

CITY OF MANISTEE PLANNING COMMISSION

WORKSESSION AGENDA

**Tuesday, September 14, 2004 - 5:00 p.m.
Room #152 Manistee Middle School
550 Maple Street, Manistee, Michigan**

I Call to Order.

II Worksession Items:

1. Zoning Ordinance Re-Write
 - A. Review Article I - Title, Purpose and Scope
 - B. Review Article II - Definitions
 - C. Review Article V - General Provisions
2. Other

III Adjourn.

NOTICE

City of Manistee Planning Commission Date Change for October Meeting and Worksession

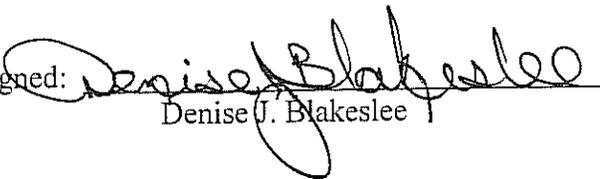
The City of Manistee Planning Commission has changed the dates for their October Meeting and Worksession to allow members to attend Citizen Planner Training.

The October Planning Commission Meeting will be held on Wednesday, October 6, 2004 at 7:00 p.m. in the Middle School Library, 550 Maple Street.

The October Planning Commission Worksession will be held on Wednesday, October 20, 2004 at 6:00 p.m. in the Middle School Library, 550 Maple Street.

This notice was posted by Denise J. Blakeslee to comply with Sections 4 & 5 of the Michigan Open Meetings Act (P.A. 267 of 1976) at 12:00 noon, Wednesday, September 15, 2004 on the door at the north entrance to City Hall, 425 Sixth Street, Manistee, Michigan.

Signed:


Denise J. Blakeslee

MEMORANDUM

TO: Planning Commissioners

FROM: Denise Blakeslee 
Administrative Assistant - Community Development Department

DATE: September 8, 2004

RE: September Worksession

The September Worksession will be held at **5:00 p.m.** on Tuesday, September 14, 2004 in Room #152, Across from the Middle School Library, 550 Maple Street. Enclosed is the information that we have received from Jay Kilpatrick. We are forwarding this information to you early so that you have time to review before the meeting.

If you are unable to attend the meeting **please call** me at 723-2558.

:djb



Memo

TO: Planning Commissioners

FROM: Denise Blakeslee 

DATE: September 3, 2004

RE: Meeting/Worksession Dates

Please put the following dates on your calender.

September Worksession: Tuesday, September 14th
5:00 p.m.
Room #152, (across from Library)
Manistee Middle School

October Meeting: Wednesday, October 6th
7:00 p.m.
Manistee Middle School

I wanted everyone to get this information on their calendars. We do not have a location for the October Meeting yet. The Middle School was closed today.

As soon as the drafts are received from Jay I will forward the copies to you for the Worksession. Have a wonderful holiday!

REMINDER***If you cannot attend a meeting or worksession or are going to be late please call me at 723-2558.

Williams & Works

◆ a tradition of service ◆

◆ Engineers
◆ Planners
◆ Surveyors

MEMORANDUM

TO: Jon Rose, Planning Director
City of Manistee

FROM: Jay Kilpatrick, AICP, PCP 

DATE: September 7, 2004

RE: Zoning Ordinance Articles 1 through 5

Enclosed are sufficient copies of the first three articles of the revised Zoning Ordinance for the Planning Commission as well as copies for you and Denise. These articles include:

- ◆ Article I - Title, Purpose and Scope
- ◆ Article II - Definitions
- ◆ Article V - General Provisions

As suggested, we have left Articles III and IV as reserved for future uses.

The format of the revised ordinance is illustrated by these drafts. One change that we will suggest for the final draft is that (like the current ordinance) it be printed two-sided to reduce the bulk of the document. That format also enables the facing-page presentation that we recommend for the district chapters.

In addition to formatting, the revised draft includes three types of substantive changes: 1) Minor wording or graphics to enhance understanding, 2) Reorganization of the text to improve the flow of the document, and 3) New text, removed text or substantial revisions that imply policy decisions. Many of the changes made were originally discussed with the City based on my memo of December 24, 2003 reviewing the existing ordinance.

It is recommended that you and the Planning Commission members carefully read through the draft and draw your own conclusions about the content. However, to aid in that process, the following are some of the items I would like to bring to your attention

- Article I The ordinance prologue is added in lieu of the existing Section 103
Section 101 parallels the existing Section 102, and is consistent with the statutory requirements for zoning.

The existing Section 105 has been removed because, I believe it is unnecessary.
The existing Section 106 will be relocated to a subsequent Article

Article II All the definitions have been reviewed and adjusted as outlined in my memo of December 24, 2003. In addition the following new terms have been defined:

Access	Attic	Bed & Breakfast
Bilboard	Boat	Boat Launch
Building Line	Common Driveway	Comprehensive Plan
Condominium	Conservation Lands	Density
Driveway	Driveway Curb Cut	Essential Services
Filtered View of Water	Floodplain	Grade
Grade, Finished	Home-based Business	Hotel
Impervious Surface	Inn	Keyhole Development
Living Area	Lodging Places	Lot
Master Deed	Motel	Nonconforming Lot
Parcel Area	Physical Requirements	Principal Building
Principal Use	Required Spatial Relationships	
Service Drive	Shared Parking	Site Plan
Street, Local	Street, Primary	Street, Secondