Illegal Signs, And Signs Accessory To Non-Conforming Uses

- A. Every permanent sign which does not conform to the height, size, area, or location requirements of this section as of the date of the adoption of this Ordinance, is hereby deemed to be non-conforming.
- B. Non-conforming signs may not be altered, expanded, enlarged, or extended; however, non-conforming signs may be maintained and repaired so as to continue the useful life of the sign.
- C. For purposes of this article, a non-conforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing the privilege of non-conforming use. If a sign is nonconforming in its setback, this section shall not apply, and the sign may not be replaced.

- D. Any non-conforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if reconstruction will constitute more than fifty (50) percent of the value of the sign on the date of loss.
- E. Any sign which for a period of six (6) months or more no longer advertises a bona fide business conducted or product sold, shall be removed by the owner of the building, structure, or property upon which such sign is located, within thirty (30) days of receipt of written notice by the Zoning Administrator.
- F. A sign, accessory to a non-conforming use, may be erected in the City in accordance with the sign regulations for the subject zoning district.

Section 5.06 Units Of Measurement

- A. The area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign.
- B. The area of a freestanding, ground, or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces, except if two (2) such faces are placed back-to-back and are of equal size, the area of the two (2) back-to-back faces shall be counted as one (1) face. If the two (2) back-to-back faces are of unequal size, the larger of the two (2) sign faces shall be counted as the one (1) face.
- C. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.
- D. For buildings with multiple tenants, the sign areas for wall signs, marquee signs, projecting signs, and awning signs shall be determined by taking that portion of the front wall of the building, applicable to each tenant space, and computing sign requirements



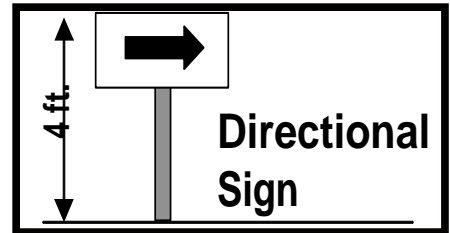
for that portion of the total wall. In the case of a corner lot, the wall area adjacent to the tenant space on the second street frontage shall be used to calculate the sign area for a second wall sign, awning sign, or projecting sign. Each sign shall be attached to the same wall which is used to determine its size.

Section 5.07 Sign Regulations Applicable To All Zoning Districts (where a particular sign is allowed in a given zoning district)

- A. Portable or temporary signs are prohibited, except as may be otherwise permitted by this Chapter.
- B. Portable or temporary signs may be permitted during major community events (i.e., festivals, celebrations, etc.). The size of the sign shall not exceed thirty-two (32) square feet in area.
- C. All ground, wall, projecting and freestanding signs may include reader boards.
- D. Any sign, including awnings to which signs are affixed or displayed; not resting directly on the ground shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground.
- E. Balloons, strings of light bulbs, pennants, streamers, inflatable bags, or flags (other than those of a governmental nature not used for the purpose of commercial advertisement or attraction) hung overhead to draw attention to a business or its merchandise on display, shall be prohibited, except as may otherwise be permitted by this Chapter.
- F. Real estate signs shall be removed within seven (7) days after completion of the sale or lease of the property.
- G. Construction signs are permitted within any zone district, subject to the following restrictions:
 - 1. Two (2) signs may be placed on the lot where the construction is taking place, each of which shall be no larger than sixteen (16) square feet in area, and not exceed eight (8) feet in height. In a case where two (2) or more firms utilize a sign, the sign shall be no larger than twenty-four (24) square feet in area, and not exceed eight (8) feet in height.
 - 2. Construction signs shall not be erected until a building permit has been issued for the project which is the subject of the proposed sign and construction activity has begun.
 - 3. Signs must be setback at least fifteen (15) feet from the front property line.

4. Construction signs shall be removed within fifteen (15) days of the issuance of any Occupancy Permit for the building or structure which is the subject of the construction sign.
- H. Special event signs, including banner signs, light bulbs, streamers and flags, are permitted in any zone district, subject to the following restrictions:

1. No more than five (5) such signs shall be displayed for each special event. Such signs may be located either on or off the lot on which the special event is held.
2. The display of such signs shall be limited to the twenty-one (21) days immediately preceding the special event which is being advertised.
3. Such signs shall have a maximum size of thirty-two (32) square feet in area. Such signs shall have a maximum height of three (3) feet if placed within fifteen (15) feet of the road edge.
4. Such signs shall be removed within forty-eight (48) hours of the conclusion of the special event which is being advertised.



- I. Directional signs are permitted subject to the following restrictions:
1. A directional sign may contain a logo of an on-premise establishment, but no advertising copy.
 2. No such sign shall exceed six (6) square feet in area or four (4) feet in height.
 3. Directional signs shall be limited to traffic control functions.
- J. Garage and estate sale signs are permitted subject to the following restrictions:
1. One (1) sign per lot or parcel is permitted, located on the lot or parcel on which such sale is being conducted, or on any other lot or parcel with the written permission of the property owner, and erected outside of any public street right-of-way.
 2. Such sign shall not exceed six (6) square feet in area.
 3. Such sign shall be erected no more than seven (7) days prior to the day(s) of the sale and shall be removed within one (1) day after the completion of the sale.

K. Incidental signs pertaining to any conforming accessory activity being conducted on the premises are permitted in any District, subject to the following restrictions:

1. No individual sign shall exceed four (4) square feet in area.
2. Only those signs which, in the opinion of the Zoning Administrator, are necessary to indicate entrances, exits, safety precautions, including identifying logos without text, and other such incidental language shall be permitted.

Section 5.08 Schedules of Sign Regulations

Signs in each Zoning District shall be subject to the following regulations:

R-R RURAL RESIDENTIAL ZONING DISTRICT - PERMITTED SIGNS	
Wall signs for home occupations (non-illuminated)	
Number	One (1) per lot or parcel.
Size	No greater than two (2) square feet.
Location	On wall of house facing street.
Political signs	
Number	One (1) per issue or candidate.
Size	No greater than six (6) square feet.
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet.
Real estate signs	
Number	One (1) per street frontage.
Size	No greater than six (6) square feet for lots or parcels under one (1) acre; sixteen (16) square feet for lots or parcels over one (1) acre. [1]
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet
Note: [1]	For lots or parcels possessing three hundred (300) feet or more of road frontage, one (1) sign shall be permitted per each three hundred (300) feet of frontage or fraction thereof.
Ground signs for subdivisions and public, institutional, or other non-residential uses.	
Number	One (1) per street frontage.
Size	No greater than thirty-two (32) square feet.

R-R RURAL RESIDENTIAL ZONING DISTRICT - PERMITTED SIGNS	
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet.

R-1, R-2, R-3 and MHP RESIDENTIAL ZONING DISTRICTS - PERMITTED SIGNS	
Wall signs for home occupations (non-illuminated).	
Number	One (1) per lot or parcel.
Size	No greater than two (2) square feet.
Location	On wall of house facing street.
Ground signs for subdivisions, multi-family complexes, and public, institutional, or other non-residential uses.	
Number	One (1) per street frontage.
Size	No greater than thirty-two (32) square feet.
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet.
Political signs.	
Number	One (1) per issue or candidate.
Size	No greater than six (6) square feet.
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet.
Real estate signs.	
Number	One (1) per lot or parcel.
Size	No greater than six (6) square feet for lots or parcels under one (1) acre; sixteen (16) square feet for lots or parcels over one (1) acre. [1]
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet
Note: [1]	For lots or parcels possessing three hundred (300) feet or more of road frontage, one (1) sign shall be permitted per each three hundred (300) feet of frontage or fraction thereof.

PRINCIPAL SHOPPING DISTRICT (PSD)- PERMITTED SIGNS	
All Signs	
Note: [1]	Permitted signs within the PSD shall meet the requirements of the underlying zoning district with the following exceptions: <ul style="list-style-type: none"> a. All signs are subject to prior review and approval by the Principal Shopping District Board to ensure a professional appearance and consistency in color and characteristic with the desired effect of the Principal Shopping District. b. The use of neon or strip lighting is not permitted. c. Electronic message or display signs are prohibited.

B-1 COMMUNITY BUSINESS DISTRICT - PERMITTED SIGNS	
Ground Signs	
Number	One (1) per lot or parcel
Size	No greater than thirty-two (32) square feet
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet
Wall signs (including Awning and Canopy signs)	
Number	One (1) per street frontage per business
Size	Maximum 1.5 ft ² of signage per linear foot of wall fronting the public street
Location	On wall of building which is used to calculate its area.
Projecting signs	
Number	One (1) per street frontage per business
Size	No greater than 12 ft ² (1 story bldg), 24 ft ² (2 story bldg), 36 ft ² (3 story bldg)
Location	On wall of building facing street, alley, or walkway. Sign may encroach over public space or right-of-way if, in the opinion of the Zoning Administrator, there is no foreseen hazard to pedestrians, cyclists or motorists.
Portable or temporary signs	
Number	One (1) per street frontage per business.
Size	No greater than 24 inches wide and maximum 36 inches in height for sidewalks and walkways, otherwise general provisions apply.

B-1 COMMUNITY BUSINESS DISTRICT - PERMITTED SIGNS	
Location	Appropriately placed so as not to obstruct pedestrian traffic, no closer than 15 feet to any driveways.
Note: [1] Portable or temporary signs in B-1 District must be weighted down so as not to be blown over by the wind. Signs shall only be displayed during open business hours, otherwise signs must be stored inside business.	
Political signs	
Number	One (1) per issue or candidate
Size	No greater than six (6) square feet
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel.
Size	No greater than six (6) square feet. [1]
Location	On the building or structure unless space is available to meet the following requirements: a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet.
Note: [1] For lots or parcels possessing three hundred (300) feet or more of road frontage, one (1) sign shall be permitted per each three hundred (300) feet of frontage or fraction thereof.	

B-2 HIGHWAY BUSINESS DISTRICT - PERMITTED SIGNS	
Ground signs	
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel.
Size	No greater than fifty (50) square feet.
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet.
Wall signs (including Awning and Canopy signs)	

B-2 HIGHWAY BUSINESS DISTRICT - PERMITTED SIGNS		
Number	One (1) per street frontage.	
Size	Maximum 1.5 ft ² of signage per linear foot of wall fronting the public street	
Location	On wall of building which is used to calculate its area.	
Projecting signs		
Number	One (1) per street frontage per business	
Size	No greater than 12 ft ² (1 story bldg), 24 ft ² (2 story bldg), 36 ft ² (3 story bldg)	
Location	On wall of building facing street, alley, or walkway. Sign may encroach over public space or right-of-way if, in the opinion of the Zoning Administrator, there is no foreseen hazard to pedestrians, cyclists or motorists.	
Political signs		
Number	One (1) per issue or candidate.	
Size	No greater than sixteen (16) square feet.	
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.	
Height	No higher than six (6) feet.	
Real estate signs		
Number	One (1) per lot or parcel.	
Size	No greater than six (6) square feet for lots or parcels under one (1) acre; sixteen (16) square feet for lots or parcels over one (1) acre. [1]	
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.	
Height	No higher than six (6) feet.	
Note: [1]	For lots or parcels possessing three hundred (300) feet or more of road frontage, one (1) sign shall be permitted per each three hundred (300) feet of frontage or fraction thereof.	
Freestanding signs		
Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel.	
Size	No greater than sixty (60) square feet.	
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.	
Height	No higher than twenty-five (25) feet.	
Gasoline stations		
Ground signs	Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
	Size	No greater than fifty (50) square feet

B-2 HIGHWAY BUSINESS DISTRICT - PERMITTED SIGNS		
	Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
	Height	No higher than six (6) feet
Freestanding signs	Number	One (1) per lot or parcel, except that only one (1) ground sign or one (1) freestanding sign shall be permitted per lot or parcel
	Size	No greater than seventy-two (72) square feet
	Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of fifteen (15) feet.
	Height	No higher than twenty-five (25) feet.
	Additional Signs	One (1) additional sign may be attached to the support column(s) of the freestanding sign. Such sign shall not exceed three (3) square feet, and shall have at least ten (10) feet of ground clearance
Temporary Signs (No permit required)	Number	Two (2)
	Size	No greater than nine (9) square feet each
	Location	Minimum of five (5) feet from front lot line, and fifteen (15) feet from any side or rear lot line
	Height	No higher than four (4) feet
Other permitted signs for gasoline stations	Directional signs or lettering over entrance doors or service bays may only display the type of service taking place in such bay.	
	Customary lettering on or other insignia which are a structural part of a gasoline pump, and any other insignia required by law. If illuminated, such signs shall be non-flashing and shall not in any manner constitute a traffic hazard.	
	One (1) non-illuminated credit card sign not exceeding two (2) square feet in area which may be placed on or near each gasoline pump.	

I-1 INDUSTRIAL DISTRICTS - PERMITTED SIGNS	
Ground signs	
Number	One (1) per lot or parcel
Size	No greater than fifty (50) square feet
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet

I-1 INDUSTRIAL DISTRICTS - PERMITTED SIGNS	
Ground signs for Industrial Subdivision	
Number	One (1) per industrial park
Size	No greater than fifty (50) square feet
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side property line: Minimum of ten (10) feet.
Height	No higher than seven (7) feet
Wall signs	
Number	One (1) per street frontage
Size	Maximum (1) ft ² of signage per (2) linear feet of wall fronting the public street, one hundred (100) square feet maximum.
Location	On wall of building which was used to calculate the size of the sign
Political signs	
Number	One (1) per issue or candidate
Size	No greater than sixteen (16) square feet
Location	a) Front right-of-way line: Minimum of fifteen (15) feet. b) Side or rear property line: Minimum of ten (10) feet.
Height	No higher than six (6) feet
Real estate signs	
Number	One (1) per lot or parcel
Size	No greater than six (6) square feet for lots or parcels under one (1) acre; sixteen (16) square feet for lots or parcels over one (1) acre. [1]
Location	Minimum of five (5) feet from the front property line, fifteen (15) feet from all others
Height	No higher than six (6) feet
Note:	[1] For lots or parcels possessing three hundred (300) feet or more of road frontage, one (1) sign shall be permitted per each three hundred (300) feet of frontage or fraction thereof.

Section 5.09 Billboards

A. Special Land Use. The erection of any billboard requires special land use approval per Chapter 21 of this Ordinance, conditioned upon the terms of this and other City Ordinances. Following a special land use approval, a sign permit may be granted, subject to compliance with all of the following standards:

1. Allowable Zoning Districts. Billboards are allowed as a principal use subject to special land use approval in the B-2 Zoning District abutting M-37 and M-82 on a premises where no other principal structure exists. The sign must

be oriented in such a manner as to be viewed primarily from the state highway and not from auxiliary roadways, side streets, traffic intersections, or residential areas.

- B. **Billboard Construction Details.** A billboard shall be constructed according to building standards and codes then in effect for the City of Newaygo that may apply to it and its surrounding premises.
- C. **Height.** A billboard shall comply with all of the following height requirements:
1. A maximum height of twenty (20) feet in height above the median ground level within a five hundred (500) feet radius of the site.
 2. Shall be prohibited from:
 - a. Extending above the tree line or horizon when viewed from any portion of the roadway that it faces.
 - b. Being located on or over the roofs of buildings.
 - c. Projecting over any public easement or right-of-way.
- D. **Surface Display Area.** A billboard shall have a maximum of two hundred (200) square feet in surface display area and shall be limited to one (1) face. Signs with less than two (2) feet between the sign faces count as one (1) face. Faces may not be joined horizontally or vertically.
- E. **Spacing, Setbacks and Location.** A billboard shall maintain all of the following spacing and setback requirements:
1. A minimum of two thousand (2,000) feet between any other billboard on the same or opposite side of the street, measured in all directions and including billboards in adjacent municipalities;
 2. A minimum of one hundred (100) feet between any billboard and any allowable on-premises sign; and
 3. **Setbacks.** Billboards shall comply with all setback requirements for a structure in the zoning district in which they are located.

4. Location. Any billboard shall comply with all of the following:
- a. Shall be located at least three hundred (300) feet from any residentially zoned area, park, school, church, hospital, cemetery, historic district or outdoor park/recreational facility.
 - b. The premises must have a roadway easement to a primary or secondary road such that the persons maintaining and servicing the sign may reach the site without danger from high speed traffic.
- F. Sign Face Limitations. A billboard shall be prohibited from having moving, flashing, oscillating parts or intermittent lighting.
- G. Colors. Billboard colors used shall not include fluorescent or brilliant shades that may be distracting, except that company logo colors may be used if the logo does not exceed five percent (5%) of the face area of the sign when including these fluorescent or brilliant colors.
- H. Illumination. A billboard may be illuminated subject to all of the following requirements:
- 1. Illumination must be directed in such a manner that all incidental light generated falls on the sign face;
 - 2. All lights must be shielded such that the light source is not visible to traffic or surrounding homes, businesses, or vegetation;
 - 3. The intensity of the lighting shall be low enough and a color such that the reflected lights from the sign do not create a traffic hazard nor interfere with the normal vegetation growth on the billboard site; and
 - 4. Billboards within view of any residentially zoned property may not be illuminated between the hours of 10:00 p.m. and 6:00 a.m.
- I. Landscaping. The billboard site shall be planted with low growing shrubbery in front of and at the road end of the sign and evergreen trees behind the sign such that the framework or superstructure of the sign is generally not readily visible to passing traffic.

- J. Maintenance and Unsafe Conditions. Any billboard that collapses, topples or disintegrates shall be made safe within thirty (30) days or the site shall be cleared of the debris.

- K. State Compliance Required. All billboards shall comply with applicable requirements and conditions of P.A. 106 of 1972 as amended, "The Highway Advertising Act of 1972."

- L. Identification Plate. The framework, foundations or superstructure of the billboard shall have a metal identification plate, as defined in P.A. 106 of 1972, firmly attached thereto.

CHAPTER 6 LANDSCAPING AND BUFFERING

Section 6.01 Intent and Purpose

- A. The purpose of this Chapter is to promote the public health, safety and welfare by establishing minimum standards for the design, installation and maintenance of landscaping in parking lots, as greenbelts between uses and along roadways, and adjacent to buildings. Landscaping is considered by the City to be an important element of land development which is a critical factor in maintaining an attractive community character, minimizing the potential adverse impacts of certain uses upon adjacent uses, and conserving the value of land and buildings in the City.
- B. This ordinance is also intended to improve and enhance the character of the site; screen or filter views, where necessary; help unify the various parts of the site; blend inharmonious land uses; buffer incompatible uses; moderate harsh or unpleasant sounds; remove air pollutants; control glare and reflection; slow the effects of erosive winds or water and promote storm water retention, thereby helping to prevent flooding; assist in directing safe and efficient traffic flow at driveways and within parking lots; insure adequate sight distance; reduce the impacts of glare from headlights; and distinguish and separate vehicular and pedestrian circulation.
- C. The landscape standards of this chapter are considered the minimum necessary to achieve the objectives noted above. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Applicants are encouraged to provide additional landscaping to improve the function, appearance and value of their property.

Section 6.02 Applicability

The standards contained in this Chapter shall be applicable to any site plan or special land use request which is submitted for review and approval by the Planning Commission, subject to the following limitations:

For existing and proposed uses which require site plan approval to either expand or be built, landscaping as noted herein shall be installed insofar as practical.

Section 6.03 General Regulations

- A. Landscaping shall be installed within one hundred eighty (180) days of occupancy of the building or structure unless a longer period is permitted in writing by the Zoning Administrator.
- B. All landscaping shall be hardy plant materials and shall be maintained thereafter in a neat, healthy and orderly manner. Withered and/or dead plant materials shall

be replaced within a reasonable period of time but not longer than one (1) growing season.

- C. For the purposes of this Chapter, a corner lot is considered as having front yards along each street and the appropriate landscaping shall be provided for both.
- D. The use of cobblestones, crushed stones, or other non-living materials as a ground cover shall be minimized.
- E. Trees and shrubs in a buffer zone and in front yards shall be arranged in informal groupings and irregular spacing, to simulate a natural setting, unless site specific conditions are such that a more formal arrangement is preferred, as determined by the Planning Commission.
- F. All plant materials shall be installed so as not to alter drainage patterns on the site or on adjacent properties.
- G. Landscaping in the Principal Shopping District (PSD) is subject to prior review by the Principal Shopping District Board and approval by the Planning Commission to ensure consistency with the remainder of the PSD. Considerations for consistency include tree and plant selections as well as hardscape (i.e., retaining walls, concrete flatwork, etc.) materials.

Section 6.04 Buffer Zone Required

- A. A buffer zone shall be required on the subject lot or parcel along the boundary between adjoining lands in different zoning districts as indicated in Table 6-1.
- B. Buffer zone requirements shall not apply where adjacent zoning districts are separated by a public street. In such case, the front yard landscaping requirements of this Chapter shall apply.
- C. A buffer zone shall be required, even if the abutting parcel is unimproved land.

Table 6-1 Landscape and Buffer Zone Requirements

Subject Zone	Adjacent Zone
	Residential
R - 3	C
B - 1 & B - 2	B
PUD	B
I - 1	A
Legend A - Buffer Zone B - Buffer Zone C - Buffer Zone	

*Read from subject zone across to adjacent zone. Landscaping is required to be placed in the subject zone only.

Buffer Zone Minimum Widths: Buffer Zone A: 30 feet
 Buffer Zone B: 20 feet
 Buffer Zone C: 10 feet

- (1) Buffer Zone Level A shall meet the following requirements:
 - a. Thirty (30) foot minimum width.
 - b. Equivalent of one (1) canopy tree per thirty (30) linear feet or fraction of buffer zone length.
 - c. Six (6) foot high continuous sight-obscuring screen composed of evergreen plant material, berming, walls or fences, or any combination approved by the Planning Commission.
 - d. If berming is used for any part of the buffer, all required plant material shall be placed on the top and side slope facing the exterior property line.
 - e. If a wall or fence is used for any part of the buffer, a minimum of four (4) shrubs are required per twenty (20) linear feet of wall or fence, with at least fifty (50) percent of all such plant material being at least twenty-four (24) inches high at time of planting.
 - f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.
 - g. All other applicable standards of this section shall be met.
 - h. All plant material shall meet the minimum requirements of Sec. 6.06.

- (2) Buffer Zone Level B shall meet the following requirements:
 - a. Twenty (20) foot minimum width.
 - b. Equivalent of one (1) tree per forty (40) linear feet or fraction of buffer zone length. Two-thirds (2/3) of all required trees shall be evergreen and the balance shall be deciduous.
 - c. Three (3) foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the Planning Commission.
 - d. If berming is used for any part of the buffer, it shall contain one (1) shrub for each ten (10) feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line.
 - e. If a wall or fence is used for any part of the buffer, a minimum of one (1) shrub per ten (10) feet of fence or wall shall be placed along the exterior side. At least fifty (50) percent of all such plant material shall be at least twenty-four (24) inches high at time of

- planting.
 - f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.
 - g. All other applicable standards of this Section shall be met.
 - h. All plant material shall meet the minimum requirements of Sec. 6.06.
- (3) Buffer Zone Level C shall meet the following requirements:
- a. Ten (10) foot minimum width;
 - b. Equivalent of one (1) tree per fifty (50) linear feet or fraction of buffer zone length. At least forty (40) percent of the total number of required trees shall be evergreen trees.
 - c. Three (3) foot high continuous sight-obscuring screen composed of plant material, berming, walls or fences, or any combination approved by the Planning Commission.
 - d. If berming is used for any part of the buffer, it shall contain one (1) shrub for each ten (10) feet of berm length. All required plant material shall be placed on the top and side slope facing the exterior property line.
 - e. If a wall or fence is used for any part of the buffer, a minimum of one (1) shrub per ten (10) feet of fence or wall shall be placed along the exterior side. At least fifty (50) percent of all such plant material shall be at least twenty-four (24) inches high at time of planting.
 - f. All areas within the buffer zone which do not contain trees or planting beds shall be covered with grass or other living ground cover.
 - g. All other applicable standards of this Section shall be met.
 - h. All plant material shall meet the minimum requirements of Sec. 6.06.

Section 6.05 Parking Area Landscaping

All parking areas shall be landscaped according to the following minimum requirements.

- A. One (1) Canopy tree for every ten (10) parking spaces, with a minimum of two (2) trees, shall be planted adjacent to or within the parking area.
- B. Parking lots shall contain individual curbed landscape islands throughout the parking lot. Each island shall be a minimum of eighteen (18) feet wide and three hundred twenty-four (324) square feet in area. Each island shall be planted with a minimum of two (2) trees to provide shade and to break up the visual monotony of large asphalt covered areas. Plantings shall be at least three (3) feet from the edge of the island to avoid contact with vehicles.

- C. Landscaping shall be arranged so as not to obscure traffic signs, site lighting or fire hydrants, or obstruct drivers' sight distance within the parking area and at driveway entrances.
- D. All landscape areas shall be protected by raised curbs, parking blocks or other similar methods.
- E. Where any parking area, excepting such areas serving one (1) or two (2) family dwellings, abuts or faces a public right-of-way, a three (3) foot high continuous obscuring screen shall be required between the parking area and the public road right-of-way line. The screen may be comprised of plant material, berming, or any combination of these elements.
- F. Landscaping required for buffer zones and front yard landscaping which abuts parking area may apply toward up to fifty percent (50%) of the required parking lot landscaping.

Section 6.06 Minimum Standards for Plantings, Berms, Fences and Walls

- A. Minimum plant size at time of planting:

Deciduous canopy tree	2-1/2" caliper
Deciduous ornamental tree	2" caliper
Evergreen tree	7' height

Deciduous shrub	2' height
Upright evergreen shrub	2' height
Spreading evergreen shrub	18" spread

- B. Minimum Standards for Berms:
 - (1) Wherever a berm is used to meet the minimum requirements of this Chapter, it shall have a minimum height of three (3) feet and a maximum height of five (5) feet above grade.
 - (2) Berms shall be constructed so as to maintain side slopes not to exceed a one (1) foot vertical rise to three (3) feet horizontal distance ratio.
 - (3) Berm areas not containing plants shall be covered with grass or other living ground cover.
 - (4) Berms shall be constructed so as not to alter drainage patterns on-site or on adjacent properties.

- C. Minimum Standards for Screen Walls and Fences:
- (1) All screen walls and fences shall be constructed of new, durable, weather resistant and easily maintainable materials. Chain link fence with plastic strip inserts is not permitted.
 - (2) The wall or fence may be constructed with openings that do not exceed twenty percent (20%) of the wall surface. The opening shall allow passage of air but shall not reduce the obscuring effect of the wall.
 - (3) When a screen wall or fence has both a finished face and an unfinished face, the wall or fence shall be installed so that the finished face is directed toward the exterior side of the development site, or the side which will be most visible to the general public, as determined by the Planning Commission.
 - (4) Screen walls or fences shall be constructed so as not to alter drainage patterns on-site or on adjacent properties.
- D. Storm water detention/retention areas shall be permitted within buffer zones provided they do not reduce the screening effect.
- E. Solid waste dumpsters may be located in buffer zones, provided they are screened by a continuous opaque wall or fence six (6) feet in height.

Section 6.07 General Landscaping Design Standards

- A. For single or two (2) family residential properties all land area not covered by buildings or paved surfaces shall be landscaped with lawn or landscape beds. Gardens shall be an exception to this provision.
- B. All land area other than one (1) or two (2) family properties, not covered by buildings or parking surface shall be landscaped in accordance with a landscape site plan submitted to the Planning Commission. The landscape plan shall indicate what type of ground cover is proposed outside of planting beds. The Planning Commission may permit areas to be left in a natural state, but only in cases where such areas meet the intent of this Article for screening, and when such areas have significant aesthetic or natural value.
- C. If plants or shrubs are required as part of a screen involving a fence or wall, such plants and shrubs shall be placed on the less intense side of the wall, or where abutting a roadway they shall be placed on the road side of the fence or wall.
- D. A landscaped area of two hundred (200) square feet shall be required for an individual canopy tree. This requirement may be reduced to one hundred (100) square feet in cases where an irrigation system is to be installed. An additional fifty (50) square feet of landscaped area shall be required for each additional canopy tree where grouped.

- E. A landscaped area of one hundred (100) square feet shall be required for an individual under story tree. This requirement may be reduced to twenty-five (25) square feet in cases where an irrigation system is to be installed. An additional ten (10) square feet of landscaped area shall be required for each additional tree in a group.
- F. All landscaped areas shall be installed in such a manner so as not to alter drainage patterns on site or adjacent properties.
- G. All landscaping shall be kept free of all clear vision areas as defined in this ordinance.
- H. Required trees and other landscape materials to be used near roadways. Right-of-ways, or in parking areas shall have the following qualities:
 - (1) Longevity
 - (2) No Sap
 - (3) Hearty and resistant to motor exhaust fumes and road salt
 - (4) Limited root system

Section 6.08 Installation and Maintenance

- A. If construction is completed during a planting season, no **certificate** of occupancy shall be issued until the landscaping complies with the requirement of this Chapter of the Zoning Ordinance.
- B. If construction is completed in an off planting season a certificate of occupancy shall be issued only after the owner provides a performance guarantee as provided in Section 24.10 of this Ordinance.
- C. All landscaping shall be maintained in a healthy, neat and orderly state free from weeds and debris. All grass shall be maintained at a height not to exceed eight (8) inches unless specifically approved by the Planning Commission.
- D. The owner, tenant, or their agent shall be jointly and severally responsible for maintenance.
- E. All required landscaping shall be maintained on a continuing basis and dead plant materials replaced as necessary to meet the desired effect of the original landscape plan approval. The Zoning Administrator shall have the authority to make a determination of ordinance violation with regard to landscaping. If the Zoning Administrator issues a notice of violation, the owner shall have six (6) months to correct the landscaping violation.

Section 6.09 Phasing

If a project is constructed in phases, the landscape screen may also be constructed in phases. The Planning Commission shall determine the extent of landscaping required of each phase based on:

- A. Adjacent land uses,
- B. Distance between land uses,
- C. Operational characteristics both on and off site,
- D. Building heights,
- E. Physical characteristics of the site, and
- F. Percentage of total development which each phase represents.

Section 6.10 Landscape Screening Waiver

The Planning Commission may waive in whole or in part any landscape requirement contained in this Chapter, if inspection of the site reveals that adequate landscaping screens already exist on-site, or site specific qualities minimize the need for landscaping in specific areas. The following factors shall be evaluated by the Planning Commission in making any waiver of landscaping requirements:

- A. Topography variations,
- B. Existence of natural vegetation,
- C. Existing and proposed building placement,
- D. Adjacent land uses,
- E. Existence of floodplain or other non-developable areas,
- F. Recommendation of Zoning Administrator,
- G. Meeting the intent of this Chapter of the Ordinance,
- H. The amount of space on the site available for landscaping,
- I. Existing landscaping on the site and on adjacent properties,
- J. The type of use on the site and the size of the development,
- K. Existing and proposed adjacent land uses,
- L. Presence or absence of natural features which accomplish the purposes of the Chapter,
- M. The effect which the required landscaping would have on the operation of the existing or proposed land use.

CHAPTER 7 OFF-STREET PARKING AND LOADING

Section 7.01 Intent and Purpose

It is the intent of this Chapter that off-street parking and loading spaces shall be provided and adequately maintained by each property owner in every district for the parking of motor vehicles, for the use of occupants, employees, vendors, and patrons of each building and premise constructed, altered, or enlarged under the provisions of this Ordinance.

Section 7.02 Jurisdiction

At the time any building or structure is erected, enlarged, or increased in capacity, or new uses established, off-street parking spaces shall be provided in all districts according to the requirements specified in this Chapter.

Section 7.03 Parking and Loading Plan Review

- A. Whenever five (5) or more vehicle parking spaces are required for a given use of land, plans and specifications for the construction or alteration of an off-street parking area shall be submitted for approval of the Planning Commission, before a development permit is issued.
- B. Such plans and specifications shall indicate the location, precise use of buildings, size, site, design, surfacing, marking, lighting, drainage, curb cuts for ingress and egress, landscaping, and any other detailed features essential to the complete design and construction of the parking area.
- C. Whenever ten (10) or more vehicle parking spaces are required for a given use of land, plans and specifications for the construction or alteration of off-street parking areas shall be submitted by a registered professional engineer.

Section 7.04 Location of Parking Areas

All off-street parking and loading areas shall be located on the same lot, or other lot in the same zoning district located not more than three hundred (300) linear feet from the building intended to be served. Except where prohibited, on-street public parking may be considered available to meet all or any portion of the needs of a non-residential use, provided that the Planning Commission finds parking spaces are reasonably available at the time of day needed and provided that off-street parking is shown to be not feasible.

Section 7.05 Parking Areas Existing Before the Effective Date of This Ordinance

A parking area, parking space, or loading area which exists at the time this Ordinance becomes effective, or which subsequent thereto is provided for the purpose of complying with the provisions of this Ordinance shall not thereafter be relinquished or reduced in any manner below the requirements established by this Ordinance.

Section 7.06 Use of Right-Of-Way

The right-of-way of any city street shall not be used for off-street parking without the written permission of the County Road Commission for county roads, or the City Council for city streets.

Section 7.07 Uses of Parking Areas

- A. Parking spaces and loading areas shall be used exclusively for the parking of vehicles associated with a building, structure or land use for which whose employees and patrons it is designed to serve. No commercial activity, special events, repair work, advertising, servicing, or selling of any kind shall be conducted within required parking areas without permission being granted by the City Council. No portable structures, buildings, or equipment shall be permitted within required parking areas, except as may otherwise be permitted by this Ordinance.
- B. No signs shall be erected in parking areas except the following: no more than one (1) directional sign at each entrance or exit may be erected which may also bear the name of the enterprise the lot is intended to serve; disabled parking space signs, as provided by the Michigan Construction Code Act, Public Act 230 of 1977, as amended, MCLA 125.1501 et. seq. Such signs shall not project beyond the property line of the premises.
- C. The storage or parking in parking lots of travel trailers, motor homes, mobile homes, camper trailers, or parking other trailers or recreational vehicles or any combination of any such vehicles in required parking spaces for a period in excess of fourteen (14) days in any one (1) year period is hereby prohibited.

Section 7.08 Schedule of Parking Requirements

The following table contains the parking requirements for individual uses and activities within the City of Newaygo.

Residential/Institutional/Recreational	
Use	Number of Parking Spaces Required Per Unit of Measure
Single family or duplex dwellings	Three (3) for each dwelling unit, the first of which shall be within a covered parking structure
Multiple family dwellings	Three (3) for each dwelling unit, the first of which shall be within a covered parking structure
Manufactured home parks	In accordance with the provisions of Chapter 20
Lodging and boarding house, fraternity, or similar use, including bed and breakfasts	One (1) for each room, plus one (1).
Housing for the Elderly	One (1) for every two (2) dwelling units, plus one (1) space for each five dwelling units. However, should units revert to general occupancy, then three (3) spaces per unit shall be provided, one (1) of which shall be within a covered parking structure
Community building, clubhouse, meeting facility, or any similar type of use.	One (1) space for each one hundred (100) square feet of gross floor area or one (1) space for each three (3) persons permitted to occupy the building by law, whichever is greater
Churches or Temples	One (1) for each four (4) seats in the main room of worship
Hospitals	Two (2) for each patient bed
Home for the aged and Nursing Home	One (1) for each two (2) beds
Day Care Centers	Two (2) spaces, plus one (1) for every eight (8) children or licensed capacity
Elementary and Junior High Schools	Five (5) spaces plus one (1) space for each classroom in addition to the requirements of the auditorium
Senior High Schools	Five (5) spaces plus one (1) space for each classroom plus one (1) space for each ten (10) students, OR space required for the auditorium or stadium, whichever is greater
Residential/Institutional/Recreational	

Use	Number of Parking Spaces Required Per Unit of Measure
Theaters & Auditoriums Stadium, sports arenas or similar places of outdoor assembly	One (1) for each four (4) seats
Dance halls, civic clubs, fraternal orders, union halls, or any similar type of use	One (1) space for each one hundred (100) square feet of gross floor area or one (1) space for each three (3) persons permitted to occupy the building by law, whichever is greater
Ski clubs, swimming clubs or beaches, tennis clubs or similar type of use	One (1) space for each three (3) persons of maximum anticipated capacity
Golf courses, except miniature or par three golf courses	Five (5) spaces plus six (6) spaces for each one (1) golf hole
Miniature or par three golf courses	Five (5) spaces plus three (3) for each hole
Commercial	
Drive in car washes, automatic	Five (5) standing spaces for each washing bay
Drive in car washes, self-serve	Three (3) standing spaces for each washing bay
Automobile service stations	Two (2) for each service bay and one (1) for service vehicle
Bowling Alleys	Five (5) for each alley, in addition to any requirement for other uses such as bar, restaurant or billiard room
Funeral Homes and Mortuary Establishments	One (1) for each thirty (30) square feet of Gross Floor Area (GFA)
Personal service establishments	One (1) space for each three hundred (300) square feet Usable Floor Area (UFA)
Commercial	

Use	Number of Parking Spaces Required Per Unit of Measure
Restaurants - without drive-through facilities	One (1) space for each one hundred (100) square feet UFA or one (1) space for each two (2) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Restaurants with drive-through facilities	One (1) space for each one hundred (100) square feet of UFA or one (1) space for each one and one-half (1 ½) persons allowed within the maximum occupancy load established by any applicable codes or ordinances, whichever is greater
Retail stores not otherwise specified	One (1) space for each two hundred (200) square feet GFA
Video rental stores	One (1) space for each one hundred (100) square feet UFA
Motel ,hotels, or other commercial lodging establishments	One (1) for each occupancy unit plus extra spaces for dining rooms, ballrooms, or meeting rooms as required by this Ordinance. Should units revert to multiple-type use, then two (2) spaces per unit shall be provided
Office	
Business or professional offices and banks not including medical office	One (1) for every two hundred (200) square feet of GFA
Medical Offices and Clinics	One (1) for every one hundred fifty (150) square feet of GFA
Industrial	
Industrial or Research establishments	One (1) space for each one thousand (1,000) square feet GFA, plus those spaces required for offices located on the premises
Warehousing or wholesale establishments	One (1) for every seventeen hundred (1,700) square feet of GFA

Section 7.09 Rules for Measurement and Interpretation

- A. In the case of a use not specifically mentioned, the requirements of off-street parking for a use which is mentioned and which is most similar to the use not listed, shall apply.
- B. When benches, pews, or other similar seating is used, each eighteen (18) inches of said seating shall be counted as one seat.
- C. Floor area, unless otherwise noted, shall include the entire enclosed floor area of a

building as measured from the exterior surface of exterior walls.

- D. Where units or measurement determining the number of required parking spaces result in a fraction equal to or greater than one half an additional space shall be required.

Section 7.10 Site Development Requirements

- A. All off-street parking areas shall be designed, constructed and maintained in accordance with this Section.
- B. All parking areas shall have a bituminous asphalt or concrete surface.
- C. Each parking space shall be clearly identifiable. Parking spaces and maneuvering lanes shall be sufficient in width to allow ease in turning movements in and out of parking spaces. The minimum required dimensions of parking spaces and maneuvering lanes shall be as indicated on the accompanying table.

<u>Parking Pattern</u> (Degrees)	<u>Stall Width</u> (Feet)	<u>Stall Length</u> (Feet)	<u>Aisle Width</u> (Feet)	<u>Total Width of One Tier of Spaces plus Maneuvering Lane</u> (Feet)	<u>Total Width of Two Tiers of Spaces plus Maneuvering Lane</u> (Feet)
45	9	18	12	33	53
60	9	18	18	38	58
90	9	20	24	44	64

- D. Ingress and egress to parking areas shall be provided by means of clearly limited and defined drives as provided for below:
 1. All parking areas providing more than five (5) parking spaces shall be provided with a drive for ingress and egress of not less than twenty four (24) feet in width. When one-way drives or boulevards are utilized, the minimum width of a lane shall be twelve (12) feet.
 2. All parking areas providing more than five (5) parking spaces shall be designed so as to not make it necessary for vehicles to back directly onto a street.
- E. Off-street parking facilities for trucks, buses, and recreational vehicles at restaurants, motels, hotels, service stations, commercial garages, and similar establishments shall be sufficient in size to adequately serve large vehicles and trucks without interfering with other vehicles shall not be less than twelve (12) feet in width and forty (40) feet in length. Access drives for such vehicles shall be designed with adequate turning radius and with special provisions for slow entry onto public streets and highways.

F. Commercial Vehicles.

1. The owner, tenant, or lessee of any lot, parcel, or tract of land in a residential district or on a lot used for residential purposes shall not permit or allow the storage or parking, at any time thereon, of trucks, semi-trucks and tractor trailers, manufactured homes, tractors, bulldozers, earth carriers, drag lines, cranes, steam shovels and/or any other heavy equipment or machinery.
2. It is provided, however, that the owner, tenant, or lessee of a farm may openly store the machinery and equipment used on the farm; and it is further provided that equipment necessary to be parked on a lot or parcel during the construction work thereon shall be exempted from this restriction.
3. This restriction shall not apply to pickup or panel trucks.

G. Parking lots shall be adequately lit to ensure security and safety and shall meet the following requirements:

1. Light fixtures shall be no higher than twenty-five (25) feet and shall be provided with light cut-off fixtures that direct light downward.
2. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of five hundred (500) spaces the Planning Commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.
3. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.

Section 7.11 Joint Use of Parking Areas

- A. The use of a single parking area by two (2) or more uses which are individually required to maintain more than ten (10) parking spaces shall be encouraged whenever such use is practical and when all requirements for location, design, and construction are met.
- B. In computing capacities of any joint use of parking areas, the total parking space requirement is the sum of the individual requirements that will occur at the same time each day. When parking space requirements for individual uses occur at distinctly different times during the day, the total required parking spaces may be reduced by action of the City Council, upon a recommendation from the Planning Commission, provided that no parking spaces shall be counted which are more than three hundred (300) feet from any entrance to building using joint parking areas.

- C. A copy of an agreement between the joint users of a parking area shall be recorded with the Newaygo County Register of Deeds. Such agreement shall guarantee the long term use and maintenance of the parking facility by each party.

Section 7.12 Building Additions and Change of Use

Whenever a building, structure, or use is modified, expanded, and changed in use from one category to another, and such activity requires a permit pursuant to this Ordinance, the parking space requirements shall be reviewed and made to comply with the standards of this Ordinance.

Section 7.13 Loading and Unloading Space Requirements

- A. In order to prevent undue interference with the public use of streets, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide loading and unloading space on the premises for the number of vehicles that will be at the premises at a particular time on an average day of full use.
- B. Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted pursuant to Chapter 22, Site Plan Review.
- C. Loading spaces required under this Section shall be provided as area additional to off-street parking spaces required in this Chapter, and such loading spaces shall not be considered as supplying off-street parking space.
- D. There shall be provided adequate space for standing, loading, and unloading services not less than twelve (12) feet in width, forty (40) feet in length, and fifteen (15) feet in height, open or enclosed, for uses listed in the following table:

Use	Floor Area (Sq. Ft.)	Required Spaces
Commercial uses, such as retail stores, personal services amusement, automotive service	First 2,000	none
	Next 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Hotels, Offices	First 2,000	none
	Next 50,000 or fraction thereof	1

Use	Floor Area (Sq. Ft.)	Required Spaces
	Each additional 100,000 or fraction thereof	1
Wholesale and storage, including building and contractor's yards	First 20,000	1
	Each additional 20,000 or fraction thereof	1
Manufacturing uses	First 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Funeral Homes and Mortuaries	First 5,000 or fraction thereof	1
	Each additional 10,000 or fraction thereof	1
Hospitals	First 10,000	none
	Next 100,000 or fraction thereof	1
	Each additional 200,000 or fraction thereof	1
For similar use not listed	For each building 5,000 or over	1

E. All off-street loading and unloading facilities that make it necessary to back directly into a public road shall be prohibited. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way.

F. Design Requirements

1. Off-street loading spaces and access drives shall be drained, and shall have appropriate bumper or wheel guards where needed.
2. Any light used for illumination shall be arranged to reflect light away from adjoining premises and streets.
3. Where any off-street loading space adjoins or abuts a lot or premises used for

residential or educational purposes, or abuts the Residential Zoning District, a masonry wall or solid fence not less than four (4) feet in height shall be provided between the off street loading and unloading space and said uses or district.

Section 7.14 Deferred Parking

The Planning Commission may defer construction of a portion of the required number of parking spaces for nonresidential uses if the following conditions are met:

- A. Deferred parking areas shall be shown on a site plan and shall be of sufficient area to permit the construction of the total number of parking spaces required by this Section. Such areas shall not be used for any other purpose required by this Ordinance (such as landscaped buffers, etc.) and shall be kept open.
- B. Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the Development Official based on parking needs and shall require the submission and approval of an amended site plan, as required by Chapter 22.

Section 7.15 Disabled Parking Requirements

Off-street parking areas shall include spaces for the disabled in accordance with the provisions of Act 230 of the Public Acts of the State of Michigan, 1972, as amended and shall be included in the count of required spaces.

Section 7.16 Parking Lot Landscaping

- A. This Section is applicable to parking lots serving any nonresidential or multiple family use in any District. A parking lot landscape plan shall be submitted with any application for a building permit or when otherwise required by this Ordinance.
- B. Landscaping required by this Section shall comply with the applicable provisions of Chapter 6, except that the requirements of this Section shall be waived if the area normally required by this Section to be landscaped is located in a required buffer area.
- C. Existing parking areas:
 - 1. These requirements shall be met for any existing parking lot which is expanded more than twenty-five percent (25%) of its original existing area, after the adoption of this Ordinance, or when any parking area is substantially altered (e.g., removal and replacement of existing pavement).
 - 2. Any landscaping existing within or bordering any existing parking area shall not be removed unless replaced with landscaping meeting the requirements of this

Section.

D. General Requirements

1. Landscaping shall be planned and installed such that, when mature, it does not obscure traffic signs, fire hydrants, or lighting, and does not alter drainage patterns on the site or on adjacent properties; obstruct vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.
2. Any landscaped area required by this Section shall be constructed outside any public street right-of-way.
3. All landscaped areas, including perimeter areas, shall be protected by a raised or rolled concrete curb.

E. Frontage Landscaping

1. Where any parking area directly abuts or faces a public street, a screen shall be required between the parking area and the road right-of-way. Such screen shall consist of, at a minimum, one (1) of the following:
 - a. A strip of land at least five (5) feet in width and a solid screen comprised of a hedge or decorative wall, or any combination thereof, which measures at least three (3) feet in height; or
 - b. A strip of land at least ten (10) feet in width containing landscaping equivalent to a Buffer Zone Level C, as described in Section 6.04(C)(3) except that the obscuring screen need not be provided.
2. The required strip of land shall also be covered with grass or other approved ground cover.

F. Interior Landscaping

1. Interior landscaping shall be provided for any parking area containing twelve (12) or more parking spaces.
2. The interior of the parking lot shall begin at the outside boundary of the parking area.

3. The interior area of any parking lot shall incorporate one (1) planting island per each twelve (12) parking spaces, or part thereof.
4. Each planting island shall be at least ninety (90) square feet in area with a minimum single dimension of nine (9) feet.
5. Landscaped islands shall be dispersed evenly throughout the parking lot and may be used to separate pedestrian areas, maneuvering areas, and drives.
6. Trees planted shall comply with the provisions of Chapter 6

CHAPTER 8 CLASSIFICATION OF ZONING DISTRICTS

Section 8.01 Zoning Districts

For the purposes of this Ordinance, the City of Newaygo is hereby divided into the following Zoning Districts:

F-1	Flood Hazard
RR	Rural Residential
R-1	Single-Family Residential
R-2	Single and Two-Family Residential
R-3	Multiple Family Residential
MHP	Manufactured Home Park
B-1	Community Business
B-2	Highway Business
PSD	Principal Shopping District Overlay District
I-1	Industrial
PUD	Planned Unit Development

Section 8.02 The Zoning Map

The locations and boundaries of these Districts are hereby established on a map entitled "The Zoning Map of the City of Newaygo" which is hereby adopted and declared to be a part of this Ordinance. Regardless of the existence of copies of the zoning map, which may be made or published, the official Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority as to the current zoning status in the City. No amendment to this Ordinance, which involves matter portrayed on the office Zoning Map, shall become effective until such change and entry has been made on said map. The official Zoning Map shall be identified by the signature of the Zoning Administrator and attested to by the City Clerk. Where uncertainty exists as to the boundaries of the Zoning Districts as shown on the Zoning Map, the following rules shall apply:

- A. Where boundaries are indicated as approximately following the streets, alley, or highways, the centerline of said streets, alleys, or highways, or such lines extended shall be construed to such boundaries.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City boundary lines shall be construed as following such City boundaries.
- D. Boundaries indicated as approximately following railroad lines shall be construed to be the centerline of the railroad right-of-way.

- E. Boundaries indicated as approximately parallel to the centerline of streets or highways shall be construed as being parallel thereto and at such distances therefrom as indicated on the official Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official Zoning Map.
- F. Boundaries following the shoreline of a stream or other body of water shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline. Boundaries indicated as approximately following the centerline of streams or other bodies of water shall be construed to follow such centerline.
- G. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) zoning districts, the Zoning Board of Appeals, after recommendation from the Zoning Administrator, shall interpret the district boundaries.

Section 8.03 Zoning of Vacated Areas

Whenever any street, alley or other public way has been officially vacated by official governmental action, the zoning of this land shall be determined by the adjoining property. If two different zones adjoin the property, then the land shall follow the procedures for rezoning.

Section 8.04 Zoning of Filled Land

Whenever any fill is placed in any lake or stream the land thus created shall automatically and without further governmental action thenceforth acquire and be subjected to the same zoning regulations and be used for the same purposes as are permitted under this Ordinance for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.

All buildings and uses in any district shall be subject to the requirements of Chapter 3, General Provisions, except as otherwise specifically provided herein.

Section 8.05 Zoning of Annexed Land

Whenever territory is annexed or brought into the City through any means, the land shall be zoned Rural Residential (RR) until such time as the City determines the most appropriate zoning classification for that property.

Section 8.06 Zoning District Changes

When District boundaries hereafter become changed, any legal nonconforming use may still be continued, but subjected to all other provisions of this Ordinance.

CHAPTER 9 FLOOD HAZARD AREAS (F-1)

Section 9.01 Purpose

- A. It is the purpose of this Article to significantly reduce hazards to persons and damage to property as a result of flood conditions in the City of Newaygo, and to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act of 1968, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and re-designated at 44 FR 31177, May 31, 1979.
- B. Further, the objective of this Chapter includes:
- (1) The protection of human life, health, and property from dangerous and damaging effects of flood conditions;
 - (2) The minimization of public expenditures for flood control projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and redevelopment of flood damaged homes, neighborhoods, commercial, and industrial areas;
 - (3) The prevention of private and public economic loss and social disruption as a result of flood conditions;
 - (4) The maintenance of stable development patterns not subject to the blighting influence of flood damage;
 - (5) To insure that the public has access to information indicating the location of land areas subject to periodic flooding; and
 - (6) To preserve the ability of floodplains to carry and discharge a base flood.

Section 9.02 Delineation of the Flood Hazard Area Overlay Zone

- A. The flood hazard area zone shall overlay existing zoning districts delineated on the official Newaygo Zoning map. The boundaries of the flood hazard area zone shall coincide with the boundaries of the areas of special flood hazards (A zone) designated by the Federal Insurance Administration in the Flood Hazard Boundary Map (FHBM) No. H01-03, dated September 12, 1975, and appended, and declared to be a part of this Ordinance. The term flood hazard area as used in this Ordinance shall mean the flood hazard zone area.

- B. Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Administrator shall gather information from all relevant sources and based upon this information make a determination as to boundary. If this decision is unsatisfactory, the Zoning Board of Appeals shall resolve the dispute.
- C. In addition to other requirements of this Ordinance, applicable to development in the underlying zoning districts, compliance with the requirements of this Article shall be necessary for all development occurring within the flood hazard area zone. Conflicts between the requirements of this Article and other requirements of this Ordinance or any other Ordinance shall be resolved in favor of this Article, except where the conflicting requirement is more stringent and would further the objectives of this Article to a greater extent than the requirements of this Article. In such cases the more stringent requirement shall be applied.

Section 9.03 Development in Flood Hazard Area

- A. Development, including the erection of structures, within a flood hazard area shall not occur except upon issuance of a building permit in accord with the requirements of this Ordinance and the following standards:
 - (1) The requirements of this Chapter shall be met.
 - (2) The requirements of the underlying zoning district and applicable General Provisions of this Ordinance must be met.
 - (3) All necessary permits shall have been issued by appropriate local, state, and federal authorities, including a flood plain permit, approval or letter of authority from the Michigan Department of Natural Resources under authority of Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968. Where a development permit cannot be issued prior to the issuance of a Zoning Compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of Zoning Compliance shall be acceptable.

Section 9.04 General Standards for Flood Hazard Reduction

- A. All new construction and substantial improvements within the flood hazard area, including the placement of prefabricated buildings, shall:
 - (1) Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (2) Be constructed with materials and utility equipment resistant to floor damage; and
 - (3) Be constructed by methods and practices that minimize flood damage.

- B. All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the system.
- C. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems that discharges from systems into flood waters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
- D. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
- E. Adequate drainage shall be provided to reduce exposure to flood hazards.
- F. The Building Inspector, or his/her representative, shall review development proposals to determine compliance with the standards in this section, and shall transmit his/her determination to the Zoning Administrator.
- G. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Article.
- H. The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to insure flood carrying capacity shall be maintained.
- I. Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by the Federal Emergency Management Administration (FEMA) shall take precedence over data from other sources.

Section 9.05 Specific Base Flood Elevation Standards

On the basis of the most recent available base flood elevation data the following standards shall apply in the flood hazard area zone:

- A. All new construction and substantial improvements of non-residential structures shall have either:
 - (1) The lowest floor, including basement, elevated to one (1) foot above the base flood level, or
 - (2) Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or

architect shall certify that the standards of this subparagraph are satisfied, and that their flood proofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the base flood in the location of the structure. Such certification shall indicate the elevation to which the structure is flood proofed.

- B. The most recent base flood elevation data received from the Federal Insurance Administration shall take precedence over data from other sources.

Section 9.06 Mobile Home Located Outside Licensed Manufactured Housing Communities

- A. All manufactured homes shall meet the National Manufactured Home Construction and Safety Standards Act, commonly known as the HUD (United States Department of Housing and Urban Development) Code.
- B. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
 - (1) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two (2) additional ties per side at intermediate locations.
 - (2) Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points.
 - (3) All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
 - (4) All additions to a mobile home shall be similarly anchored.

Section 9.07 Disclaimer of Liability

- A. The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams, and bridge openings restricted by debris. Approval of the use of land under this Article shall not be considered a guarantee or warranty of safety from flood damage.
- B. This Ordinance does not imply that areas outside the flood hazard area will be free from flood damage. This Ordinance does not create liability on the part of the City of Newaygo or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.

CHAPTER 10 RURAL RESIDENTIAL (RR)

Section 10.01 Purpose

The District is intended for large semi-rural open areas lacking public water and sewer facilities. The regulations set forth herein are designed to allow low density residential and related uses, as well as the continuation of existing agricultural operations within the city limits.

Section 10.02 Permitted Uses

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

- A. Single family dwellings.
- B. Cemeteries.
- C. Parks and other public open spaces.
- D. State licensed residential facilities providing care to six (6) or less persons.
- E. Greenhouses and nurseries.
- F. Accessory buildings and uses.
- G. Home occupations.
- H. Municipal Buildings.
- I. Any similar uses that are not stated must go through special use approval.

Section 10.03 Special Land Uses

The following uses are permitted when the applicable standards and requirements of Chapter 21, Special Land Uses, are met:

- A. Golf courses and country clubs.
- B. Recreational camps and campgrounds.
- C. Kennels and veterinary clinics.
- D. Agricultural, including farms for both general and specialized farming.
- E. Raising of fur bearing animals or game birds.

- F. Housing for seasonal labor.
- G. Riding and breeding stables.
- H. Sand, gravel, and mineral extractions.
- I. State licensed residential facilities providing care to seven (7) to twelve (12) persons.
- J. Churches.
- K. Schools (excluding commercial schools).
- L. Earth sheltered dwellings.
- M. Wireless/Communication Towers.
- N. Bed and Breakfast Operations.
- O. Outdoor Storage Yards (must be properly screened and contents must not present a hazard to persons or the environment)
- P. Any items similar to those listed above.

Section 10.04 District Regulations

The requirements for lot area, yards, height, and other dimensions, as specified in the Schedule of Regulations shall be met for every structure and land use.

Section 10.05 Site Plan Review

See Chapter 22

Section 10.06 Off-Street Parking and Loading

See Chapter 7

Section 10.07 Signs

See Chapter 5

Section 10.08 Landscaping and Buffering

See Chapter 6

CHAPTER 11 SINGLE FAMILY RESIDENTIAL (R-1)

Section 11.01 Purpose

This District is intended to provide for a sound and stable residential environment with its neighborhood-related utilities, facilities, and services. Through this District, relatively low density urban development will be permitted. There is no intent, through these regulations, to promote a Residential District of lower quality or livability than the RR District.

Section 11.02 Permitted Uses

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

- A. Single-family dwellings.
- B. Parks and other public open spaces.
- C. State licensed residential facilities providing care to six (6) or less persons.
- D. Accessory buildings and uses.
- E. Home Occupations.
- F. Any similar uses that are not stated must go through special use approval.

Section 11.03 Special Land Uses

The following uses shall be permitted when the applicable standards and requirements of Chapter 21 are met:

- A. Churches.
- B. Schools (excluding commercial schools).
- C. Municipal or utility buildings not requiring outdoor storage, community centers, libraries, and museums and similar uses.
- D. Hospitals, clinics, or convalescent homes, but not including institutions for mentally retarded, epileptic, drug, or alcoholic patients, or correctional institutions of any type.
- E. Childcare centers, nursery schools, day care centers, not including dormitory facilities.

- F. Private non-commercial recreation.
- G. Golf courses and country clubs.
- H. Cemeteries.
- I. State licensed residential facilities providing care for seven (7) to twelve (12) persons.
- J. Earth sheltered dwellings.
- K. Planned unit development (PUD) when all applicable standards of Chapter 18 are met.
- L. Manufactured homes.
- M. Convalescent homes.
- N. Bed and Breakfast Operations.
- O. Any items similar to those listed above.

Section 11.04 District Regulations

The requirements for lot area, yards, height, and other dimensions, as specified in the Schedule of Regulations, shall be met for every structure and land use.

Section 11.05 Site Plan Review

See Chapter 22

Section 11.06 Off-Street Parking and Loading

See Chapter 7

Section 11.07 Signs

See Chapter 5

Section 11.08 Landscaping and Buffering

See Chapter 6

CHAPTER 12 SINGLE and TWO FAMILY RESIDENTIAL (R-2)

Section 12.01 Purpose

This District is intended to provide the same character stability and sound residential environment as intended for the RR and R-1 Districts. The difference is that a higher residential density is permitted in the R-2 District through the construction of single-family dwellings on smaller lots and by permitting two (2) family dwellings.

Section 12.02 Permitted Uses

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

- A. Any use permitted by right in the R-1 District.
- B. Two (2) family dwellings.
- C. Any similar uses that are not stated must go through special use approval.

Section 12.03 Special Land Uses

The following uses shall be permitted when the applicable standards and requirements of Chapter 21 are met:

- A. Any Special Approval Use in the R-1 District.
- B. Churches.
- C. Schools (excluding commercial schools).
- D. Municipal or utility buildings not requiring outdoor storage, community centers, libraries, and museums and similar uses.
- E. Hospitals or clinics.
- F. Child care centers.
- G. Adult foster care large group homes that provide supervision or care, to thirteen (13) to twenty (20) persons.
- H. Earth sheltered dwellings.
- I. Planned unit development when all applicable standards of Chapter 18 are met.

- I. State licensed residential facilities providing care for seven (7) to twelve (12) persons.
- J. Recovery and rehabilitation halfway houses for twelve (12) or fewer individuals.
- K. Bed and Breakfast operations
- L. Any items similar to those listed above.

Section 12.04 District Regulations

The requirements for lot area, yards, height, and other dimensions, as specified in the Schedule of Regulations, shall be met for every structure and land use.

Section 12.05 Site Plan Review

See Chapter 22

Section 12.06 Off-Street Parking and Loading

See Chapter 7

Section 12.07 Signs

See Chapter 5

Section 12.08 Landscaping and Buffering

See Chapter 6

CHAPTER 13 MULTIPLE FAMILY RESIDENTIAL (R-3)

Section 13.01 Purpose

This District is intended primarily for multiple family uses of sustained desirability and stability that provide additional housing options within the City and will be harmonious to adjacent properties. It is the express purpose of these regulations to promote large parcels, single owner developments which permit an added degree of flexibility in the placement, bulk, and interrelationship of buildings with their surroundings. There is no intent to create a Residential District of lower quality or livability than the RR, R-1, R-2 districts.

Section 13.02 Permitted Uses

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

- A. Any use permitted by right in the R-2 District.
- B. Townhouses or rowhouses.
- C. Multiple family dwellings
- D. Private non-commercial recreation (only if part of a residential development).
- E. Any similar uses that are not stated must go through special use approval.

Section 13.03 Special Land Uses

The following shall be permitted when the applicable standards and requirements of Chapter 21 are met.

- A. Any Special Approval Use in the R-2 District.
- B. Planned unit development (PUD) when all applicable standards of Chapter 18 are met.
- C. Adult foster care large group home that provides supervision or care for thirteen (13) to twenty (20) persons.
- D. Commercial Storage Facilities.
- E. Any items similar to those listed above.

Section 13.04 District Regulations

The requirements for lot area, yards, height, and other dimensions, as specified in the Schedule of Regulations shall be met for every structure and land use.

Section 13.05 Site Plan Review

See Chapter 22

Section 13.06 Off-Street Parking and Loading

See Chapter 7

Section 13.07 Signs

See Chapter 5

Section 13.08 Landscaping and Buffering

See Chapter 6

CHAPTER 14 COMMUNITY BUSINESS DISTRICT (B-1)

Section 14.01 Purpose

This District is intended to concentrate community retail and service activities in a single core area. The creation of this District reflects the City's commitment to strengthening the downtown business district as an economic center for Newaygo and the neighboring communities. Uses in this district should complement one another and encourage pedestrian activity among the businesses.

Section 14.02 Permitted Uses

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

- A. Any retail business whose principal activity is the sale of merchandise within an enclosed building.
- B. Offices for personal or business services including banks, medical, professional, administrative, and sales offices.
- C. Personal service establishments performing services on the premises, including barber and beauty shops, interior decorating shops, photographic studios, shoe repair shops, radio and television repair shops, and other similar uses.
- D. Service establishments including printing, publishing, photo reproduction, blueprinting, and related trades or arts.
- E. Assembly buildings including dance pavilions, auditoriums, churches, and private clubs.
- F. Assembly buildings, utility buildings, and governmental or military service installations.
- G. Public or private business schools or colleges.
- H. Health and physical fitness salons.
- I. Restaurants, clubs, or other establishments which provide food or drink for consumption on the premises, excluding drive-in restaurants.
- J. Hotels and motels.
- K. Accessory buildings and uses.
- L. Art galleries, museums, libraries, and similar cultural facilities.

M. Any similar uses that are not stated must go through special land use approval.

Section 14.03 Special Land Uses

The following uses shall be permitted when applicable standards and requirements of Chapter 21 are met.

- A. Outdoor seating/service areas for permitted restaurants.
- B. Mortuaries and funeral homes.
- C. Commercial recreation facilities such as indoor theaters, bowling alleys, indoor skating rinks, or similar uses.
- D. Residential uses.
- E. Building supply and equipment establishments.
- F. Commercial enterprises producing and selling merchandise on the premises, provided that no more than fifteen (15) persons are employed on the premises and such production shall not be detrimental either by odor, noise, vibration, or smoke to the nearest occupied dwelling.
- G. Parking lots including municipal and private facilities not directly associated with a principal use.
- H. Planned Unit Developments (PUD) when all applicable standards of Chapter 18 are met.
- I. Bed and Breakfast Operations.
- J. Body-piercing establishments and tattoo parlors.
- K. Any items similar to those listed above.

Section 14.04 District Regulations

The requirements for lot area, yards, height, and other dimensions, as specified in the Schedule of Regulations shall be met for every structure and land use.

Section 14.05 Site Plan Review

See Chapter 22

Section 14.06 Off-Street Parking and Loading

See Chapter 7

Section 14.07 Signs

See Chapter 5

Section 14.08 Landscaping and Buffering

See Chapter 6

CHAPTER 15: PRINCIPAL SHOPPING DISTRICT (PSD) OVERLAY DISTRICT

Section 15.01 Purpose

The intent of the Principal Shopping District (PSD) is to retain and create a vibrant, attractive and cohesive center for the City of Newaygo with a variety of quality places to work, live, shop, learn, recreate and be entertained. This district is intended to recognize and support the Newaygo Principal Shopping District as the centerpiece of the greater Newaygo community.

These special regulations are intended to assist with the implementation of goals and objectives contained in the Newaygo Downtown Strategic Vision Plan. Among those goals are to promote development of a compact, walkable, mixed-use district, consisting of a variety of retail, entertainment, office, service, residential, cultural, recreation and municipal uses. To provide for the desired traditional downtown environment and accommodate the wide variety of permitted uses, this district includes specific design standards for site layout, setback continuity, building design, pedestrian amenities, parking arrangement, vehicular circulation and coordination of site features between adjoining sites. One intention of this district is that buildings be placed close to the street, with parking in the side, or preferably, rear yard. Permitted uses shall be designed and arranged to minimize any adverse impact on street capacity or public services, and contribute to the overall image and function of the district. A mixture of uses within a building, such as retail on the ground floor and office on upper floors is permitted. It is the further intent of this district to prohibit automotive related services and non-retail uses that tend to disrupt the continuity of the retail frontage.

Section 15.02 Permitted and Special Land Uses

Permitted and Special Land Use shall be in accordance with the following:

- A. All uses shall meet the conditions for the PSD district listed below in Section 15.03.
- B. All uses permitted by the underlying zoning district (as designated on the City of Newaygo Zoning Map) shall be permitted for that lot within the PSD. (For example, if the underlying zoning district is B-1, the uses permitted in B-1 are permitted for that lot).
- C. Any building fronting on Main Street (M-37) and having commercial or office use on the first floor of said street frontage may contain residential uses on upper stories when adequate off-street parking is provided.

Section 15.03 Required Conditions

- A. All business establishments shall be retail, entertainment or service establishments dealing directly with customers. All goods produced on the premises shall be sold as retail on premises where produced.
- B. All business, servicing or processing, except for off-street parking or loading, shall be conducted within an enclosed structural building, either partially or completely, provided that outdoor cafes, public plazas, and open air markets may be permitted as an accessory use upon approval as a special land use. Sidewalk sales and similar uses are permitted during festivals and other special events and other approved dates only.
- C. Exterior walls facing public rights-of-way, customer parking areas and adjoining property that is zoned or used for residential purposes shall have a finished appearance, using the same materials as used on the front facade of the building. Wherever possible, meter boxes, waste receptacles and mechanical equipment should not be located in the front yard or on a side of the building when visible from public views or when facing property zoned or used as residential.
- D. Ornamental lighting, consistent with the established lighting system in the Principal Shopping District, shall be provided along public street frontages. Except for ornamental fixtures, all lighting shall be downward directed, sharp cut-off fixtures. Site, building and parking lot lighting shall be at a scale appropriate for the downtown and to prevent glare off-site.
- E. Architectural standards: All new buildings, additions and significant exterior changes or renovations shall be found to be architecturally compatible with the intent of the Principal Shopping District, as determined by the Principal Shopping District Board or other authorized unit. In making such a determination, the following will be considered:
 - 1. A minimum of eighty percent (80%) of the exterior finish material of all building facades visible from the public street, parking lot or adjacent residentially zoned land, exclusive of window areas, shall consist of brick, cut stone, field stone, cast stone or dimensional wood with an opaque stain. Exterior Insulation and Finishing Systems (EIFS) materials shall not be the primary building material. The remaining maximum twenty (20) percent of the facade may utilize other materials for architectural detailing such as fiberglass reinforced concrete, polymer plastic (fypon) or EIFS. The Planning Commission may permit other materials for facades not visible from a public street that are adequately screened from adjoining land uses.

2. Roof design shall be consistent with the overall architecture of the building. Single story buildings should be designed with pitched roofs or a decorative cornice or parapet at least forty-two (42) inches high to screen roof-top mechanical equipment.
 3. Blank walls shall not face a public street. Walls facing a public street shall include windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing or other decorative finish materials. A usable public building entrance shall be provided at the front of the building. Wall massing shall be broken up with vertical pilasters or other architectural elements to reduce scale.
 4. Colors shall be consistent with the majority of the established buildings, and/or the color scheme established by the Principal Shopping District Board. Stark or bold colors, and similar "non-traditional" downtown colors are not permitted.
 5. Facades may be supplemented by awnings which shall be straight sheds or made of an opaque material; translucent or internally lit awnings shall not be permitted along the front building line.
 6. Sites shall be designed at a pedestrian scale with relationship to the street and sidewalk. Convenient and safe pedestrian access shall be provided between the public sidewalk and the building entrance. Bicycle racks should be provided for uses expected to attract bicyclists, such as fast food restaurants (non-drive thru), ice cream parlors and convenience food stores.
 7. Rear or side entrances should be provided where parking is on the side or rear of the building.
 8. Building height may be increased to a maximum 40 feet for a mixed use building with retail in the first floor.
 9. Building design, facades and materials shall be consistent with any architectural guidelines published by the City or adopted by the Planning Commission.
- F. For buildings proposed for expansion or renovation that existed prior to the effective date of this ordinance, the Planning Commission shall determine the extent of compliance based on the existing building and site arrangement, the extent of the changes proposed and the site design elements found to be most in need of modification.

Section 15.04 District Regulations

The requirements for lot area, yards, height, and other dimensions, as specified in the Schedule of Regulations shall be met for every structure and land use depending on the underlying zoning district.

Section 15.05 Site Plan Review

See Chapter 22

Section 15.06 Off-Street Parking and Loading

See Chapter 7

Section 15.07 Signs

See Chapter 5

Section 15.08 Landscaping and Buffers

See Chapter 6

CHAPTER 16 HIGHWAY BUSINESS (B-2)

Section 16.01 Purpose

This District is intended to provide an appropriate location for businesses primarily serving the motoring public. These uses are thus encouraged to locate near major highways and interchange areas where their heavy traffic and other characteristics will not prove detrimental to or incompatible with surrounding areas of the community.

Section 16.02 Permitted Uses

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

- A. Any permitted use in the Community Business District (B-1)
- B. Car washes
- C. Contractor's offices, storage and showrooms.
- D. Mini-warehouse storage.
- E. Veterinary clinics and kennels.
- F. Any similar uses that are not stated must go through special use approval.

Section 16.03 Special Land Uses

The following uses shall be permitted when applicable standards and requirements of Chapter 21 are met.

- A. Any special approval uses in the Community Business District (B-1)
- B. Public garages and automobile repair establishments when all activities are conducted within a completely enclosed building.
- C. Adult uses.
- D. Building supply and equipment establishments.
- E. Par 3 golf, miniature golf, and driving ranges.
- F. Amusement parks.

- G. Planned unit development (PUD) when all applicable standards of Chapter 18 are met.
- H. Sales lots and showrooms for new and used motor vehicles, boats, trailers, manufactured homes, and similar uses.
- I. Outdoor storage accessory to any permitted use.
- J. Automobile Service Stations.
- K. Automobile Repair.
- L. Drive-in establishments.
- M. Open Air Businesses.
- N. Wireless Communication Towers.
- O. Any items similar to those listed above.

Section 16.04 District Regulations

The requirements for lot area, yards, height, and other dimensions, as specified in the Schedule of Regulations shall be met for every structure and land use.

Section 16.05 Site Plan Review

See Chapter 22

Section 16.06 Off-Street Parking and Loading

See Chapter 7

Section 16.07 Signs

See Chapter 5

Section 16.08 Landscaping and Buffering

See Chapter 6

CHAPTER 17 INDUSTRIAL (I-1)

Section 17.01 Purpose

This district is intended for intensive industrial activity, including manufacturing, processing, assembly, and packing. It is also intended to permit related businesses and services while prohibiting retail sales, residential dwellings, and other incompatible uses. This District is designed to promote high quality industrial development through the use of industrial performance standards and other regulations contained herein.

Section 17.02 Permitted Uses

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

- A. Manufacturing, compounding, processing, packaging, treating, and assembly from previously prepared materials in the production of:
- (1) Food products, including meat, dairy, fruit, vegetable, seafood, grain, bakery, confectionery, beverage, and kindred foods.
 - (2) Textile mill products including woven fabric, knit goods, dyeing and finishing, floor covering, yarn, thread, and other textile goods.
 - (3) Apparel and other finished products made from fabrics, leather goods, fur, canvas, and similar materials.
 - (4) Lumber and wood products including millwork, prefabricated structural wood products, and containers.
 - (5) Furniture and fixtures.
 - (6) Paperboard containers, building paper, building board, and bookbinding.
 - (7) Printing and publishing.
 - (8) Manufacturing of engineering, measuring, optic, medical, lenses, photographic, and similar instruments.
 - (9) Jewelry, silverware, toys, athletic, office and tobacco goods, musical instruments, signs and displays, and similar manufacturing.
- B. Wholesale establishments including automotive equipment, drugs, chemicals, dry goods, apparel, food, farm products, electrical goods, hardware, machinery, equipment, metals, paper products and furnishings, and lumber and building products.

- C. Warehouses, cartage businesses.
- D. Research establishments, laboratories.
- E. Contractors (yards) and building materials (storage).
- F. Trade and industrial technology schools.
- G. Central dry cleaning plant.
- H. Municipal buildings, public service buildings.
- I. Electricity regulating substation, and pressure control station for gas, water, and sewage.
- J. Mini warehouse storage.
- K. Other uses similar to those listed above.
- L. Accessory buildings and uses.

Section 17.03 Special Land Uses

The following uses shall be permitted when applicable standards and requirements of Chapter 21 are met:

- A. Waste treatment facilities.
- B. Water supply and treatment facilities.
- C. Waste disposal facilities.
- D. Airports and landing fields.
- E. Manufacturing, compounding, processing, packaging, treating, assembly, and bulk storage of:
 - (1) Chemical products, such as plastics, perfumes, synthetics, fibers, drugs, soaps, detergents, paints, enamels, wood chemical, agricultural, and allied chemicals.
 - (2) Rubber manufacturing of reclaiming, such as tires, rubbish, and footwear.
 - (3) Stone clay, glass, cement, brick, pottery, abrasive, tiles, and related products.

- (4) Fabricated metal manufactured, including engines, electrical equipment, transportation equipment, metal stamping, plating, polishing and buffing, wire products, and structural metals.
- F. Pulp and paper manufacturing.
- G. Junk and salvage yards.
- H. Mining, processing, and transporting of stone, sand, or gravel aggregate.
- I. Sexually-Oriented Businesses.
- J. Lumber and planing mills.
- K. Outdoor storage, display and sale of farm implements and construction equipment.
- L. Production, refining and storage of petroleum or other flammable products.
- M. Outdoor storage yards accessory to any permitted use.
- N. Wireless communication towers.
- O. Child care centers.
- P. Planned unit development (PUD) when all applicable standards of Chapter 18 are met.
- Q. Medical marihuana establishments.

Section 17.04 District Regulations

The requirements for lot area, yard, height, and other dimensions, as specified in the Schedule of Regulations shall be met for every structure and land use.

Section 17.05 Site Plan Review

See Chapter 22

Section 17.06 Off-Street Parking and Loading

See Chapter 7

Section 17.07 Signs

See Chapter 5

Section 17.08 Landscaping and Buffering

See Chapter 6

Section 17.09 Performance Standards

Before the issuance of any building permit in this District; the applicant shall sign an agreement that the use of the property will meet the following performance standards, or that any violation of these standards in subsequent operations will be corrected, the costs of inspection by experts for compliance to be borne by the applicant.

- A. Fire and Explosion Hazards: All activities shall be carried on only in buildings conforming to the building code, and the operation shall be carried on in such a manner and with such precaution against fire and explosion hazards as to produce no explosion hazards as determined by the Michigan Department of Labor to a use on adjacent property. Flammable liquids other than fuels used for heating shall be stored in an entirely enclosed building which shall be used for no other purpose, or in underground tanks provided:
- (1) Said storage building is not closer than one hundred feet (100') to any building occupied by one (1) or more persons.
 - (2) Every factory or manufacturing building or other buildings permitted only in the industrial area shall be equipped with automatic sprinklers or other automatic fire extinguisher approved by the Zoning Administrator and the chief of the fire department as being sufficient in view of the nature and extent of the fire risk.
- B. Smoke, Fumes, Gases, Dust, Odors: There shall be no emission of any smoke, atomic radiation, fumes, gas, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in a manner as to create a public nuisance.
- C. Liquid or Solid Waste: The discharge of untreated industrial waste into a reservoir, pond, or river is prohibited. All methods of salvage and industrial waste treatment and disposal shall be approved by the City, County and State Health Departments. No effluent shall contain any acids, oils, dust, toxic metals, corrosives, or other toxic substances in solution or suspension which would create odors, or discolor, poison, or otherwise pollute in any way.
- D. Vibration: There shall be no vibration which is discernible to the human senses beyond the property line of the site on which such use is conducted.

- E. Noise: There shall be no noise emanating from the operation which will be more audible beyond the boundaries of the site than the volume of traffic noise on the nearest adjacent street.
- F. Glare: There shall be no direct or sky-reflected glare exceeding one and one-half foot (1-1/2') candles or which would be damaging to the human eye measured at the property line of the lot occupied by such use. This regulation shall not apply to lights used at the entrance or exit of service drives leading to a parking lot. Exterior lighting sources shall be directed away from any neighboring Residential District.
- G. Automatic Screw Machine: No such machine shall be located closer than three hundred feet (300') to any Residential District.
- H. Stamping Machines, Punch Presses, and Press Brakes: All such machinery shall be mounted on shock absorbing materials and on reinforced concrete. No such machinery shall be located closer than five hundred feet (500') to any Residential District.

CHAPTER 18 PLANNED UNIT DEVELOPMENT – THE ADMINISTRATIVE / SPECIAL LAND USE TYPE PUD

Section 18.01 Purpose

Traditional zoning, with its rigid separation of uses into different zones under very restricted placement controls, has now been recognized as being inappropriate to many medium and large scale developments. Planned unit developments (PUD), which modify the traditional forms of zoning, permit a developer to secure advantages which can be passed on to the general public by virtue of more desirable and more economical development. This Chapter provides a controlled degree of flexibility in the placement of structures and lot sizes and types of uses, while maintaining adequate planning and development standards. The Planned Unit Development (PUD) provisions shall apply as a Special Land Use approval in specific Zoning Districts, all in accordance with the following additional regulations. The residential PUD provisions replace the normal density, lot size, type of uses, and yard setback requirements with more general flexible requirements, and may be utilized in one or more residential Zoning Districts as one development site. The non-residential PUD provisions modify the normal type of use restrictions in separate commercial or industrial districts by allowing a wider variety of uses in a controlled planned development concept.

Section 18.02 Objectives

The objectives, principles, and standards are intended to guide the applicant in the preparation of the development plan and they shall be used as the basis for the evaluation of the plan by the Planning Commission and the City Council. The following objectives shall be considered in reviewing any application for a special Approval for any PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long-range, planning and development of such planned development.

- A. To provide more desirable living, shopping, and working environments by preserving the natural character of open fields, stands of trees, brooks, ponds, floodplain, hills, and similar natural assets.
- B. To encourage with regard to residential use the provision of open space and the development of recreational facilities and neighborhood commercial facilities in a generally central location within reasonable distance of all living units.
- C. To encourage developers to use a more creative and imaginative approach in the development of residential areas, especially through the mixture of several housing types in one (1) development.
- D. To encourage underground utilities which can be more efficiently designed when master planning a larger area.

- E. To allow phased construction with the knowledge that subsequent phases will be constructed as originally planned and approved by the City.
- F. To reserve adequate land areas for schools, parks, and other public uses.
- G. To promote more efficient and aesthetic use of open areas.

Section 18.03 Permitted Uses

- A. Any "Permitted or Special Land Use" within the district in which the PUD is located.
- B. Zero lot line, cluster, site condominiums, platted subdivisions or similar housing types in any Residential District.
- C. Golf courses, tennis clubs, and athletic clubs.
- D. Business uses permitted in the B-1 District may be combined with a residential PUD, provided the PUD site is at least forty (40) acres and the gross area designated for business use including parking access drives, and yards or open space shall not exceed five percent (5%) of the gross PUD site.
- E. Shopping centers or similar uses combining more than one (1) principal use in a single building or on a single site.
- F. Single-family, two family, and/or multiple family dwellings in combination within any Residential District.

Section 18.04 Application Procedures

The following procedures shall be followed when applying for Special Approval for any PUD:

- A. Pre-application Conferences: Before submitting an application for approval of a PUD the applicant shall confer in a meeting with the Planning Commission to obtain information and guidance regarding land development regulations, the City's Land Use Plan, and the application process.
- B. Application: Upon completion of the pre-application review, an application may be submitted to the Planning Commission. Such application shall be accompanied by the following:
 - (1) An application fee.
 - (2) A completed site plan as required, provided that if the PUD is to be developed in phases.

- (3) A development schedule indicating:
 - (a) Approximate date for commencement of construction.
 - (b) Phases, if any, in which the project will be built and the expected starting and completion dates of each project.
 - (c) Size and location of each area of common use for recreation or open space purposes which will be completed at each phase.
- (4) Proposed agreements, covenants, deed restrictions, or other provisions which are proposed to govern the use, maintenance, and continued protection of the PUD and any of its common use and open areas.

C. Planning Commission Review: Upon receipt of the application and accompanying materials, the Planning Commission shall conduct a public hearing, notice of which shall be given in accordance with statutory requirements for special land uses. In formulating its recommendation to the City Council, the Planning Commission shall consider the following:

- (1). Special Land Use standards as stated in Chapter 21.
- (2). Overall objectives of PUD as stated in Chapter 18.
- (3). Qualifying condition for PUD as stated in Section 18.05.

Section 18.05 Qualifying Conditions

The following conditions shall apply, as appropriate, to all proposed PUD's.

- A. The maximum density for any residential PUD shall not exceed that which is permitted in the Zoning District where the PUD is located.
- B. The PUD site shall not be less than five (5) acres.
- C. The proposed PUD shall be designed and developed with a unified architectural treatment.
- D. Utilities, roads, and other essential services shall be available in a manner harmonious with the character of adjacent property and the surrounding area.
- E. The PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
- F. The PUD shall not change the essential character of the surrounding area.

- G. The PUD shall not be hazardous to adjacent property, or involve uses, activities, materials, or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
- H. The PUD shall not place demands on public services and facilities in excess of current capacity.
- I. Residential PUD's should have a minimum open space requirement of 20% of the total PUD site, exclusive of required yard setbacks, buffers, parking areas, drives, rights-of-ways, utility or road easements storm water detention ponds, wetlands (unless determined usable by the Planning Commission due to the addition of interpretative boardwalks/walkways, etc. provided in and through the wetland) and structures (unless the structures are part of the open space i.e. gazebos, etc.).

Section 18.06 General Requirements

- A. A Planned Unit Development shall be utilized in situations where the same land use objectives can be accomplished by the applicant of conventional zoning standards and shall not be used for the sole purpose of avoiding the applicable zoning requirements. Further, a Planned Unit Development shall comply with all regulations of the City, except as herein provided.
- B. City Council Decision: All portions of the planned unit development, including single family lots, multiple family dwelling, and public and private open spaces, shall be platted in conformance with requirements of the city of Newaygo Subdivision Control Ordinance or prepared in conformance with the requirements of the Condominium Act, Act 59 of the Public Acts of 1978.

After receipt of the recommendation from the Planning Commission, the City Council shall review the application, site plan, and recommendations, and make its findings as to denial, final approval, or approval with modifications. The latter approval with modifications shall not be considered as final approval until the applicant submits in writing to the City Council his acceptance of the modifications. A Site Plan incorporating the modifications shall be presented to the Zoning Administrator. No building permits may be issued until final approval has been rendered by the City Council on the entire Site Plan and any associated rezoning matters. When the PUD with its Site Plan is approved by the City Council, the detailed final Site Plans for each phase of a multi-phase PUD shall be reviewed and must be approved by the Planning Commission. After final approval, the following conditions shall apply where applicable.

- 1. Where the provisions of Act 288, Michigan Public Acts of 1967 as amended, shall apply, the applicant shall thereafter submit the information

and plans as may be required by Act 288 and all other local procedures or regulations pertaining to platting approval.

2. The City Council shall cause to have legal documents of contracts prepared which involve the City of Newaygo and are required as a result of the conditions contained in the final approval. All contracts shall be executed and recorded in the office of the Newaygo County Register of Deeds.
3. The Zoning Administrator shall inspect the development at each stage to insure reasonable compliance with the conditions of final approval, the final site plan shall be considered by the Planning Commission as an amendment to the original PUD and processed in accordance with Section 18.04; provided that minor changes, as described in Sec. 22.08, may be acted upon by the Zoning Administrator.

Section 18.07 Revocation

Each development shall be under construction within twelve (12) months after the date of approval of the PUD final site plan (individual phase if a multi-phase project), except as noted in the Section.

- A. The City Council may grant one (1) extension of up to an additional twelve (12) month period if the applicant applies for such extension prior to the date of the expiration of the PUD or PUD phase and provided that:
 1. The applicant presents reasonable evidence that said development has encountered unforeseen difficulties beyond the control of the applicant; and
 2. The PUD requirements and standards, including those of the Zoning Ordinance and Master Plan that are reasonably related to said development have not changed.
- B. Should neither of the provisions of Section 18.07.A. be fulfilled, or an extension has expired without construction underway, the PUD preliminary plan approval(s) shall be null and void. This does not include any phases that may have received final PUD approval.
- C. In order to utilize the property as a PUD, an applicant would have to resubmit plans for preliminary and final PUD site plan approvals as stated in this Chapter.

CHAPTER 18A PLANNED UNIT DEVELOPMENT – THE REZONING PUD

Section 18A.01 Scope

Traditional zoning, with its rigid separation of uses into different zones under very restrictive placement controls, is recognized as being inappropriate to many mixed use, phased, medium and large scale developments. Planned developments permit a developer to secure advantages which can be passed on to the general public by virtue of more desirable and more economical development. This Chapter provides a controlled degree of flexibility in the placement of structures and lot sizes and types of uses, while maintaining adequate planning and development standards. The Planned Unit Development (PUD) provisions of this Chapter 18A shall be applied as a separate zoning district, in accordance with the following additional regulations. This Chapter (and the PUD zoning district herein) shall be in addition to Chapter 18 of this Ordinance and the administrative-type PUD authorized by that Chapter 18. Having two different types of PUDs potentially available (the administrative-type PUD and a rezoning-type PUD), offers additional options and flexibility for the property owner, developer, and the City.

Section 18A.02 Objectives

The objectives, principles, and standards are intended to guide the applicant in the preparation of the land use and site development plan and they shall be used as the basis for the evaluation of the site plan by the Planning Commission and the City Council. The following objectives shall be considered in reviewing an application for a PUD rezoning in order to realize the inherent advantages of coordinated, flexible, comprehensive, and long-range planning and development of such a PUD.

- A. To provide more desirable living, shopping and working environments by preserving the natural character of open fields, rivers, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
- B. To encourage with regard to residential use the provision of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units.
- C. To encourage developers to use a more creative and imaginative approach in the development of residential areas.
- D. To provide more efficient and aesthetic use of open areas.

- E. To encourage innovation in the physical development pattern of the City by providing a variety of housing arrangements with well designed access and circulation.
- F. To encourage mixed use and phased developments where appropriate.

Section 18A.03 Application Procedure

- A. **Preliminary sketch plan.** Before submitting an application for a PUD rezoning, the applicant shall submit a preliminary sketch plan including maps and a written statement (in 12 copies) and any required fees to the City. Applications for sketch plan approval for PUDs shall be submitted to the Zoning Administrator at least 30 days prior to the date of first consideration by the Planning Commission, unless waived by the Zoning Administrator. The Planning Commission will review the preliminary sketch plan to determine its conformance with the Purpose and Objectives of this Chapter and the City's Master Plan, and the Planning Commission shall make recommendations to the applicant for the final site plan to be submitted.
 - (1) The Preliminary Sketch Plan must show enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed. The preliminary sketch plan may be in general, schematic form and must contain the following, unless the Planning Commission determines that some of the following required information is not reasonably necessary at such preliminary stage:
 - (a) A legal description of the site, reflecting area size and boundary line dimensions. A current, properly notated surveyor's map may be acceptable.
 - (b) Existing and proposed land uses and their approximate location.
 - (c) Existing topographic character of the site.
 - (d) The character and approximate net residential density being proposed.
 - (e) Circulation patterns including arterial, collector, and pedestrian.
 - (f) Public uses including schools, parks, open space, trails, etc.
 - (g) Existing flood plains, wetlands, bodies of water, and other unbuildable areas.

- (2) The written statement to be included in the preliminary sketch plan must contain the following information:
 - (a) An explanation of the character of the PUD, the manner in which it has been planned to take advantage of the PUD regulations, and the manner in which it reflects the objectives of the PUD as stated in this Chapter.
 - (b) A statement of ownership of all land within the proposed PUD.
 - (c) A general indication of the expected schedule of development.
 - (d) A general indication of the expected public interest to be served by the PUD and conformance of the PUD to the City's Master Plan.
 - (e) An indication of any contemplated private deed restrictions or covenants.
 - (f) A description of how the PUD meets the requirements of this Chapter.

B. **Final PUD.** Within one year from the preliminary sketch plan review by the Planning Commission, the applicant shall submit a final PUD application and a petition for PUD rezoning to the City Clerk on a form supplied by the City. The application (and all required fees) must be submitted to the City Clerk at least 30 days prior to the date of first consideration by the Planning Commission and must be accompanied by the following:

- (1) An application fee (and any other applicable fees) as established by the City Council.
- (2) A final site plan as specified in Chapter 22. If the PUD is to be developed in phases, the final site plan may be prepared for one or more phases.
- (3) A development schedule including:
 - (a) Approximate date for commencement of construction.
 - (b) Stages or phases in which the project will be built including the expected starting and completion dates of each phase.
 - (c) Size and location of each area of common use for recreation or open space purposes which will be complete at each phase.

- (4) Agreements, provisions, or other covenants which will govern use, maintenance, and continued protection of the PUD and any of its common use or open space areas.
- (5) A general grading plan reflecting the slope and drainage characteristics before and after development, with explanation of any potential impact on the environment, such as any loss of natural resources, increased erosion and sedimentation potential, increased flood hazard or other impacts.
- (6) Information showing that the PUD will not cause significant adverse effects upon nearby lands.
- (7) Such other information as may be required by the Planning Commission.

C. **Planning Commission Review and Recommendation.** Following receipt of the complete application, a complete petition for rezoning, and all required accompanying materials, the Planning Commission will conduct a public hearing, notice of which will be given in accordance with the Zoning Act. In formulating its recommendation to the City Council, the Planning Commission shall consider the following:

- (1) Conformance of the PUD request with the City’s Master Plan.
- (2) The overall objectives of PUD as stated in 0.
- (3) The qualifying conditions and permitted uses for the PUD.
- (4) The site plan review standards of Chapter 22.
- (5) Compatibility of the proposed PUD and its specific uses with existing and proposed development in the surrounding area.
- (6) Whether the proposed uses and structures within the PUD will be injurious to the public health, safety, and welfare of the community.
- (7) Whether the proposed PUD will adversely affect the natural environment.
- (8) Whether the proposed PUD will exceed the capabilities of public services and facilities affected or utilized by the development.

D. **City Council Decision.** After receiving the recommendation of the Planning Commission, the City Council will review the application for PUD rezoning and the Planning Commission’s recommendation and make its final decision. The City Council will make its findings as to denial or approval of the rezoning and the

site plan (with or without conditions) in accordance with the proposed PUD site plan, using the standards noted in subparagraph C of this Section.

- (1) An approval shall not be considered final until the applicant submits a written acceptance of the approved PUD site plan to the City Council. No building permit may be issued until such final approval is granted. After final approval, the following requirements shall be met if applicable:
 - (a) Where the provisions of Act 288, Michigan Public Acts of 1967, as amended, (Land Division Act) apply, the applicant shall submit to the City the information and plans as may be required by Act 288 and all other local procedures or regulations pertaining to planning approval.
 - (b) The City Council shall cause to have legal documents or contracts prepared which involve the City and are required as a result of the conditions contained in the final approval. All agreements shall be executed and recorded in the office of the Newaygo County Register of Deeds.
- (2) The Zoning Administrator shall inspect the development at each stage to insure reasonable compliance with the conditions of final approval, the final approved site plan and the approved schedule of improvements.

E. **Changes to an Approved PUD.** Changes to an approved Planned Unit Development and/or PUD site plan shall be allowed only under the following circumstances:

- (1) The holder of an approved PUD plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- (2) Minor changes may be approved at the discretion of the Planning Commission upon determining that the proposed revision(s) will not alter the basic design nor any specified conditions imposed as part of the original approval.
- (3) A proposed change not determined by the Zoning Administrator to be minor shall be submitted as a formal amendment to the PUD and reviewed in the same manner as the original PUD application.

Section 18A.04 Permitted Uses

A. The following uses of land and structures may be allowed under this Chapter if approved by the City Council as part of the PUD rezoning and approval process:

- (1) Single-family detached dwellings.
- (2) Two-family dwellings.
- (3) Multiple family dwellings.
- (4) Cluster and open space preservation developments.
- (5) Plats.
- (6) Golf courses, tennis clubs, athletic clubs, hotels, entertainment complexes, water parks, marinas, lodges, outfitters, shopping centers, pro shops, restaurants (excluding drive-ins), and similar uses.
- (7) Industrial or commercial uses.
- (8) Condominiums.
- (9) Accessory buildings, structures and uses customarily incidental to any of the above Permitted Uses.

B. Development Requirements

- (1) Density, Setback, Lot Size and other Dimensional Requirements: Requirements, minimum standards, and maximum standards such as density, setbacks, access requirements, minimum lot size, and similar dimensional requirements shall generally be as specified in the zoning district corresponding to the use involved. However, the City Council can waive or lessen (or increase) any and all such corresponding requirements pursuant to an approval of the PUD.
- (2) Open Space: Any open space provided in the PUD shall meet the following considerations and requirements:
 - (a) Open space may be established to separate use areas within the PUD.
 - (b) Open space areas shall be large enough and of proper dimensions so as to constitute a usable area, with adequate access, through easements or other similar arrangements, such that all properties within the entire PUD may utilize the available open space.

- (c) Evidence shall be given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the City of the future maintenance thereof.
 - (d) Open space may be provided where significant natural features may be preserved and/or be used for passive or active recreation.
 - (e) All land set aside as open space shall be deed restricted to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.
 - (f) In general, all open space shall be in the joint ownership of the property owners within the PUD. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space.
- (3) Signs shall be as allowed in the most restrictive zoning district in which the use requiring the sign is permitted, except as may be permitted otherwise by the City Council as part of the PUD approval process.
 - (4) Parking requirements shall be as required in Chapter 7 unless altered by the City Council.
 - (5) Utilities shall be installed underground, whenever reasonably possible.

Section 18A.05 Conditions of Approval

- A. As part of an approval of any PUD, the City Council may impose any additional conditions or limitations as in its judgment may be necessary for the protection of the public interest and to ensure that the standards and requirements of this Chapter will be met.
- B. Such conditions shall be related to and ensure that the review standards of this Ordinance are met.
- C. The conditions imposed shall be included in the Ordinance, ordinance amendment, or other document approving the PUD. The conditions shall remain unchanged unless the PUD is formally amended in accordance with this Ordinance.

Section 18A.06 Time Limit for an Approved PUD

Each PUD development shall be under substantial construction within 12 months of the date of approval of the final PUD site plan. The City Council may grant one extension of up to an additional 12-month period if the applicant applies for such extension prior to the date of the expiration of the PUD and demonstrates that the development has encountered unforeseen difficulties beyond the control of the applicant and that the applicant has proceeded diligently. Notwithstanding the preceding, the City Council may specify time limits different than the preceding for any phases or phasing of development as approved within the PUD.

Should a PUD become null and void, the City Council may rezone the property or properties back to the prior zoning classification(s) or rezone the property or properties to any other zoning classification(s). If the property is not rezoned and the PUD expires, then the property or properties remain zoned as a PUD (unless otherwise rezoned by the City as provided above), but any PUD site plan(s) which were previously approved shall be null and void. In order to utilize such property or properties as a PUD, an applicant would have to resubmit plans for both general PUD approval and a PUD site plan approval following the same procedures as if the property or properties were not located within a PUD zoning district.

Section 18A.07 Option for Developments with Multiple Uses and Phases

At the discretion of the City Council, there shall be an option available to include in the PUD approval multiple uses and multiple phases for the overall development.

Section 18A.08 PUD Agreement

- A. Prior to the issuance of any building permit or commencement of construction on any portion of any approved PUD, the applicant shall enter into a written agreement with the City in recordable form, setting forth the applicant's obligations with respect to the PUD and any conditions or requirements of the PUD.
- B. The agreement shall describe all improvements to be constructed as part of the PUD and shall incorporate, by reference, the approved site plan, all other documents which comprise the PUD, and all conditions attached to the PUD approval by the City Council.
- C. A phasing plan shall be included as part of the agreement describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.

- D. The agreement shall establish the potential remedies of the City in the event of default by the applicant in carrying out the PUD conditions and requirements and shall be binding on all successors in interest.
- E. The agreement shall be signed by both the applicant/developer and the City and shall be recorded with the Newaygo County Register of Deeds.

CHAPTER 19 OPEN SPACE PRESERVATION

Section 19.01 Purpose.

Act No. 179 of the Public Acts of Michigan of 2001 (“Act 179”), as amended, requires that cities having a population of 1,800 or more and having undeveloped land zoned for residential development at a certain density must adopt provisions in their zoning ordinances known as “open space preservation” provisions, which permit lands satisfying specified criteria to be developed, at the option of the landowner, with the same number of dwellings on a portion of the land specified in the zoning ordinance, but not more than eighty (80%) percent, that, as determined by the city, could otherwise be developed under existing ordinances, laws and rules, on the entire land area. The purpose of this chapter is to adopt open space preservation provisions consistent with the requirements of Act 179.

Section 19.02 Definitions.

Words and phrases used in this chapter, if defined in Act 179, shall have the same meaning as provided in Act 179.

Section 19.03 Eligibility

- A. Land may be developed under the provisions of this chapter only if all of the following conditions and requirements are satisfied:
- (1) The land is zoned as either the RR, R-1, or R-2 (but only for single-family dwellings) zoning district;
 - (2) The development of land under this chapter shall not depend upon the extension of a public sanitary sewer or a public water supply system to the land, unless the development of the land without the exercise of the clustering option provided by this chapter would also depend on such an extension; and
 - (3) The clustering option provided pursuant to this chapter shall not have previously been exercised with respect to the same land.
- B. If all of the preceding conditions and requirements are satisfied, the land is eligible for development, at the option of the landowner, in accordance with the provisions of the chapter.

Section 19.04 Permitted Uses.

Only those residential land uses permitted by the zoning district in which the land is located shall be permitted on land developed or used pursuant to the provisions of this chapter.

Section 19.05 Application and Review Procedure.

- A. The application requirements and review procedures for land proposed to be developed pursuant to the provisions of this chapter shall be those stated in Chapter 22 (site plan review) of this ordinance. In the event of a direct conflict between Chapter 22 (site plan review) and this chapter, this chapter shall govern.
- B. In addition to the application materials required by Chapter 22 of this ordinance (including a site plan for the proposed development), an application for the development of land under the provisions of this chapter shall include the following:

- (1) A parallel plan prepared for the purpose of demonstrating the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised.

The parallel plan shall be prepared by the developer showing a reasonable and feasible development under the requirements of the specific zoning district in which it is located and the requirements of any and all state, county, and other city regulations. All lots, roads, utilities, and other improvements shall be designed so that they do not adversely impact wetlands, floodplains, bodies of water, or drainage ways, as regulated by federal, state, county, or local agencies. Additionally, all wetlands, bodies of water, and slopes exceeding 12% shall also be shown.

It must be determined by the planning commission that this parallel plan is reasonably and feasibly able to be physically constructed and meet all current requirements, should the open space plan be denied or not constructed. If there is a question regarding water, slopes, septic, wetlands, or floodplains, the planning commission may request validation from the proper regulatory authority(s). If it is determined, through these responses, that the number or configuration of lots proposed is not allowed or reasonably feasible, the parallel plan shall be revised and resubmitted, minus that number or configuration of lots. Detailed engineering is not required at this stage.

The planning commission may also waive the submission of a parallel plan if it is determined that the number of housing units proposed for open space development is clearly below the number that would be permitted and reasonably feasible on the site. Such waiver must be recorded as part of the minutes of the planning commission.

- (2) The parallel plan may be conceptual in nature, but shall include at least the following information:
 - (a) Date, north arrow and scale, which shall not be more than one inch equals 100 feet, and, in all cases, the scale shall be the same as that

utilized for the site development plan illustrating the proposed development using the clustering option permitted by this chapter.

- (b) Location of streets and driveways.
 - (c) Location of all lots, illustrating lot area and width of each lot to demonstrate compliance with the minimum requirements of the applicable zoning district.
 - (d) Location of all utilities that would be necessary to serve a development under the parallel plan and which would not be located within any public road right-of-way or private street easement, or on buildable lots. Such utilities include, but are not limited to, storm water retention or detention basins, community sewage treatment systems, and community water supply facilities.
 - (e) If development under the parallel plan would require the use of septic tanks and drain fields, the parallel plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and drain field location for each lot would be approved, or has been approved, by the Newaygo County Health Department.
 - (f) The location of all portions of the land which make building for residential purposes difficult or impossible due to the presence of wetlands, severe slopes, bodies of water, flood plains, or other features prohibiting development for residential purposes.
 - (g) Such other information as shall be requested by the planning commission.
- (3) A copy of the conservation easement, plat dedication, restrictive covenant, or other legal instrument that would permanently run with the land, and that would have the legal effect of preserving in perpetuity the open space required by this chapter in an undeveloped state. Such legal instrument shall be reviewed and approved by the city attorney prior to recording, consistent with the terms of this chapter. The legal instrument shall:
- (a) Indicate the proposed permitted use(s) of the undeveloped open space.
 - (b) Require that the open space be maintained in perpetuity in an undeveloped condition, without buildings, structures, or other improvements, except such drainage improvements, utility lines, riding trails, hiking trails, picnic areas, park or playground equipment, or similar improvements that are approved by the planning commission.

- (c) Require that the undeveloped open space be maintained by parties who have an ownership interest in the undeveloped open space.
 - (d) Provide standards for scheduled maintenance of the undeveloped open space, including necessary pruning and harvesting of new trees and new plantings.
- (4) The site development plan for the clustering option permitted by this chapter shall include the following minimum information, in addition to that required by Chapter 22 of this ordinance:
- (a) Date, north arrow, and scale which shall not be more than 1" = 100 feet, and, in all cases, the scale shall be the same as that utilized for the parallel plan.
 - (b) The site development plan shall clearly illustrate the portions of the land that are proposed to remain in a perpetually undeveloped state and the portions of the land that will be used for clustered development.
 - (c) The site development plan shall indicate the total number of acres of land that are proposed to remain in a perpetually undeveloped state, the total number of acres of land that are proposed to be used for clustered development, and the percentage of each, as compared to the total site acreage.
 - (d) The site development plan shall illustrate the location of all lots and proposed building envelopes and shall indicate the lot area and width of each lot, and the proposed front, side, and rear yard building setbacks. The number of lots on the site development plan shall not exceed the number of lots on the parallel plan, as approved by the planning commission, and reduced to accommodate non-dwelling structures, if necessary, as described in Section 19.06J.
 - (e) The site development plan shall illustrate the location and type of all proposed structures or improvements that are not dwellings.
 - (f) If the clustered development will include septic tanks and drain fields, the site development plan shall illustrate the location of all septic tanks and drain fields. The applicant shall submit proof that the proposed septic tank and the drain field location for each lot has been approved by the Newaygo County Health Department.
 - (g) Such other information as shall be requested by the planning commission.

- (5) If the development is to be served by public streets, verification that the public rights-of-way and streets comply with the city's right-of-way and street standards. If the development is a site condominium with private streets, verification that the private streets comply with the city's right-of-way and street standards.
- C. When reviewing an application submitted under the terms of this chapter, the planning commission shall determine whether the parallel plan accurately reflects the number of dwelling units that could be developed on the land under its existing zoning if the clustering option provided by this chapter were not exercised. If the planning commission determines that the number of dwellings illustrated on the parallel plan exceeds the number of dwellings that could be permitted on the land if it were developed under its existing zoning if the clustering option provided by this chapter were not exercised, the applicant shall submit a revised site development plan for the clustering option reflecting the permitted number of dwellings, as determined by the planning commission.
 - D. The planning commission shall review the site development plan and shall approve, approve with conditions, or deny the site development plan in accordance with this chapter and other applicable provisions of this ordinance. The basis for the decision and any conditions imposed relating to an affirmative decision shall be specified in the resolution of the planning commission approving or denying the site development plan. If approved or approved with conditions, the site development plan as approved shall become part of the record of approval.
 - E. The planning commission may impose reasonable conditions in conjunction with the approval of a site development plan when necessary to effectuate the intent and purpose of this chapter and as provided in Chapter 22.

Section 19.06 Development Requirements.

- A. *Required open space.* At least twenty (20%) percent of the land proposed for development under the provisions of this chapter shall remain in a perpetually undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal instrument that runs with the land, as approved by the city attorney. The following areas shall not constitute open space:
 - (1) The area within all public street rights-of-way.
 - (2) The area within all private street easements.
 - (3) Any easement for overhead utility lines, unless adjacent to open space.
 - (4) The area within a platted lot or site condominium unit.
 - (5) Off-street parking areas.

- (6) Detention and retention ponds.
- (7) Community drain fields.
- (8) Golf course.
- (9) Wetlands.
- (10) Lakes, rivers, or ponds.
- (11) Floodplains.
- (12) Slopes over 12%.

B. *Standards for open space.* The following standards shall apply to the open space required to be preserved pursuant to this chapter:

- (1) The open space may include a recreational trail, picnic area, children's play area, greenway, linear park, or other use which, as determined by the planning commission, is substantially similar to these uses.
- (2) The open space shall be available for all residents of the development, subject to reasonable rules and regulations. The open space may be, but is not required to be, dedicated to the use of the public.
- (3) If the land contains a lake, stream, or other body of water, the planning commission may require that a portion of the open space about the body of water.
- (4) A portion of the open space shall be located along the public street frontage abutting the land. The depth of this area shall be at least 50 feet, not including public right-of-way, and this area shall be left in its natural condition or be landscaped to help preserve or enhance the existing views.
- (5) A portion of the open space shall be reasonably usable by the residents of the land for passive recreational uses such as hiking or picnicking.
- (6) Open space shall be located so as to be reasonably accessible to the residents of the clustered development. Safe and convenient pedestrian access points to the open space from the interior of the clustered development shall be provided.
- (7) Open space shall be located so as to preserve significant natural resources, natural features, scenic or wooded conditions, bodies of water, wetlands, or agricultural land.

C. *Use of open space.* All dwelling units and other structures and improvements shall be located outside that portion of the land designated as open space. However, the

- planning commission, in its discretion, may permit common use structures or improvements to be located in the open space if the structures and/or improvements would be consistent with the designated purpose of the open space. By way of example only, park or playground equipment could be permitted on open space designated for recreational use.
- D. *Houses abutting the open space.* A minimum of 50 percent of all dwelling units within the development shall abut or overlook the dedicated open space.
 - E. *Underlying zoning district.* The development of land under this chapter shall comply with all requirements of this chapter applicable to the zoning district in which the land is located, except those setback and yard size requirements that must be adjusted to allow the clustering option permitted under this chapter.
 - F. *Uniform lot size.* Lots for dwellings in the clustered portion of the development shall be as uniform in area as is reasonably practicable, unless otherwise approved by the planning commission. Flag lots or panhandle lots shall not be permitted.
 - G. *Building envelopes.* The location and area of building envelopes, as proposed by the applicant, shall be subject to the review and approval of the planning commission. The location and area of building envelopes shall be established to achieve the intent and purpose of the zoning district in which the land is located.
 - H. *Lot width.* Each lot shall have a minimum width equal to no less than 75 percent of the minimum lot width specified for the zoning district in which the land is located, unless otherwise approved by the planning commission.
 - I. *Maximum number of lots.* The clustered portion of the development shall contain not more than the maximum number of lots, as determined from the parallel plan approved by the planning commission, and as reduced to reflect the inclusion of non-dwelling unit structures, if any, as described in subsection J.
 - J. *Non-dwelling unit structures.* Lots containing non-dwelling structures such as a clubhouse and its related amenities shall be subject to all requirements of this chapter applicable to lots containing dwellings and shall further be subject to all other requirements of this chapter and other provisions of the city code applicable to the type of structure proposed. However, the planning commission may, in its discretion, permit the enlargement of a lot containing a non-dwelling structure so as to reasonably accommodate it.
 - K. *Reduction in lots for non-dwelling structures.* If structures other than dwellings, such as a clubhouse, are constructed on a lot in the clustered portion of the land, the number of dwelling lots permitted in the clustered portion of the land shall be reduced by the number of dwelling lots equivalent to the area of the lot containing the non-dwelling structure, rounded up to the nearest whole number. For the purposes of this subsection, the number of equivalent dwelling lots shall be based on the average area of lots containing dwellings in the clustered development.

- L. *Perimeter lots.* Notwithstanding any other provision of this chapter, the planning commission may require that the clustered development be designed and constructed with lot sizes and setbacks on the perimeter that will be reasonably consistent with the lot sizes and setbacks of adjacent uses (planned or existing).
- M. *Pedestrian circulation.* Adequate pedestrian circulation shall be provided by the applicant for on-site circulation. Adequate access shall be provided to all open space/recreational spaces from the residential areas. Natural paths or bike paths are encouraged within the development. Paths provided within the development shall be constructed of asphalt, gravel, woodchip, or other similar material as approved by the planning commission.
- N. *Sidewalks.* The planning commission may require that sidewalks or non-motorized trails be constructed and maintained.
- O. *Grading.* Grading within the clustered development shall comply with the following requirements:
- (1) To preserve the natural appearance of the land, all graded areas, cuts, and fills shall be kept to a minimum. Specific requirements may be placed on the area of land to be graded or to be used for building, and on the size, height, and angles of cut-and-fill slopes and the shape thereof. Retaining walls may be required.
 - (2) All areas indicated as open space on the approved development plan shall be undisturbed by grading, excavating, structures, or otherwise, except as permitted by the planning commission. Drainage improvements, utility lines, riding trails, hiking trails, picnic areas, and similar recreational improvements and amenities may be placed in open space areas if approved by the planning commission.
 - (3) Grading within the clustered development shall be planned and carried out so as to avoid erosion, pollution, flooding, or other adverse effects upon the land, and so as to have only such minimal effect upon the environmental characteristics of the land as may be reasonably feasible.
- P. *Private streets.* If the clustered development is a site condominium, private streets may be permitted in accordance with the Land Division and Development Ordinance. The planning commission may, however, modify the requirements for private streets in a clustered development and in doing so, shall consider the following criteria:
- (1) Number and type of dwelling units served by the private street;
 - (2) Traffic generation;
 - (3) Existing topography and vegetation;

- (4) Security provisions;
 - (5) Interrelationship with the public street network;
 - (6) Future installation of public utilities; and
 - (7) Likelihood of public dedication of the roadway.
- Q. *Other laws.* The development of land under this chapter is subject to all other applicable city ordinances, state and federal laws, rules and regulations, including, but not limited to, rules relating to suitability of groundwater for on-site water supply for land not served by a public water system, and rules relating to the suitability of soils for on-site sewage disposal for land not served by public sanitary sewers.
- R. *Subdivision, site condominium regulations.* After, or in conjunction with, approval of a clustered site development plan pursuant to this chapter, the developer shall comply with the requirements and procedures for subdivisions or site condominiums as applicable.

Section 19.07 Amendments to an Approved site Development Plan.

- A. An approved clustered site development plan and any conditions imposed upon its approval shall not be changed except upon the mutual consent of the planning commission and the applicant, except as otherwise stated below with respect to a minor change.
- B. A minor change may be approved by the planning director. The planning director shall notify the planning commission of the minor change and state his/her conclusion that the change does not substantially alter the basic design or conditions required for the plan by the planning commission.

The following shall be considered minor changes:

- (1) Reduction of the size of any building, building envelope or sign.
- (2) Movement of buildings or signs by no more than ten (10) feet.
- (3) Plantings approved in the landscaping plan may be replaced by similar types of plantings.
- (4) Changes requested by the city for safety reasons.
- (5) Changes which will preserve natural features of the land without changing the basic site layout.
- (6) Other similar changes of a minor nature proposed to be made to the configuration, design, layout, or topography of the site development plan

which are deemed by the planning director to be not material or significant in relation to the entire site and which the planning director determines would not have any significant adverse effect on the development or on adjacent or nearby lands or the public health, safety, and welfare.

- C. The planning director may refer any decision regarding any proposed change in an approved site development plan to the planning commission for review and approval (regardless of whether the change may qualify as a minor change). In making a determination whether a change is a minor change, or whether to refer a change to the planning commission for approval, the planning director may consult with the chairperson of the planning commission.
- D. Should the planning director determine that a requested change in the approved site development plan is not minor, resubmission to the planning commission for an amendment shall be required, and the planning commission shall consider the change in accordance with the same procedures as for an original application.

Section 19.08 Performance Guarantees.

The planning commission, in its discretion, may require reasonable mandatory performance guarantees deemed satisfactory to the planning commission. Such arrangements shall be conditioned upon faithful compliance with all of the provisions and requirements of the approved clustered site development plan, including any conditions thereto, and construction and placement of all the improvements required thereby.

In its discretion, the planning commission may rebate or refund a proportionate share of the amount specified in a performance bond, letter of credit, or cash deposit, based upon the percent or other portion of improvements completed, as verified by the planning commission.

Section 19.09 Time Limitations

Each development permitted pursuant to this chapter shall be under substantial construction within one (1) year after the date of approval of the site development plan by the planning commission. If this requirement is not met, the planning commission may, at its discretion, grant an extension not exceeding one (1) year, provided that the applicant submits reasonable evidence to the effect that unforeseen difficulties or special circumstances have been encountered, causing delay in the commencement of the clustered development.

If the clustered development has not been commenced within the above-stated time period, or within any authorized extension thereof, any building permits issued for the development or any part thereof shall be of no further effect. The applicant shall then be required to seek renewed approval from the planning commission under the terms of this chapter in order to exercise the clustering option.

CHAPTER 20 MANUFACTURED HOME PARK (MHP)

Section 20.01 Purpose

Consistent with the City's goal to provide a mix of housing styles, types, and densities to accommodate the residential needs of all groups, the Manufactured Home Park District is intended to provide regulations for manufactured home residential developments to permit additional variety in housing opportunities and choices.

Section 20.02 Definitions

Terms not defined herein shall have the definitions set forth in Section 2 of the Mobile Home Commission Act, Act 96 of the Public Acts of Michigan of 1987, as amended.

Section 20.03 Permitted Uses

- A. Manufactured homes located in a state-licensed manufactured home park.
- B. Manufactured home parks in accordance with the requirements of Section 20.05 and 20.06.
- C. State licensed residential family care facilities.
- D. Accessory buildings, structures, and uses.
- E. Home occupations.

Section 20.04 Special Land Uses

No land and/or buildings in the MHP District shall be used, except for the following purposes when approved in accordance with the requirements of Chapter 21.

- A. Utility and public service buildings, without storage yards, but not including essential public services such as poles, wires, and underground utility systems.
- B. State licensed residential group home care facilities.

Section 20.05 Site Development Requirements

- A. Site Plan Review is required for Manufactured Home Parks and all Special Land Uses in accordance with Chapter 21.
- B. Parking is required in accordance with Chapter 7.
- C. Signs are permitted in accordance with the requirements of Chapter 5.

Section 20.06 Licensed Manufactured Home Parks

- A. All manufactured home parks shall comply with the applicable requirements of Public Act 96 of the Michigan Public Acts of 1987, as amended.
- B. The parking of more than one (1) manufactured home on a single parcel of land shall be illegal in City of Newaygo, irrespective of the requirements of any other ordinance of the City, unless such parcel or parcels of land shall have been approved as a licensed manufactured home park under the provisions of this Chapter.
- C. All applications to establish a Manufactured Home Park Zoning District must be approved by the City Council, upon the recommendation of the Planning Commission, in accordance with the provisions of this Ordinance.
- D. The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. A licensed dealer and/or broker may sell new or used manufactured homes located on lots within the manufactured home park. This section shall not prohibit the sale of a new or used manufactured home by a resident of the manufactured home development provided the development permits the sale.

CHAPTER 21 SPECIAL LAND USES

Section 21.01 Scope

This section provides a set of procedures and standards for special uses of land or structures which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and community as a whole. These regulations and standards are designed to allow practical latitude for the investor or developer while maintaining adequate provision for the protection of the health, safety, convenience, and general welfare of the community.

The following Special Land Uses and any additional special land uses cited in the various Zoning Districts are subject to the conditions of this Chapter.

- A. Agriculture, including farms for general and specialized farming.
- B. Airport and landing fields
- C. Amusement parks
- D. Automobile Repair Stations
- E. Automobile Service Stations
- F. Bed and Breakfasts
- G. Body-piercing establishments and tattoo parlors
- H. Building supply and equipment establishments
- I. Cemeteries
- J. Churches
- K. Commercial enterprises producing and selling merchandise on the premises, provided that no more than fifteen (15) persons are employed on the premises and such production shall not be detrimental either by odor, noise, vibration, or smoke to the nearest occupied dwelling.
- L. Commercial recreational facilities, such as bowling alleys, indoor theaters, indoor skating rinks, or similar uses.
- M. Drive-in establishments
- N. Earth sheltered dwellings
- O. Golf courses and country clubs
- P. Hospitals, clinics, and convalescent homes
- Q. Housing for seasonal labor
- R. Junk and salvage yards
- S. Kennels and veterinary clinics
- T. Manufacturing, compounding, processing, packaging, treating, assembly, and bulk storage of:
 - (1) Chemical Products
 - (2) Rubber
 - (3) Stone, clay, glass, cement, brick, pottery, abrasive, and tile
 - (4) Fabricated metal
- U. Mining, processing, and transporting, of stone, sand, and gravel aggregate.
- V. Mortuaries and funeral homes

- W. Municipal or utility buildings, not requiring outdoor storage, community centers, libraries, museums, and similar uses.
- X. Open Air Businesses.
- Y. Outdoor seating/service areas for permitted restaurants.
- Z. Outdoor storage yards accessory to any permitted use.
- AA. Outdoor storage, display and sale of farm implements and construction equipment.
- BB. Par 3 golf, miniature golf, and driving ranges
- CC. Parking lots, including municipal and private facilities not directly on site associated with a principal use.
- DD. Private non-commercial recreation
- EE. Raising of fur bearing animals and game birds
- FF. Recreational camps and campgrounds
- GG. Residential uses
- HH. Riding and breeding stables
- II. Schools, excluding commercial schools
- JJ. Sexually-Oriented Businesses
- KK. Sales Lots and Showrooms for New and Used Motor Vehicles, Boats, Trailers, Manufactured Home and Similar Uses.
- LL. State Licensed Residential Facilities (Group and Centers)
- MM. Waste disposal facilities
- NN. Wireless Communication Towers.
- OO. Medical marijuana establishments.

Section 21.02 Application Procedures

The application for a Special Land Use shall be submitted and processed in accordance with the following:

- A. An application shall be submitted to the Zoning Administrator. Each application shall be accompanied by the payment of a fee as established by the City Council. In the event both rezoning and special approval is required for the proposed use, both requests may be submitted jointly subject to the following:
 - (1) The Ordinance procedures for each shall be followed as specified.
 - (2) All applicable standards and specifications required by the Ordinance shall be observed.
- B. The following is required for all Special Approval requests:
 - (1) The application form, completed in full, including a statement that Section 21.03 can be complied with.
 - (2) A complete site plan as specified in Chapter 22, Section 22.04.

- C. If determined by the Zoning Administrator to be complete, the application and all required information shall be forwarded to the Planning Commission for review. The Planning Commission shall then hold a public hearing, notice of which shall be published in a newspaper of general circulation in the city and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet, except that the notice shall be given not less than 5 and not more than 15 days before the application will be considered. 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 1 occupant of a structure, except that if a structure contains more than 1 dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, 1 occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than 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. The notice shall:
- (a) Describe the nature of the special land use request.
 - (b) Indicate the property which is the subject of the special land use request.
 - (c) State when and where the special land use request will be considered.
 - (d) Indicate when and where written comments will be received concerning the request..
- D. The Planning Commission shall make a recommendation to the City Council to approve deny, or approve with conditions the request for Special Land Use Approval. Upon receipt of the Planning Commission recommendation, the City Council shall review the request along with other information as is available and shall approve, deny, or approve with conditions the request for Special Land Use Approval and incorporate the reasons for such decision and any conditions which are to be imposed.
- E. Special Land Use Approval granted in accordance with this Chapter shall be valid for one (1) year from date of such approval. If construction has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the Zoning Administrator shall notify the applicant in writing of the expiration of said approval, except as noted below:
- (1) The City Council may grant one (1) six (6) month extension of such time period, provided the applicant requests the extension prior to the date of the expiration of the special land use approval.
 - (2) The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties beyond the control of the applicant, and the project will proceed within the extension period.

- (3) If neither of the above provisions are fulfilled or the six (6) month extension has expired prior to construction, the special land use approval shall be null and void.
- F. Special Land Use Approval Permits are considered renewable permits. Subject to a review every year by the Zoning Administrator and found to not warrant a renewal after that previous year, the Zoning Administrator shall submit, in writing, the reasons for non-renewal to the City Council. The Council shall determine if the permit should be renewed.
- G. The City Council shall have the authority to revoke any Special Approval after it has been shown that the applicant has failed to comply with any or all of the applicable requirements of this Chapter or any other section of this Ordinance or conditions placed by the Planning Commission or Zoning Administrator.

Section 21.03 Special Approval Standards

Prior to making a decision about a Special Land Use Approval, the City Council shall require that the following general standards, in addition to any requirements for a specific use that may be contained in Section 21.04, shall be satisfied.

- A. Each application shall be reviewed for the purpose of determining whether or not the proposed use meets the following standards, and, that each use of the proposed site will:
- (1) Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.
 - (2) Be served adequately by essential public facilities and services such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, and schools.
 - (3) Not create excessive additional requirements at public cost for public facilities and services.
 - (4) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.
 - (5) Be consistent with the intent and purpose of the Zoning District in which it is proposed to locate such use.

- B. The Planning Commission may recommend and the City Council may stipulate such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of this Ordinance will be observed. The breach of any condition, safeguard, or requirement shall automatically invalidate the granting of the Special Land Use Approval.
- C. The general standards and requirements of this Section are basic to all uses authorized by Special Land Use Approval. The specific and detailed requirements set forth in the following section relate to particular land uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements where applicable, as well as all applicable licensing agencies shall be complied with.

Section 21.04 Design Standards

Those uses specified in Section 21.01 as permitted by Special Land Use Approval in accordance with this Ordinance, shall be subject to the requirements of that District in which such use is located in addition to all applicable conditions, standards, and regulations regarding site design and development as are cited in the following:

- A. **Agriculture, including farms for both general and specialized farming.**
 - (1) Minimum parcel size shall be five (5) acres.
 - (2) All buildings other than a dwelling shall be located at least fifty (50) feet from any lot line.
 - (3) All buildings housing farm animals or poultry shall be located at least two hundred feet (200) from any lot line.
 - (4) No storage of manure or other odor or dust-producing materials shall be permitted within two hundred (200) feet of any lot line.
 - (5) Farm animals are permitted as follows:
 - (a) Raising and keeping of livestock and poultry including horses, cattle, sheep, chickens, and similar animals (excluding pigs) provided that the minimum area upon which one (1) animal may be kept shall be five (5) acres and one (1) additional animal may be kept for each additional acre over five (5) acres.
- B. **Airports and Landing Fields**
 - (1) Minimum parcel size shall be forty (40) acres.
 - (2) No commercial activity shall be permitted except those land uses which are directly related to aviation such as flight schools, aircraft sales and rental, and car leasing.

- (3) No runway, taxiway, hanger, fuel depot, or other facility shall be located within 500 feet of an existing dwelling, school, church, or other place of public assembly.
- (4) All regulations of the Michigan Department of Transportation, Bureau of Aeronautics, shall be met.

C. Amusement Parks

- (1) Minimum lot size shall be ten (10) acres.
- (2) The lots shall be located so that at least one (1) side abuts an arterial street and all access shall be from such arterial streets.
- (3) No building shall be located closer than three hundred (300) feet to any existing dwelling.
- (4) Maximum building coverage shall be twenty-five percent (25%).
- (5) Any amusement enterprise located within five hundred (500) feet of any dwelling shall be closed by a six (6) foot fence along the property boundary.

D. Auto Repair Stations

- (1) Minimum lot size shall be fifteen thousand (15,000) square feet.
- (2) Minimum lot width shall be one hundred fifty (150) feet.
- (3) No drive or curb opening shall be located nearer than fifty (50) feet to any intersection and no more than twenty-five (25) feet to any residential property line. No drive shall be located nearer than thirty (30) feet to any other driveway. No curb openings shall be permitted where, in the opinion of the Planning Commission, it may produce a safety hazard to pedestrian or vehicular traffic.
- (4) All outside storage areas for trash, used tires, auto parts, and similar items shall be enclosed by a six (6) foot sight-obscuring wall or fence.
- (5) On a corner lot, both street frontage sides shall be subject to all applicable front yard requirements.
- (6) All lubrication equipment, vehicle washing equipment, hydraulic hoist and pits shall be enclosed entirely within the building.
- (7) The lot shall be located at least three hundred (300) feet from the access drive for any library, school, playground, park, church, hospital, or nursing home.

E. Auto Service Station

- (1) Minimum lot size shall be fifteen thousand (15,000) square feet.
- (2) Minimum lot width shall be one hundred fifty (150) feet.
- (3) No drive or curb opening shall be located nearer than fifty (50) feet to any intersection and not more than twenty-five (25) feet to any residential property line. No drive shall be located nearer than thirty (30) feet to any other driveway. No curb opening shall be permitted where, in the opinion of

the Planning Commission, it may produce a safety hazard to pedestrian or vehicular traffic

- (4) All outside storage areas for trash, used tires, auto parts, and similar items shall be enclosed by a six (6) foot sight-obscuring wall or fence.
- (5) On a corner lot, both street frontage sides shall be subject to all applicable front yard requirements.
- (6) If another principal use is proposed in conjunction with the sale of gasoline such as the sale of food, clothing, hardware, or similar goods or the provision of services such as laundromats, where such use is not accessory to the auto service station, the following conditions shall be met:
 - (a) Off-street parking shall be provided in accordance with the requirements for each individual use conducted on the site.
 - (b) There shall be no increase in the number, type, or size of signs otherwise permitted for a single use on the site.
- (7) No auto service station shall be located within two hundred (200) feet of any public library, public or private school, playground, park, church, hospital, convalescent home, or any place of public assembly having a seating capacity of one hundred (100) people or more.

F. Bed and Breakfasts

- (1) Although residential zones are traditionally created to systematically and unilaterally exclude commercial uses normally allowed exclusively within a commercial or higher-end district classification, a possible exception to such prohibition is presented by a Bed and Breakfast. It is the purpose of this Section to provide standards for the establishment of Bed and Breakfasts, to allow for a more efficient use of historically significant dwellings and other related residential buildings within the City, and to assist in the preservation, upkeep and enhancement of these structures and the neighborhoods wherein they lie, while at the same time discouraging commercial exploitation of said properties. These regulations enable owners of historic homes to maintain residential buildings in a manner that keeps them primarily residential in nature and architecturally intact, thereby allowing the property owner to more fully utilize the older, larger, and generally costlier-to-maintain residential building(s) in question. It is the intent of this Section to promote Bed and Breakfast facilities compatible with the surrounding area by averting adverse impacts, such as commercialization of residential areas and excessive demand upon on-street parking.
- (2) The review procedure of approval of a Bed and Breakfast special land use shall be the review procedures set forth in this Chapter.
- (3) Application for Bed and Breakfast Special Land Use shall consist of at least the following materials:
 - a. Complete site plan application, in accordance with Chapter 22: Site Plan Review;

- b. Parking Plan, showing parking for overnight guests and resident managers/owner(s);
 - c. Exterior lighting plan;
 - d. Floor plan;
 - e. Landscaping plan;
 - f. Signage plan;
 - g. Location map identifying current owners and occupants of all properties within 500 feet of the subject property, and all thoroughfares, rights-of-way, easements and utilities.
- (4) A Bed and Breakfast shall only be permitted in a single-family, detached dwelling.
 - (5) The single family dwelling shall not be used for the hosting of public/private social events, unless a conditional use permit is obtained for a reception facility.
 - (6) The residential character of the dwelling shall be preserved and no structural alterations, construction features or site features of a non-residential nature shall be incorporated. No accessory buildings shall be used for Bed and Breakfast activities
 - (7) The owner/operator or manager of the Bed and Breakfast shall live full-time on the premises.
 - (8) Only members of the family residing on the premises shall be engaged in such operation.
 - (9) A Bed and Breakfast shall have no more than two guests rooms sharing a single bath and no more than two adult guests per guest room. For the purpose of this section, “adult” means any person over the age of 18. The bath shall contain, as a minimum, a sink, toilet and shower or bathtub.
 - (10) The maximum length of stay for any guest is 14 consecutive days.
 - (11) Two parking spaces plus one space for each guest room shall be provided; the location and screening of said places shall be determined by the Planning Commission.
 - (12) There shall be no change in the outside appearance of the building or premises that detracts from the residential character of the residence or from the residential character of the neighborhood, or other visible evidence of the conduct of such Bed and Breakfast residence other than one sign, which shall be in general accordance with the requirements of Chapter 5. In residential districts, said sign shall be mounted flat against the wall of the principal building or attached to a residential lamp post; the lamp post shall not exceed seven (7) feet in height nor be closer than five feet to the property line. In non-residential zoned districts, signage shall be in general conformance with the requirements of Chapter 5.
 - (13) The dining facilities must not be open to the public. No cooking facilities are allowed in the individual rooms. Food service may only be provided to the guests of the Bed and Breakfast establishment and for breakfast only.
 - (14) All Bed and Breakfasts must maintain a guest register. The register shall be made available for inspection by City officials upon request. Said guest register must include the names and home addresses of transient guests,

transient guests' license plate numbers, dates of stay, and the unit number/name for each transient guest.

- (15) The Building Inspector and the Fire Marshall of the City are hereby authorized to enter, examine and survey any premises in the City that is operated as a Bed and Breakfast for the purpose of enforcing the provisions of this Section. This Section shall not restrict or limit the right of entry vested in any other person under any other provisions of law.
- (16) Bed and Breakfasts shall be required to obtain a Certificate of Occupancy, Certificate of Zoning Compliance and Tax Privilege License, as well as comply with this Section and all other appropriate codes and ordinances. The Certificate of Occupancy, Certificate of Zoning Compliance and Tax Privilege License shall not be transferred to a subsequent owner, and any change in ownership, and lapse in operations greater than one year, shall require new applications for all such certificates, permits and licenses.
- (17) A certificate from the State or County Health Department shall be required as a condition precedent to issuance of permits, certificates and licenses.
- (18) A Bed and Breakfast shall not be located within 500 linear feet from the property line of another Bed and Breakfast within residential zoning districts. The restriction of this Subsection may be waived by the City Council after an application for a waiver and a hearing before the Planning Commission and upon receipt of a report from the Planning Commission, if the City Council shall find that:
 - a. The proposed use will not be contrary to the public interest or injurious to nearby properties, and the spirit and intent of this Chapter will be observed;
 - b. The proposed use will not enlarge or encourage the development of a blighted, downgraded or commercial area;
 - c. The establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or non-residential;
 - d. All other provisions of this Chapter will be observed; and
- (19) No gift shops shall be permitted in Bed and Breakfast residentially zoned areas.

G. Body-piercing establishments and tattoo parlors

No body-piercing establishment or tattoo parlor may be operated in the City of Newaygo without first having applied for and obtaining a license to do so.

The application for a license to operate a body-piercing establishment or tattoo parlor shall be made to the city clerk and shall contain the following information:

- (1) The name and address of the establishment or parlor.
- (2) The name and permanent address of the owner/operator of the establishment or parlor.
- (3) The license shall be renewed annually. Application for renewal shall be

no earlier than sixty (60) days nor later than thirty (30) days prior to expiration of current license.

- (4) The application shall include a site plan that shall include a diagram that shows all zoning districts and any school, library, public park, public playground or church within one thousand (1000) feet of the proposed use. The diagram shall be drawn to a scale of not greater than one (1) inch equals one hundred (100) feet.

No body-piercing establishment or tattoo parlor shall be permitted within six hundred (600) feet of any residential district, nor within one thousand (1000) feet of a school, library, public park, public playground, church or another body-piercing establishment or tattoo parlor. Measurement shall be made from the outermost boundary of the lot or parcel of an existing body-piercing establishment or tattoo parlor to the outermost boundary line of the lot or parcel on which is situated a school, library, public park, public playground, church or other body-piercing establishment or tattoo parlor.

The owner/operator of a body-piercing establishment or tattoo parlor shall allow for the inspection of the premises annually in conjunction with the renewal application or at any time the body-piercing establishment or tattoo parlor is open for business for the purpose of ensuring compliance with the provisions of this article.

The premises in which body-piercing or tattooing is performed and all equipment used shall be maintained in a clean, sanitary condition and in good repair. The walls, floors, and ceilings shall have an impermeable, smooth and washable surface. All tables, chairs and other equipment shall be made of non-porous materials which may be readily disinfected.

All razors, needles, latex gloves, skin-cleansing sponges, gauze dressings, and other materials that have come in contact with human blood or other body fluids, excepting furniture and floor and wall coverings, shall be considered medical waste as that term is defined in the Medical Waste Regulatory Act, being MCL 333.13801, et. Seq., and must be handled and discarded in the manner specified in such act.

An individual shall not perform body-piercing or tattooing on a minor unless the individual obtains the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian shall execute the written, informed consent required in the presence of the individual performing the body-piercing or tattooing on the minor.

An individual shall not perform body-piercing or tattooing on another individual if the other individual is under the influence of intoxicating liquor or a controlled substance.

H. Building Supply and Equipment Establishments

- (1) Outdoor storage of materials is prohibited. All storage shall be within an enclosed building.
- (2) No access to or from such establishment shall be permitted on any residential street.

I. Cemeteries

- (1) Minimum site size shall be five (5) acres.
- (2) At least one (1) side of such site shall abut and have access to an arterial street.

J. Churches

- (1) Minimum site shall be two (2) acres plus an additional fifteen thousand (15,000) square feet of each one hundred (100) seating capacity or fraction thereof in excess of one hundred (100).
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) For every one (1) foot by which the building, exclusive of spire, exceeds the maximum height, limitations of the District, an additional foot of front, side, and rear yard shall be added to the minimum requirement.
- (4) At least one (1) side of such lot shall abut and have access to an arterial street.

K. Commercial Enterprises Producing and Selling Merchandise on the Premises, provided that no more than fifteen (15) persons are employed on the premises and such production shall not be detrimental either by odor, noise, vibration, or smoke to the nearest occupied dwelling

- (1) The total floor area devoted to production shall not exceed twice the area devoted to retail sales.
- (2) Loading areas and truck circulation shall be confined to the rear of the structure.
- (3) There shall be no perceptible industrial character to the building. All production operations and storage shall be within a completely enclosed building.

L. Commercial Recreation Facilities, such as bowling alleys indoor theaters, indoor skating rinks, or similar uses

- (1) Driveway openings shall be located at least one hundred (100) feet from any street intersection (measured from the nearest right-of-way line) to the edge of such driveway.
- (2) All buildings shall be located at least one hundred (100) feet from any residential use in any Residential District.

- (3) All uses shall be conducted within an enclosed building.

M. Drive-In Establishments

- (1) Driveway openings shall be located as far from street intersections as practical but in no case closer than one hundred (100) feet (measured from the nearest right-of-way line to the edge of such driveway).
- (2) No drive shall be closer to any other drive than two hundred (200) feet.
- (3) Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.
- (4) All buildings shall be set back a minimum distance of sixty (60) feet from any adjacent right-of-way line.
- (5) Driveway entry signs shall be permitted as allowed in this Ordinance.
- (6) All refuse containers shall not be located in the front yard and be screened from view by a six (6) foot high fence or wall of sound construction and painted or otherwise attractively finished.

N. Earth Sheltered Dwellings

- (1) All yard, lot, and area requirements of the Zoning District in which the dwelling is located shall apply. Ground covering any portion of the dwelling shall not be included as required yard area.
- (2) The design of the structure shall be certified by an architect or engineer registered in the State of Michigan.
- (3) If the dwelling is to be substantially covered by earth or hidden from view, consideration shall be given to the location of outdoor storage areas, mechanical equipment, and accessory structures which may require screening or other methods of concealment to minimize their visual impact upon surrounding areas.

O. Golf Courses, Country Clubs and Driving Ranges

- (1) Minimum lot size shall be forty (40) acres.
- (2) All buildings shall set back a minimum distance of seventy-five (75) feet from all property and right-of-way lines.
- (3) Lighting shall be shielded to reduce glare and shall be so arranged and maintained as to direct light away from all residential lands which adjoin the suite.

P. Hospitals, Clinics, and Convalescent Homes

- (1) All sites shall abut and have access to an arterial street.
- (2) Hospitals and convalescent homes shall be set back at least seventy-five (75) feet from the road right-of-way line and fifty (50) feet from all other property lines.

Q. Housing for Seasonal Labor

- (1) All such housing shall be in conjunction with an active agricultural operation.
- (2) Proper interior and exterior maintenance of all structures shall be provided.
- (3) All applicable Federal, State, and County regulations shall be complied with.

R. Junk and Salvage Yards

- (1) Minimum lot size shall be five (5) acres
- (2) The setback from the front property line to the area upon which junk materials are stored shall not be less than one hundred fifty (150) feet and said area shall be screened from view around the entire periphery of the site by a wall or fence at least six (6) feet in height. Such wall or fence shall be of sound construction and painted or otherwise attractively finished.
- (3) The area where junk materials are stored, including all buildings, shall be located no closer than five hundred (500) feet to any public building, church, hospital, sanitarium, convalescent home, day nursery, school, or similar use nor closer than one hundred (100) feet to any Residential District boundary line. A one hundred (100) foot greenbelt shall be provided along the property line in all cases.
- (4) All structures, fencing, and storage yards shall be setback not less than fifty (50) feet from any street and any Commercial or Industrial District boundary line. Such setback shall be maintained as a greenbelt to minimize the appearance of the installation.

S. Kennels and Veterinary Clinics

- (1) Minimum required setback for all buildings shall be seventy-five (75) feet. No structure shall be closer than fifty (50) feet to any property line.
- (2) For kennels, the minimum lot size shall be two (2) acres for the first four (4) dogs and an additional ten thousand (10,000) square feet for each one (1) additional dog.
- (3) The Planning Commission shall consider the effects of noise, odor, and sanitary conditions on surrounding properties and may require additional safeguards to prevent any possible nuisance.

T. Manufacturing, Compounding, Processing, Packaging, Treating, Assembly, and Bulk Storage of Certain Products

- (1) Minimum lot size shall be five (5) acres.
- (2) Minimum required front setback for all buildings shall be one hundred (100) feet.
- (3) This land use shall not be permitted within one thousand (1,000) feet of any Residential District.

- (4) The site shall abut and have direct access to an arterial street.
- (5) Proposed truck routes to and from the site shall be subject to the Planning Commission approval.
- (6) All applicable Federal, State, and County regulations shall be complied with.

U. Mining, processing, and transporting stone, sand or gravel aggregate.

- (1) All uses shall comply with the applicable standards of the State of Michigan.
- (2) No fixed machinery shall be erected or maintained within fifty (50) feet of any property or street right-of-way. No cut or excavation shall be made closer than fifty (50) feet to any property or street right-of-way line in order to ensure sub lateral support to surrounding areas.
- (3) Where it is a public hazard, the excavation site shall be enclosed by a fence at least six (6) feet high around the entire periphery of the site or hazardous portion thereof. Fences shall be adequate to prevent trespass, and shall be placed no closer than fifty (50) feet to the top or bottom of any slope.
- (4) No slope shall exceed an angle with the horizontal of forty-five (45) degrees.
- (5) No building shall be erected as temporary shelter for machinery and a field office.
- (6) Proposed truck routes to and from the site shall be subject to approval.
- (7) Proper measures, determined by the Zoning Administrator, shall be taken to minimize the nuisance of noise, dust, and flying rock.
- (8) A contour plan showing the existing grade of the site, areas where excavation will occur, the final grade of the site when excavation is completed, and the end use to which the site will be put, shall be submitted for approval prior to beginning excavation.
- (9) When excavation and removal operations are completed, the excavated area shall be graded so that the slope shall not exceed a ratio of 3:1 (horizontal-vertical). A layer of arable topsoil shall be spread over the excavated area, except for exposed rock surfaces or areas below natural water level, to a minimum depth of four (4) inches in accordance with the approved contour plan. Such areas shall also be seeded with a perennial rye grass and maintained until the area is stabilized as determined by the Zoning Administrator.

V. Mortuaries and Funeral Homes

- (1) Minimum lot area shall be one (1) acre and the minimum width shall be one hundred fifty (150) feet.
- (2) A well designed and landscaped off street vehicle assembly area shall be provided for funeral processing activity. This area shall be in addition to the required off street parking area.
- (3) A caretaker's residence may be provided within the principal building.
- (4) The site shall abut and have access to an arterial street.

W. Municipal Buildings and Utility Buildings, not requiring outdoor storage, community centers, libraries, museums, and similar uses:

- (1) All such buildings shall be located at least fifty (50) feet from any dwelling.
- (2) No outdoor storage shall be permitted.
- (3) Refuse containers shall be not located in the front yard and be screened from view by a six (6) foot high fence or wall of sound construction and painted or otherwise attractively finished.
- (4) All off street parking areas shall be landscaped and screened from view of adjoining dwellings.

X. Open Air Businesses

- (1) Minimum lot area shall be one (1) acre.
- (2) Minimum lot width shall be two hundred (200) feet.
- (3) The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
- (4) All open air businesses shall comply with all applicable Health Department regulations regarding sanitation and general health conditions.
- (5) The Planning Commission may, to insure strict compliance with any regulation contained herein and required as a condition of special land use approval, require the permittee to furnish a performance bond in accordance with this Ordinance.
- (6) The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
- (7) Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
- (8) All lighting shall be shielded from adjacent residential areas.
- (9) In the case of a plant materials nursery:
 - a. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the District.
 - b. All loading activities and parking areas shall be provided on the same premises (off-street).
 - c. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
- (10) No display area shall be located within ten (10) feet of a road right-of-way line.

Y. Outdoor seating/service areas for permitted restaurants

- (1) Outdoor dining/seating must be accessory to an approved use.
- (2) Outdoor dining/seating area may not encroach into a public right-of-way.

- (3) The site plan shall indicate maintenance of eight (8) feet of clear space from tree canopies.
- (4) All alcoholic beverages shall be sold to patrons seated at tables and only for consumption on the premises. No outdoor bars, patron dancing, or live entertainment shall be permitted in the outdoor dining/seating.
- (5) The area designated for outdoor dining/seating must be enclosed with a decorative metal fence consistent with the fencing requirements of the City and no more than 25% opaque.
- (6) Outdoor dining/seating shall not extend between the hours of 11 p.m. and 6 a.m.
- (7) Parking for outdoor dining/seating shall be provided at a ratio of one space for each 70 square feet of gross floor area (GFA).
- (8) Lighting visible from the public right-of-way should be unobtrusive and in keeping (night and day) with the architectural character of the district. Indirect lighting and accent lighting for public entrances are encouraged.

Z. Outdoor storage yards accessory to any permitted use

- (1) Outdoor storage yards may not be located in the front yard.
- (2) Screening and landscaping requirements are subject to Chapter 6.

AA. Outdoor storage, display and sale of farm implements and construction equipment

- (1) No display area shall be located within ten (10) feet of a road right-of-way line.
- (2) The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
- (3) Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.
- (4) All lighting shall be shielded from adjacent properties.

II. Par 3 Golf, Miniature Golf, and Driving Ranges

- (1) All sites shall abut and have access to an arterial street and all traffic should be from said street.
- (2) All points of ingress and egress for motor vehicles shall be located no closer than two hundred (200) feet from the intersection of two (2) streets.
- (3) Where such uses abut a Residential District, a transition strip of one hundred (100) feet in width shall be provided between all operations and structures, including fences, and the residential property. The size and type of landscape materials to be used in such transition strip shall be approved by the Planning Commission.
- (4) All lighting shall be deflected away from adjacent streets and property.

CC. Parking Lots, including municipal and private facilities not directly associated with a principal use

- (1) All such lots shall be hard-surfaced with asphalt, concrete or another approved material and shall be graded and drained to dispose of surface water.
- (2) All lighting shall be deflected away from adjacent streets and residential property.
- (3) Where a parking lot is adjacent to or across the street from a Residential District, a landscaped greenbelt at least ten (10) feet in width shall be provided along all property lines abutting or facing such Residential District.
- (4) Adequate ingress and egress to the parking lot, by means of limited and clearly defined driveways, shall be provided. No driveway shall be located closer than one hundred (100) feet to a street intersection.

DD. Private Non-Commercial Recreation

- (1) The lot shall abut and have direct access to an arterial street.
- (2) No outdoor activity areas shall be located within one hundred (100) feet of any property line.
- (3) Retail sales may be permitted to members and guests only and there shall be no externally visible evidence of commercial activity, however incidental. All access to such commercial space shall be from within the building.

EE. Raising of fur-bearing animals or game birds

- (1) Minimum parcel size shall be five (5) acres.
- (2) All buildings other than a dwelling shall be located at least fifty (50) feet from any lot line.
- (3) All buildings housing farm animals or poultry shall be located at least two hundred feet (200) from any lot line.
- (4) No storage of manure or other odor or dust-producing materials shall be permitted within two hundred (200) feet of any lot line.
- (5) Farm animals are permitted as follows:
 - (a) Raising and keeping of livestock and poultry including horses, cattle, sheep, chickens, and similar animals (excluding pigs) provided that the minimum area upon which one (1) animal may be kept shall be five (5) acres and one (1) additional animal may be kept for each additional acre over five (5) acres.

FF. Recreation Camps and Campgrounds

- (1) Minimum lot size shall be three (3) acres.

- (2) Public stations, housed in all weather structures, containing adequate water outlet, waste container, toilet, and shower facilities shall be provided in accordance with City, State and/or Newaygo County requirements.
- (3) No commercial enterprise shall be permitted to operate on the grounds, except those activities which are solely for the use of patrons of the camp or campgrounds.
- (4) Each campsite shall contain a minimum area of twelve hundred (1,200) square feet.

GG. Residential Uses

- (1) All residential uses must have a separate entrance from the first floor activities.
- (2) Residential uses must meet all applicable City, County, and State codes.
- (3) Residential use may not be located on the same floor as any commercial use.

HH. Riding and Breeding Stables

- 1) No storage of manure or odor or dust producing materials or use shall be permitted within fifty (50) feet.
- 2) Stables and other building (excluding residential structures) shall not be closer to any adjoining lot line than fifty (50) feet.
- 3) For commercial breeding, rearing, and housing of horses, mules, and similar domestic animals, the minimum lot size shall be ten (10) acres.

II. Schools (excluding commercial schools)

- (1) Traffic generated by adjacent uses shall be considered prior to approving the location of any driveways.
- (2) No recreation or play areas shall be located within fifty (50) feet of any existing dwelling.
- (3) All vehicular access to and from the site shall be from an arterial street.

JJ. Sexually-Oriented Businesses

(1) Purpose and Intent

The purpose and intent of these provisions is to regulate sexually oriented businesses and related activities to promote the health, safety, and welfare of patrons and employees of such businesses, and to promote the health, safety, and welfare of the citizens of the City of Newaygo. In the development and execution of this subsection, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of

them are concentrated under certain circumstances or when one or more of them is located in proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a surrounding residential neighborhood. These provisions are not intended, nor shall they have the effect of, imposing a limitation or restriction on the content of any communicative materials including, but not limited to, sexually oriented materials that are protected by the First Amendment to the United States Constitution or by Article I, Section 5 of the Michigan Constitution of 1963. Additionally, it is not the intent of the provisions of this Ordinance, nor shall it have the effect of, restricting or denying access by adults to sexually oriented materials that are protected by said federal and state constitutions. Further, it is not the intent of these provisions, nor shall they have the effect of, denying access by the distributors and exhibitors of sexually oriented entertainment to their target market. These regulations shall not be interpreted as intending to legitimize any activities which are prohibited by federal or state law, or by any other Ordinance of the City of Newaygo.

(2) **Definitions**

The following words and terms, as used in this Ordinance, shall have the meaning indicated in this Section.

- a. *Adult Bookstore, Adult Novelty Store, or Adult Video Store* - A commercial establishment that, as one of its business purposes or services, offers for sale or rental for any form of consideration, any one or more of the following:
 - i. Books, magazines, periodicals, or other printed and/or electronic or digital matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations or media which depict or describe specified sexual activities or specified anatomical areas; or,
 - ii. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities. A commercial establishment may have other business purposes or services that do not involve the offering for sale or rental of the material identified in paragraphs i. or ii. above, and still be categorized as an Adult Bookstore, Novelty Store, or Video Store. The sale or rental of such material shall be deemed to constitute a business purpose or service of an establishment if it comprises forty (40) percent or more of the establishment's gross revenues, or if

such materials occupy forty (40) percent or more of the floor area of visible inventory within the establishment.

- b. *Adult Cabaret* - A nightclub, bar, restaurant, lounge, or similar commercial establishment that regularly features:
 - i. Persons who appear in a state of nudity;
 - ii. Live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas; or,
 - iii. Films, motion pictures, video cassettes, slides, electronic, digital, other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

- c. *Adult Motion Picture Theater* - A commercial establishment which, for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

- d. *Sexually Oriented Business* - An adult bookstore, video store, or novelty store, adult cabaret, adult motion picture theater, or a commercial enterprise that regularly features the sale, rental, or exhibition for any form of consideration, of books, films, videos, DVDs, magazines, or other visual representation of live performances which are characterized by an emphasis on the exposure or display of specified sexual activities or specified anatomical areas.

- e. *Specified Anatomical Areas* -
 - i. Less than completely and opaquely covered human genitals, pubic region, buttock or anus; or female breast immediately below the top of the areola; or,
 - ii. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

- f. *Specified Sexual Activities* -
 - i. Human genitals in a state of sexual stimulation or arousal;
 - ii. Acts of human masturbation, sexual intercourse or sodomy; or
 - iii. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(3) **Land Use Requirements**

- a. The land use is located within a zone district in which sexually oriented businesses are specifically permitted as a Special Land Use.
 - b. The use is not located within a 1,000 foot radius of any other such use, measured in a straight line from the nearest lot line to the nearest lot line, except that such restrictions may be waived by the City Council, if the following findings are made:
 - i. That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this subsection will be observed.
 - ii. That the proposed use will not enlarge or encourage the development of a blighted or deteriorating area in its immediate surroundings.
 - iii. That the establishment of a regulated use, or an additional regulated use, in the area will not be contrary to any program of neighborhood conservation.
 - iv. That all applicable state laws and local ordinances will be observed.
 - v. Prior to the granting of any waiver as herein provided, the City Council may impose any such conditions or limitations upon the establishment, location, construction, maintenance, or operation of the regulated use as may, in its judgment, be necessary for the protection of the public interest. Any evidence and any guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
 - c. Parking spaces shall be provided at the ratio of one (1) space per person permitted by the maximum occupancy load established by local, county, state, fire, health, or building codes.
- (4) No adult use shall remain open at any time between the hours of eleven o'clock (11:00) P.M. and ten o'clock (10:00) A.M. and no such use shall be open on Sundays.
- (5) No alcohol shall be served at any adult use.
- (6) No adult use shall permit any person under the age of eighteen (18) years to enter the premises. Signs shall be conspicuously posted noting that such minors are not allowed.
- (7) All parking areas and the building shall be well lighted to ensure the safety and security of patrons. These areas shall remain lighted for one (1) hour

- after closing each night.
- (8) The use shall be located more than five hundred (500) feet from any Residential District boundary, measured to the nearest lot line of the proposed use.

KK. Sales Lot and Showrooms for New and Used Motor Vehicles, Boats, Trailers, Manufactured Homes and Similar Uses

- (1) The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water by approved methods.
- (2) No display area shall be located within required front yard.
- (3) All lighting shall be shielded from adjacent properties and roadways.
- (4) Ingress and egress shall be provided as far as practicable from two (2) intersecting streets and shall be at least one hundred (100) feet from an intersection.

LL. State Licensed Residential Facilities (Group and Centers)

- (1) The use shall be registered with the City and shall continually have on file with the City documentation of a valid license as required by the state.
- (2) The applicant shall submit documentation of compliance with State Building and Fire Codes.
- (3) There shall be sufficient outdoor play area to meet state regulations. All required outdoor play areas shall be fenced with a four (4) foot tall fence, provided that no fence shall be located in a front yard.
- (4) Non-residential parking setback and screening provisions shall apply.
- (5) The building shall have an appearance that is non-intrusive and consistent in color, materials, roofline and architecture with the District and neighborhood in which it is located.

MM. Waste Disposal Facilities (Landfills)

- (1) All uses shall be established and maintained in accordance with all applicable County, State, and Federal requirements.
- (2) All uses shall be enclosed by a fence six (6) feet or more in height around the periphery of the property. Fences shall be adequate to prevent trespassing and contain debris.
- (3) All areas within any single development shall be rehabilitated progressively as they are filled or abandoned so they will not be hazardous and will be inconspicuous and blend with the surrounding terrain.
- (4) Proposed truck routes to and from the site shall be subject to approval.

- (5) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to any single property, individual, or the community in general.

NN. Wireless/Communication Towers

- (1) The minimum lot size shall be the same as that of the district in which the tower is located.
- (2) The tower shall be set back from all lot lines a minimum distance equal to one-half (1/2) the height of the tower. All other buildings, structures, and guy wires shall meet the minimum setback requirements of the Zoning District.
- (3) In Residential Districts, such towers shall not exceed one hundred (100) feet in height, unless located on publicly owned land.
 - a. Existing commercial wireless communication towers established prior to the adoption of the Wireless Communication Tower Ordinance in December 2003, located in residentially zoned districts may be rebuilt to a height not to exceed 195 feet for the sole purpose of accommodating co-location.
- (4) A security fence at least six (6) feet in height shall be constructed around the tower and supports.
- (5) Where possible, joint use of tower facilities shall be required for multiple users (co-location) in order to minimize the number of separate towers and individual locations throughout the city. As a condition of approval, the applicant shall agree to permit future users to share the tower facility.
- (6) Unless located on the same site or tower with another user, no new tower shall be erected within a two (2) mile radius of an existing radio, television, or cellular communications tower.
- (7) Where the effect of any of the provisions of this ordinance would be to prevent or preclude the operation of amateur radio antennas, the City Council may approve the use if the applicant demonstrates that the requirements would interfere with the reasonable accommodations of amateur radio communications.

OO. Medical Marijuana Establishments

- (1) General requirements.
 - (a) All such buildings shall be located at least 500 feet from any dwelling.
 - (b) No storage or activities, including growing of plants, may occur outside of an enclosed building.
 - (c) Refuse containers shall be not located in a front yard and shall be screened from view by a six (6) foot high fence or wall of sound construction and painted or otherwise attractively finished.

- (d) All off street parking areas shall be landscaped.
 - (e) Front and side yard areas shall be landscaped so as to minimize the visual impact of the principal structure.
 - (f) On a corner lot, both street frontage sides shall be subject to all applicable front yard requirements.
 - (g) Such uses shall comply at all times and in all circumstances with Ordinance No. 17-01, Chapter 52 of the City of Newaygo General Code of Ordinances regarding medical marihuana facilities, the Michigan Medical Marihuana Act of 2008, the Medical Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the general rules of the medical marihuana licensing board and the Department of Licensing and Regulatory Affairs, or their successors, as the foregoing laws and regulations may be amended from time to time.
 - (h) Except as expressly permitted by state law or City ordinance, the consumption, dispensation and/or use of medical marihuana at a medical marihuana establishment is prohibited.
- (2) Minimum Operational Standards of a Medical Marihuana Grower Facility.
- (a) The following minimum standards for a medical marihuana grower facility shall apply:
 - (i) The premises shall be open for inspection by the City during the stated hours of operation and as such other times as anyone is present on the premises;
 - (ii) Any medical marihuana grower facility shall comply with state law and shall maintain a log book and/or database identifying by date the amount of medical marihuana and the number of medical marihuana plants on the premises which shall not exceed the amount permitted under the grower license issued by the state. This log shall be available to law enforcement personnel to confirm that the medical marihuana grower does not have more medical marihuana than authorized at the location;
 - (iii) That portion of the structure where any chemicals such as herbicides, pesticides, and fertilizers are stored shall be subject to inspection and approval by lawful governmental authorities at all times to ensure compliance with the state and City laws;
 - (iv) There shall be no other accessory uses permitted within the facility other than those associated with growing or cultivating medical marihuana;

(v) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana is exposed;

(vi) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests;

(vii) Any buildings, fixtures and other facilities shall be maintained in a clean and sanitary condition;

(viii) Medical marihuana grower facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind; and

(b) Exterior signage or advertising identifying the facility as a medical marihuana grower facility shall be prohibited.

(3) Minimum Operational Standards for a Medical Marihuana Safety Compliance Facility.

(a) The following minimum standards for a safety compliance facility shall apply:

(i) The premises shall be open for inspection by the City during the stated hours of operation and as such other times as anyone is present on the premises;

(ii) Any safety compliance facility shall maintain a log book and/or database identifying by date the amount of medical marihuana on the premises and from which particular source;

(iii) There shall be no other accessory uses permitted within the facility other than those associated with testing medical marihuana;

(iv) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana is exposed;

(v) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition; and

(b) Exterior signage or advertising identifying the facility as a medical marihuana safety compliance facility shall be prohibited.

(4) Minimum Operational Standards for a Medical Marihuana Processor Facility.

(a) The following minimum standards for a medical marihuana processor facility shall apply:

(i) The premises shall be open for inspection by the City during the stated hours of operation and as such other times as anyone is present on the premises;

(ii) Any medical marihuana processor facility shall comply with state law and shall maintain records necessary for such purposes. Such records shall be available to law enforcement personnel to confirm such compliance;

(iii) That portion of the structure where any hazardous materials or chemicals are used or stored shall be subject to inspection and approval by lawful governmental authorities at all times to ensure compliance with the state and City laws;

(iv) There shall be no other accessory uses permitted within the facility other than those associated with creating or manufacturing marihuana-infused products to the extent authorized by law;

(v) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marihuana is exposed;

(vi) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests;

(vii) Any buildings, fixtures and other facilities shall be maintained in a clean and sanitary condition;

(viii) Medical marihuana processor facilities shall be free from infestation by insects, rodents, birds, or vermin or any kind; and

(b) Exterior signage or advertising identifying the facility as a medical marihuana processor facility shall be prohibited.

CHAPTER 22 SITE PLAN REVIEW

Section 22.01 Scope

The purpose of this Chapter is to provide for consultation and cooperation between the applicant and the Planning Commission in order that the applicant may accomplish planned objectives in the utilization of land within the regulations of this Zoning Ordinance. It is also intended to ensure that the development may be completed with a minimum adverse effect on the use of adjacent streets and highways, and on existing and future uses and environment in the immediate area and general vicinity.

Section 22.02 Regulations

In accordance with the provisions of this Chapter, the Planning Commission shall be furnished a site plan prior to the creation of a new use, expansion of the current use, addition to an existing building or use, erection of a building, change of use requiring increased parking and expansion or construction of a parking lot in the following districts as cited below.

- A. Permitted uses in the following districts:
 - (1) R-3 Multiple Family Residential
 - (2) MHP Manufactured Home Park District
 - (2) B-1 Community Business District
 - (3) B-2 Highway Business District
 - (4) I-1 Industrial District
- B. Special Approval Uses in any Zoning District.
- C. All site condominium subdivisions and other condominium projects developed pursuant to the Condominium Act (MCLA 559.101 et seq).
- D. All platted subdivisions pursuant to the Land Division Act, P.A. 288 of 1967, as amended.
- E. All Planned Unit Developments.
- F. All developments in or near wetlands and 100-yr floodplains, including single family homes, for which a permit is required by the Michigan Department of Environmental Quality.

- G. For any other use or development for which the submission of a site plan is required by this Ordinance.

Section 22.03 Exemptions

The following shall be exempt from the site plan requirements of this Ordinance:

- A. A single or two (2) family dwelling when permitted by right on a lot on which there exists no other building or use.
- B. Other exemptions to the site plan requirement are:
 - 1) Renovations to existing buildings, which result in an increase of less than fifteen (15) percent of the floor area.
 - 2) Each site plan shall contain the requirements set forth in Section 22.04, unless specifically waived by the Planning Commission.

Section 22.04 Site Plan Requirements

Each site plan submitted shall contain the following information. All plans shall be prepared by and contain the seal of a professional engineer, architect, land surveyor, or landscape architect.

- A. The date, north arrow, and scale. The scale shall be not less than 1" = 20' for property under three (3) acres and at least 1" = 100' for those three (3) acres or more.
- B. The name, firm name, address and phone number of the professional individual responsible for the preparation of the site plan.
- C. The name and address of the property owner or petitioner, and proof of ownership or option to purchase.
- D. A locational sketch drawn to scale, illustrating the closest major cross streets, zoning and existing land use of adjacent parcels.
- E. Legal and common or popular description of the subject property.
- F. The size in acres or square feet of the subject property.
- G. All lot and/or property lines are to be shown with dimensions, including building setback lines on corner lots.
- H. The location of all existing structures within one hundred (100) feet of the subject property's boundary.

- I. The location and dimension of all existing and proposed structures on the subject property.
- J. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas including total number of parking spaces (show dimensions of a typical parking space), unloading areas, recreation areas, common use areas, and areas to be conveyed for public use and purpose.
- K. The location, pavement width, and right-of-way width of all abutting roads, streets, alleys, or easements.
- L. The existing zoning of the subject property and all properties abutting the subject property.
- M. The location of all existing and proposed landscaping and vegetation and the locations, height, and type of existing and proposed fences and walls.
- N. Utilities and Infrastructure - Size and location of all existing utilities, including utility poles, drainage, telephone, electric, water, sewer, gas, drinking water wells, monitoring wells, irrigation wells, test wells, wells for industrial processes or wells that have no identified use, septic tanks, drain fields, ditches, underground storage tanks, above-ground storage areas, etc. Include the location of any existing floor drains and proposed connections to public sewer or water supply systems. General-purpose floor drains shall be connected to a public sewer system or an on-site holding tank (not a septic system), in accordance with state, county and municipal requirements, unless a permit has been obtained from the State of Michigan. Abandoned wells (wells that are no longer in use or are in disrepair), shall be plugged in accordance with regulations and procedures of the State of Michigan and Newaygo County.
- O. Surface Water Drainage Facilities - The location and size of all surface water drainage facilities; including inverts, gate wells, manholes, and catch basins; location and elevations of ditches, culverts, and bridges adjacent to the site. Documentation to support the adequacy of proposed facilities must accompany the site plan.
- P. Subsurface Water Drainage Facilities - The general proposed utility layout for sanitary sewer, water, and storm water systems; the location of any floor drains in proposed structure(s) on the site (the point of discharge for all drains and pipes shall be specified on the site plan); description and drawings showing size and location for any proposed aboveground and underground storage tanks, piping lines and dispensers. Documentation to support the adequacy of proposed facilities must accompany the site plan.
- Q. Existing Natural Features – The location and type of natural features such as woods, wetlands, streams, rivers, lakes, drains, sensitive land areas, floodplains, etc., must

be provided on the site plan, as well as the 100-yr floodplain elevation labeled with USGS datum.

- R. Soil and Ground Water Detail - Adequate information concerning soils, groundwater, water table, and the impact of the proposed activities on each. Soils information for sites utilizing on-site septic tanks and drain fields; location and extent soils that is unbuildable in their natural state because of organic content, water table elevation or otherwise. Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of the cleanup or closure. Earth penetration from drilling, direct-push or other earth boring activities shall be sealed with grout, or with soil material exhibiting lower hydraulic permeability than the native soil.
- S. For all site plans, contour intervals shall be shown at two (2) foot intervals.
- T. First floor elevation of all buildings based on USGS datum must be provided.
- U. Location and screening of trash storage areas. If no outdoor trash storage is intended, the site plan shall so state.
- V. Summary schedules and views should be affixed as applicable in residential developments, which give the following data:
 - 1. The number of dwelling units proposed by type, including typical floor plans for each type of dwelling unit.
 - 2. Typical elevation views of the front, side and rear of each type of building.
 - 3. Proposed density of the completed project.
- W. Grading and Drainage Plan – Drainage plan shall address natural drainage, storm sewer systems, sub-drainage, and Soil Erosion and Sedimentation Control. Proposed storm drainage systems shall include – location, dimensions, and calculations of storm water detention and retention areas; location , size, calculations, and material type of storm sewers; location and centerline elevations of swales or ditches; inverts; location of manholes and catch basins; direction of flow; swales; ditches; and design basis. Include proposed retaining walls – location, dimensions, material of the wall and fill, typical sections, and design calculations. Sufficient data regarding site runoff estimates and off-site drainage patterns shall be provided to permit review of feasibility and permanence of drainage detention and/or retention as well as the impact on local surface and groundwater. The landscape plan, the utilities plan, and the grading and drainage plan may be combined if the required information could reasonably be portrayed.
- X. Other Agency Reviews, Regulation, and Approvals - The applicant shall ensure and be able to demonstrate, to the satisfaction of the City, that all necessary reviews and

approvals of other local, county, state, and federal agencies and associated regulations are satisfactorily met, complied with, and completed. This includes completion of the City of Newaygo State & County Environmental Permit Checklist (Checklist) and submittal of Checklist to the Zoning Administrator. Those agencies may include: Michigan Department of Environmental Quality (MDEQ) (for wetlands, lakes, streams, dams, floodplain, groundwater discharges, where applicable), Newaygo County Road Commission and/or Michigan Department of Transportation (road rights-of-way), Newaygo County Drain Commission (drainage districts), Newaygo County Health Department (wells, septic systems, Pollution Incident Prevention Plans), etc.

Section 22.05 Submittal and Approval

- A. The site plan, including additional or related information required by the Planning Commission, shall be presented to the Zoning Administrator by the Petitioner or Property Owner or his designated agent in eleven (11) copies. Prior to review by the Planning Commission, all site plans shall be reviewed by the Zoning Administrator and, when needed, by the building inspector, City Planner, City Engineer and Fire Chief, to ensure compliance with the submittal requirements of this Ordinance, consistency with existing zoning, and consistency with the site development requirements of the zoning district in which the subject property is located.
- B. After administrative review of a site plan, and determining the application and the site plan are complete, the Zoning Administrator shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting upon payment by the applicant of a fee, as determined and established by the City Council.
- C. The Planning Commission shall have the responsibility and authorization to approve, disapprove, or approve subject to conditions, the subject Site Plan in accordance with this Article and the purposes of this Ordinance.
- D. The Planning Commission may require a performance guarantee as provided in Section 24.10 (Administration Chapter) to ensure that development of the site plan and any conditions are provided as approved in accordance with the site plan.
- E. Any conditions or modifications desired by the Planning Commission shall be recorded in the minutes of the appropriate Planning Commission meeting. The Planning Commission may, as it deems necessary to promote the purpose of this Ordinance, require landscaping, walls, fences, drives, and other improvements. When approved, at least three (3) copies of the final approved Site Plan shall be signed and dated by the Secretary of the Planning Commission. One (1) signed copy will be retained by the Zoning Administrator, one (1) copy will be given to the applicant, and the third will be retained for the City records.

- F. When a variance is also involved, these three (3) copies shall also bear a dated signature of the Chairman of the Board of Zoning Appeals. One of these two (2) approved copies shall be kept on file by the Zoning Administrator, and the other approved copy shall be returned to the petitioner or his/her designated representative.

Section 22.06 Plat Requirements

In those instances in which Act 288, Public Acts of 1967, as amended, the Land Division Act of 1967, is involved, the owner shall, after site plan approval, submit the preliminary and final plats to the proper officer in conformance with Act 288, and in accordance with all other applicable codes, acts, and ordinances. Such plats shall remain in conformance with the approved site plan.

Section 22.07 Review Standards

The following standards shall be utilized by the Planning Commission in reviewing all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of the site plans, as well as for the reviewing authority in making a judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

- A. Landscape Preservation: The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- B. Relation of Buildings to Environment: Proposed structures shall be related harmoniously to the terrain and to the existing buildings in the vicinity that have visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features, or other buildings.
- C. Drives, Parking, and Circulation: With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and, insofar as practical, to not detract from the design of the proposed buildings and structures and the neighboring properties.
- D. Surface Water Drainage: Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. If practical, storm water shall be removed from all roofs, canopies, and paved areas and carried away in an underground drainage system. Temporary on-site storage to reduce rapid run-off from the site is encouraged. Surface water in all paved areas shall be collected at

intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved areas. Stormwater detention, retention, transport and drainage facilities shall, inasmuch as feasible, be designed to use or enhance the natural stormwater system onsite, including the storage and filtering capacity of wetlands, watercourses and water bodies, and/or the infiltration capability of the natural landscape. All drainage plans must conform to any and all applicable local, state and federal regulations and requirements.

- E. Utility Service: Electric and telephone distribution lines shall be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relationship to neighboring properties and the site.
- F. Advertising Features: The size, location, and lighting of all permanent signs and outdoor advertising structures or features shall be consistent with the requirements of Chapter 5 of this Ordinance.
- G. Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas shall be subject to such setbacks, screen plantings, or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- H. Environmental Protection: 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. Best Management Practices (BMPs), as deemed acceptable by the City or other reviewing agency(s), shall be implemented to ensure proper compliance with any and all local, state and Federal groundwater protection regulations. Special attention shall be given to stormwater BMPs in the City's Wellhead Protection Area, as identified in the City of Newaygo Wellhead Protection Program.

Section 22.08 Changes In The Approved Site Plan

- A. Major changes (increased density, additional buildings, etc.) to the approved final site plan shall be applied for by the applicant to the Planning Commission. Any major changes approved in the final site plan shall be recorded with the site plan and shall bear the signature of the Planning Commission Secretary and the date of approval.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision will not alter the basic design or any specified conditions imposed as part of the original approval. Minor changes shall include the following:
 - 1. Change in the building size, up to five percent (5%) in total floor area.
 - 2. Movement of buildings or other structure by no more than ten (10) feet.

3. Replacement of plant material specified in the landscape plan with comparable materials of equal or greater size.
 4. Changes in building materials to a comparable or higher quality.
 5. Changes in floor plans which do not alter the character of the use.
 6. Changes required or requested by the City, the Newaygo County Road Commission, or other County, State, or Federal regulatory agency in order to conform to other laws or regulations.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.
- D. The approved changes shall be noted on the site plan and bear the signature of the Zoning Administrator.
- E. No changes are to be considered as a waiver of conditions or covenants, and all rights to enforce such conditions or covenants against any changes permitted by this Ordinance are expressly reserved.

Section 22.09 Appeals

If any person shall be aggrieved by the action of the Planning Commission for Site Plan review, an appeal in writing to the City Council may be taken within thirty (30) days after the date of such action.

Section 22.10 Revocation

- A. Any site plan approval shall be revoked when construction of said development is not in conformance with the approved plans, in which case the Planning Commission shall give the applicant notice of intention to revoke such approved plans at least ten (10) days prior to review of the violation by the Planning Commission. After conclusion of such review, the Planning Commission shall revoke its approval of the development if the Commission determines that violation in fact exists and has not been remedied prior to such review.
- B. The approval of the Planning Commission of any site plan under the provisions of this Ordinance shall expire and be considered automatically revoked one (1) year after such approval unless actual construction has commenced and is proceeding in accordance with the issuance of a valid building permit, except as noted below.
1. The Planning Commission may grant one (1) one (1) year extension of such time period, provided the applicant requires, in writing, an extension prior to the date of the expiration of the site plan.
 2. The extension shall be approved if the applicant presents reasonable evidence to the effect that said development has encountered unforeseen

difficulties beyond the control of the applicant, and the project will proceed within the extension period.

3. If neither of the above provisions are fulfilled or the one (1) year extension has expired prior to construction, the site plan approval shall be null and void.
- C. If such construction activity ceases for any reason for a period of more than one (1) year, any subsequent use of said property shall be subject to review and approval of a new site plan for said property in conformance with the regulations specified by this Ordinance, except that the Planning Commission may, at its discretion, upon application by the owner and for cause shown, provide for up to two (2) successive twelve (12) month extensions.

CHAPTER 23 ZONING BOARD OF APPEALS

Section 23.01 Intent And Purpose

It is the intent of this Chapter to insure that the objectives of this Ordinance are fully and equitably achieved, that a means be provided for competent interpretation of this Ordinance, that adequate but controlled flexibility be accomplished in the strict application of its provisions, and that the spirit of this Ordinance be observed, public safety secured, and substantial justice done.

Section 23.02 Creation And Membership

A. The Zoning Board of Appeals shall consist of five (5) members appointed by the City Council, consisting of the following members;

1. Mayor
2. Planning Commission Chairperson
3. TIFA Chairperson
4. PSD Chairperson
5. Newaygo Economic Development Office Representative

Each member shall hold office for the extent of term of their respective office. If there is a conflict with a member listed above, another member shall be selected from the respective board.

B. Alternates

1. The Council may appoint not more than two (2) alternate members for a term of (3) years.
2. An alternate member may be called to sit as a regular member of the Board in the absence of a regular member or to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest.
3. Once called, the alternate member shall act in place of the regular member on the Board until a final decision is made on the application for which the alternate member was called.
4. When serving as a member, an alternate member shall have the same voting rights as a regular member of the Board.

Section 23.03 Organization

A. The Zoning Board of Appeals may adopt rules and/or procedures for the conduct of its meetings and the performance of its powers and duties. The procedures shall be in accord with the provisions of this Ordinance and applicable State law. The Board chairperson, vice chairperson, and secretary shall be the Mayor, a Board member appointed by the Board and the City Clerk, respectively.

- B. Meetings of the Zoning Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board may specify in its rules of procedure. The applicable provisions of Public Act 267 of 1976, as amended, MCLA 15.261 et seq. (Open Meetings Act) shall apply.
- C. A majority of the total membership of the Board, three (3) members, shall comprise a quorum.
- D. Minutes shall be kept of each meeting and the Zoning Board of Appeals shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon each case. All minutes shall be filed in the office of the City Clerk. The City Clerk, or the Clerk's agent, shall act as recording secretary to the Zoning Board of Appeals, including recording the minutes, publishing legal notices, and providing notices to property owners and others required by law.
- E. Applications shall not be accepted by the Zoning Administrator unless all of the following information is submitted:
 - 1. A completed application form (provided by the City).
 - 2. An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The Zoning Administrator shall determine the completeness and adequacy of submitted plans.
 - 3. An application fee, as determined by the City Council from time-to-time, together with a zoning escrow amount if applicable.
 - 4. A written explanation from the applicant indicating compliance with the applicable review standards of Section 23.04, or other applicable provisions of this Ordinance.
- F. The City Clerk shall fix a reasonable time and date for a public hearing after receipt of an application as required by this Chapter.
 - 1. The Clerk shall give notice of the appeal or the matter involved to the applicant and the persons to whom real property within 300 feet of the premises in question is assessed, and to the occupants of single and two-family dwellings within 300 feet. The notice shall be delivered personally or by mail addressed to the respective owners and tenants at the address given in the last assessment roll. If a tenant's name is not known, the term "occupant" may be used. A notice shall also be placed in a newspaper of general circulation in the City not less than 15 days before the public hearing. The notice shall describe the nature of the request, list the name of the applicant or appealing party, indicate the subject property involved, state when and where the request will be considered, and indicate when and where written comments will be received concerning the appeal or request.

2. The Board may adjourn any meeting held in order to allow the obtaining of additional information, or for other reasons it deems appropriate.

Section 23.04 Powers And Duties

- A. The Zoning Board of Appeals shall hear only those matters that it is authorized to hear by the Zoning Act and this Ordinance and shall render its decision based upon the criteria contained in this Ordinance. The Zoning Board of Appeals shall not hear appeals for Special Land Use and Planned Unit Developments. The Zoning Board of Appeals shall hear the following applications in accordance with the indicated procedures and standards.
- B. **Administrative Appeals:** Any appeal from a ruling of the Zoning Administrator (whether it involves an interpretation, the need for a variance, or similar matter) shall be made within (30) days from the date of the decision of the Zoning Administrator. Such appeal shall be made in writing and shall be filed with the Zoning Administrator, and shall be on a form approved by the City.
- C. **Interpretations:** The Zoning Board of Appeals shall have the power to make an Interpretation of the provisions of this Ordinance when it is alleged that certain provisions are not clear or that they could have more than one (1) meaning. In deciding upon the request, the Board shall insure that its interpretation is consistent with the intent and purpose of this Ordinance and the Chapter in which the language in question is contained.
- D. **Variances**
 1. The Zoning Board of Appeals, after public hearing (see Section 23.03.F), shall have the power to grant requests for variances from the provisions of this Ordinance where it is proved by the applicant that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance relating to uses or the construction, equipment, or alteration of buildings or structures.
 2. Non-use (Dimensional) Variance: (These variances address height, setback, and area requirements. They are often granted for parcels that have a unique characteristic, such as an irregular shape or a natural circumstance [e.g. steep hill, wetland, water, rock, etc.] which prevent property owners from building within established dimensional requirements.) A non-use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of practical difficulty related to the property in question in the official record of the hearing and the Board also finds that all of the following standards are met:

- a. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 - (1) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance; or
 - (2) Exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
 - (3) The use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
 - (4) There is a physical handicap affecting the owners of the property or any member of the family of an owner who resides on the property which impairs the ability of the disabled person to utilize or access the property.
 - (5) Any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary.

 - b. The condition or situation of the specific parcel of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
 - c. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - d. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - e. The immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant (i.e. the difficulty was not created by the applicant or the applicant's predecessor).
 - f. The variance will not impair the intent and purpose of this Ordinance.
 - g. The variance, if granted, would be the minimum variance to afford relief and would be the least modification of the applicable provisions of this Ordinance.
3. Use Variances: (This type of variance permits a use of land not otherwise permitted in that zoning district on that parcel. A use variance effectively rezones the parcel without prior approval of the planning commission and legislative body. They are considered inappropriate except in one

instance, when the property cannot be reasonably used as zoned and other attempts to obtain local approval [e.g., via a rezoning] have been denied.) A use variance may be allowed by the Zoning Board of Appeals only in cases where there is reasonable evidence of unnecessary hardship related to the property in question in the official record of the hearing and that the Board also finds all of the following standards are met:

- a. The building, structure, or land cannot be reasonably used for a use allowed in the zone district in which it is located.
 - b. The condition or situation of the specific parcel of property or the intended use of such property for which the variance is sought is unique to that property and not commonly present in the general vicinity or in the zone district. Unique conditions or situations include:
 - (1) Exceptional narrowness, shallowness or shape of a specific property on the effective date of this Ordinance;
 - (2) Exceptional topographic conditions or other extraordinary situation on the land, building or structure;
 - (3) The use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this Ordinance would involve practical difficulties; or
 - (4) Any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary.
 - c. The proposed use will not alter the essential character of the neighborhood or the intent of the Master Plan.
 - d. The immediate unnecessary hardship causing the need for the request was not created by any affirmative action of the applicant (i.e., the hardship was not caused by the applicant or the applicant's predecessor).
 - e. The variance, if granted, would be the minimum variance to afford relief and would be the least modification of the applicable provisions of this Ordinance.
4. Prior to the decision of the Zoning Board of Appeals on a request for a Use Variance, the Board may request that the Planning Commission, upon presentation by the applicant, consider the application and forward a report to the Zoning Board of Appeals. The report shall be limited to the Planning Commission's review of the effect of the proposal on the existing or intended character of the neighborhood (Section 23.04, D, 3, c) and the ability of the property owner to use the property for a use already permitted under the existing zoning classification (Section 23.04, D, 3, a).

Section 23.05 Voting Requirements, Effect Of Variances, Resubmission

- A. The final disposition of any matter of the Zoning Board of Appeals shall require a 2/3 vote (at least four [4] votes) of the entire membership.
- B. Any decision of the Zoning Board of Appeals rendered under the provision of this Ordinance shall be final. However, a person having an interest affected by the zoning ordinance may appeal to the Circuit Court.
- C. Every variance granted under the provisions of this Ordinance shall become null and void unless the construction authorized by such variance has been substantially commenced within six (6) months after the date of the final decision.
 - 1. An applicant may request up to one (1) six (6) month extension of said variance from the Zoning Board of Appeals, if applied for in writing prior to the expiration of the variance approval.
 - 2. The Zoning Board of Appeals may grant an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the reasonable control of the applicant.
- D. No application for a variance which has been denied wholly or in part (substantially similar to a variance earlier denied) by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the denial, except on the grounds of newly discovered evidence or proof of changed conditions found, upon inspection by the Zoning Administrator, to be valid.

Section 23.06 Conditions Of Approval

- A. The Zoning Board of Appeals may impose specific conditions with an affirmative decision. The breach of any condition shall be a violation of this Ordinance.
- B. Performance Guarantee: The Zoning Board of Appeals may require submission of a performance guarantee in accordance with the provisions of Section 24.10 to insure compliance with any conditions or requirements imposed with any decision of the Board.
- C. Certification of Compliance: The Zoning Administrator shall certify whether all conditions and other requirements of a decision reached by the Board have been fulfilled, as a precondition to the issuance of any permit required for development, construction, occupancy or use within the area governed by the decision.

CHAPTER 24 ZONING ADMINISTRATION & ENFORCEMENT

Section 24.01 Zoning Administration

The provisions of this Ordinance shall be administered and enforced by the City Council, Planning Commission, Zoning Board of Appeals, Zoning Administrator, and deputies of same.

Section 24.02 Zoning Administrator

- A. The Zoning Administrator shall carry out the duty of administering this ordinance and the power necessary for such administration.
- B. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify the person responsible in writing of such violations, indicating the nature of the violation and ordering the action necessary to correct it.
- C. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done, or shall take any action authorized by this Ordinance to ensure compliance with, or to prevent violation of, its provisions. The Zoning Administrator shall be responsible for making periodic inspections of the City, or parts thereof, for the purpose of finding violations of this Ordinance.
- D. The Zoning Administrator shall issue a certificate and/or a permit when all applicable regulations of this Ordinance are complied with by the applicant, even though violations of contracts, such as covenants or private agreements, may occur upon issuance of such certificate or permit.

Section 24.03 Responsibilities

The primary responsibility of the Zoning Administrator is to administer the Ordinance. There is no authority to deviate from the Ordinance, or to modify its requirements. In general, the principal duties of the Zoning Administrator are comprised of, but not limited to, the following:

- A. Assist citizens in determining what zoning forms and procedures apply to propose zoning requests and land use changes.
- B. Assist citizens in the completion of required permit application forms.
- C. Review and investigate permit applications to determine compliance with provisions of the zoning Ordinance.

- D. Issue the appropriate permit when all provisions of the Ordinance have been complied with. If the proposed use is not in compliance with the Ordinance, the applicant is notified and assisted with an appropriate alternative zoning procedure when possible, or with appeal procedure if applicant so chooses.
- E. Perform inspection duties to insure proposed land use changes are and will remain in compliance with the Ordinance.
- F. Identify, monitor and control nonconforming uses.
- G. Investigate alleged violations of the Ordinance and enforce corrective measures when required.
- H. Keep the zoning map, text and office records up to date by recording all amendments, and retaining a copy of pertinent official documents.
- I. Periodically report to the Planning Commission and City Council on status of municipal operations.
- J. Propose solutions to any problems encountered in administering the zoning ordinance.
- K. Establish and administer rules of procedure within the office.
- L. Provide information on zoning to citizens and public agencies.
- M. Perform other duties as specified by local ordinance.
- N. Help develop and conduct in conjunction with the Planning Commission, a continuing program of public education on zoning matters.
- O. Accept, review, and process all applications for zoning approvals.

Section 24.04 Fees

Except as may be provided for otherwise in this Ordinance, the City Council shall, by resolution, determine and set fees to be charged for all permits and certificates and official action required, such as appeals, insofar as this Ordinance provides for changes to be made in each instance. These fees shall be collected by the appropriate official prior to issuance of any permit or certificate. No permit is valid until the proper fee has been paid. There shall be no charge for renewal or extension of permits.

Section 24.05 Building Permits

Except as provided for elsewhere in this Section, no dwelling or building shall be erected, demolished, altered, enlarged, or moved upon or from any land subject to the provisions of this Ordinance, nor any new principal use created, unless and until a building permit, therefore, shall have been properly applied for and issued by the Building Inspector.

Section 24.06 Certificate of Occupancy

No dwelling or building, subject to provisions of this Ordinance, shall be occupied or used until the Zoning Administrator has approved the issuance of a Certificate of Occupancy to the owner or applicant who made application for the building permit. At least ten (10) days prior to being ready for use or occupancy, the owner or applicant shall notify the Zoning Administrator who shall, within five (5) days, be assured that the building is in proper conformity and, if so, issue a Certificate of Occupancy. If an application for a certificate of occupancy is disapproved for cause, the owner or applicant shall be so notified in writing.

Section 24.07 Ordinance Amendments

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 procedure set forth in Act 207 of the Michigan Public Acts of 1921, as amended. Proposals for amendments may be initiated by the City Council, the Planning Commission, the Zoning Administrator and by petition of one or more owners of property in the City of Newaygo affected by such proposed amendment.

Section 24.08 Processing of Amendments

The procedure for amending this Ordinance shall be as follows:

- A. Each petition shall be submitted to the Zoning Administrator, accompanied by a fee as established by City Council, and then referred to the City Clerk to set a hearing date.
- B. The Planning Commission shall conduct a public hearing, notice of which shall be published at least once in a local newspaper of general circulation not less than fifteen (15) days prior to the hearing.
- C. Notice of the Public hearing shall be given by mail to property owners within three hundred (300) feet of any property proposed to be rezoned and to each public utility company or railroad that registers its name and mailing address with the City Clerk for the purpose of receiving the notice.

- D. Following of the Public hearing, the Planning Commission shall make a recommendation to the City Council to approve, deny, or approve with conditions the subject request, stating the reasons for its action.
- E. The City Council shall consider the amendment request, the Planning Commission's recommendation, and all comments made at the public hearing, and shall make a decision to approve, deny, or approve with conditions the subject request, stating the reasons for its action.
- F. No petition for an amendment to this Ordinance, which has been denied by the City Council, shall be resubmitted for a period of one (1) year from the date of such denial, except as may be permitted after learning of new and significant facts or conditions which might result in a favorable action upon resubmittal.

Section 24.09 Site Plans

An application for a building permit shall be accompanied by an approved site plan, as required in Chapter 22 of this Ordinance, unless a site plan is not required.

Section 24.10 Performance Guarantees

In order to ensure compliance with an approved site plan, the City may require of the applicant a surety bond, cash bond, cash deposit, certified check or an approved bank letter of credit for the estimated cost of incomplete improvements in an amount specified by the Zoning Administrator.

To ensure faithful completion of the improvements, the performance guarantee shall be deposited with the City Treasurer at the time of application for a certificate of occupancy. The City shall return the performance guarantee on deposit upon verification by the Building Inspector that all work and improvements have been satisfactorily completed.

The return of the performance guarantee does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper function of said projects.

As used in this Section, "improvements" mean those features and actions associated with a project which are considered necessary by the Planning Commission to protect natural resources or the health, safety, and welfare of the residents of the City and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and surface drainage.

Section 24.11 Notice of Adoption

Following adoption of an amendment to this Ordinance by the City Council, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption.

Section 24.12 Purpose

The Planning Commission is a board of the City Council. It acts as both a recommending board to the Council on planning and zoning matters as well as the major planning and zoning authority for the City.

Section 24.13 Responsibilities

The statutory authority (Section 4(2) of P.A. 207 of 1921, as amended and Section 12 of P.A. 285 of 1931, as amended) and requirements of the Planning Commission in terms of zoning administration is summarized below:

- A. The Planning Commission may prepare and adopt a Master Plan (if the City Council waives its rights first) to guide development in the City. A Zoning Plan is typically one element of the Master Plan.
- B. The Planning Commission prepares the original Zoning Ordinance including both text and map showing proposed zoning district boundaries. After a public hearing on the ordinance, the Planning Commission transmits it and a summary of the public hearing comments to the City Council for adoption.
- C. The Planning Commission also advises the City Council concerning future amendments, changes, additions or departures from the Ordinance.
- D. The Planning Commission, if so specified in the Ordinance, reviews proposed site plans, special land use requests and planned unit developments for compliance with standards stated in the Ordinance and in accord with procedures contained in both the Ordinance and the City or Village Zoning Act.
- E. Once a Zoning Ordinance is adopted by a City Council, the Planning Commission typically has both advisory and administrative responsibilities. It advises the legislative body on amendments to the Ordinance text or zoning map. It also assists in those aspects of Ordinance administration specified by the Ordinance itself. These responsibilities often include review and approval of proposed site plans, special land uses and planned unit developments.

Section 24.14 Repeal of Prior Ordinance

The Zoning Ordinance previously adopted by the City and all amendments thereto, are hereby repealed. The repeal of the Ordinance and its amendments does not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted or inflicted.

Section 24.15 Interpretation

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 and general welfare. It is not intended by this Ordinance to repeal, abrogate, annul, or in any way impair or interfere with any existing provisions of law or ordinance other than the above described Zoning Ordinance, or with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to the law relating to the use of buildings or premises; provided, however, that where this Ordinance imposes a greater restriction than is required by existing ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control. Nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modifications as may be necessary to the preservation or protection of public health, safety, and welfare.

Section 24.16 Violations; Procedures; Fines

A ‘violation’ includes any act which is prohibited or made or declared to be unlawful or an offense by a portion of this Ordinance and any omission or failure to act where the act is required by a portion of this Ordinance.”

The civil fine for a municipal civil infraction violation shall be not less than \$100.00, plus costs and other sanctions, for each infraction.

Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Ordinance. As used in this section, ‘repeat offense’ means a second (or any subsequent) municipal civil infraction violation of the same requirement of this Ordinance (i) committed by a person within any 12-month period (unless some other period is specifically provided by a portion of this Ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense shall be as follows:

1. The fine for any offense which is a first repeat offense shall be not less than \$200.00, plus costs.
2. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be not less than \$300.00, plus costs.

Any structure or building which is erected, used, repaired, altered, created, expanded, moved or converted, or any use of land or any activity which is in violation of or not in compliance with this Ordinance shall be deemed to be a violation of this Ordinance and is also declared to be a nuisance *per se*.

Any and all remedies available to the City for violation of this Ordinance, as well any and all penalties imposed, shall be deemed to be cumulative and the election by the City of one remedy or proceeding shall not negate the ability of the City to pursue other remedies and/or proceedings.

Except where expressly stated otherwise in this Ordinance, the procedures and persons authorized to issue municipal civil infraction tickets and related matters specified for municipal civil infraction violations are governed by Sec. 1-7 of the Newaygo City Code.

Section 24.17 Public Nuisance, Per Se

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

Section 24.18 Persons Responsible; Aiding and Abetting

The owner/tenant of any building, structure, land or part thereof or if any condition exists in violation of this Ordinance or is created and who has assisted knowingly in the commission of such violation shall also be responsible for a violation of this Ordinance and subject to the full civil infraction penalties specified in Section 24.16 hereof. Furthermore, anyone who aids and abets another in any violation of this Ordinance shall also be responsible for such violation and shall be subject to the penalties contained in Section 24.16 of this Ordinance. A separate offense shall be deemed committed upon each day during which or when a violation occurs.

Section 24.19 Rights and Remedies

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

Section 24.20 Severability

This Ordinance and the various articles, sections, paragraphs, and clauses thereof, are hereby declared to be severable. If any article, section, paragraph, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Ordinances shall not be affected thereby.

Section 24.21 General Responsibility

The City Council or its duly authorized representative is hereby charged with the duty of enforcing this Ordinance and said Council is hereby empowered, in the name of the City of Newaygo to commence and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court of Newaygo County Michigan, or any other Court having jurisdiction, to restrain and/or prevent any non-compliance with or violation of

any of the provisions of this Ordinance, and to correct, remedy, and/or abate such non-compliance or violation. And it is further provided that any person aggrieved or adversely affected by such non-compliance or violation may institute suit and/or join the City Council in such suit to abate the same.

Section 24.22 Enactment

The provisions of this Ordinance are hereby declared to be immediately necessary for the preservation of the public peace, health, safety, and welfare of the people and are hereby ordered to become effective immediately upon the date of publication of the notice as required by law.

CHAPTER 25 SCHEDULE OF REGULATIONS

		RR	R-1	R-2	R-3 (p)	B-1	B-2 (q)	I-1
Minimum lot size per unit	Area (ft ²)	10,000	8,000 (f)	6,000	(g) (h) (i) (j) (k) (g)	-	15,000	40,000
	Width (ft)	80	66	60	-	-	100	150
Maximum lot coverage	Percent (%)	20	30	40	40	-	-	40
Minimum yard setbacks (ft)	Front	40	30	20	40	(l)	30 (m)	50 (o)
	Sides	10	10	5	15 (e)	-	10 (n)	10 (n)
	Rear	40	30	20	30	-	40 (n)	10 (n)
Maximum building height	Stories	2.5	2.5	2.5	2.5	3	2.5	3
	Feet	35	35	35	35	45	35	60

* Footnotes are an integral part of these District Regulations and should be read in conjunction with the above schedule.

A. Each dwelling unit shall have a minimum floor area in accordance with the following schedule:

DWELLING TYPE	REQUIRED FLOOR AREA
Single family	960 sq. feet with a minimum of 650 sq. feet on the ground floor for units of more than 1 story
Two family & townhouses	800 sq. feet with a minimum of 300 sq. feet on the ground floor
Multiple - family	
- efficiency	350 sq. feet
- one bedroom	600 sq. feet
- two bedroom	800 sq. feet
- three bedroom	900 sq. feet + 100 sq. feet for each bedroom in excess of three

- B. Where a front yard of lesser depth than required herein exists in front of dwellings on more than sixty percent (60%) of the lots of record on one (1) side of the street in any one (1) block in a Residential District, the front yard setback for any building thereafter erected need not be greater than the average setback of existing buildings.
- C. In the case of a corner lot, where the rear yard abuts the side yard of an adjoining lot, the minimum side yard on the street shall be equal to the required front setback for the adjoining lot.
- D. The maximum density per acre permitted in the Residential Districts is as follows:

DISTRICT	MAXIMUM DENSITY
RR	3 units per acre
R-1	4 units per acre
R-2	6 units per acre
R-3	9 units per acre

- E. There shall be a minimum distance of twenty-five (25) feet between ends of contiguous buildings.
- F. Lots not serviced by public water and sanitary sewer shall have a minimum size of ten thousand (10,000) square feet and a minimum width of eighty (80) feet.
- G. All lots shall be serviced by public water and sanitary sewer.
- H. All two (2) family dwellings shall have a minimum lot area of ten thousand (10,000) square feet and a minimum lot width of eighty (80) feet.
- I. Townhouses shall be located on a minimum site of one (1) acre. The minimum lot area per unit shall equal five thousand (5,000) square feet and the minimum site width shall be one hundred fifty (150) feet.

- J. Multiple family dwellings (not including townhouses) shall be located on a suite of one (1) acre. The minimum lot area per unit shall equal four thousand (4,000) square feet and the minimum site width shall be one hundred fifty (150) feet.
- K. All single and two (2) family dwellings shall conform to the requirements of the R-2 District.
- L. Required off street loading areas shall not be provided in the front yard.
- M. Except for landscaping and necessary drives or walks, the required front yard shall remain clear and shall not be used for parking, loading, or accessory structures.
- N. When a side and/or rear yard abuts a Residential District, there shall be a minimum yard of twenty-five (25) feet, exclusive of parking and drives. Such yard shall contain at least a ten (10) foot greenbelt as specified in Section 3.12 No commercial or industrial building shall be located nearer than fifty (50) feet to any main building in a Residential District.
- O. Except for landscaping, necessary drives or walks and visitor parking, the front yard shall remain clear and shall not be used for parking, loading, storage, or accessory structures. Side and rear yards may be used for parking, loading, and storage.
- P. Minimum requirements and district regulations for the R-3 Districts are further explained in Chapter 13.
- Q. In the B-2 District, no driveway opening onto a public street shall be permitted within one hundred (100) feet of any other driveway opening. Frontage roads, shared driveways, joint parking lots, and other common facilities shall be encouraged.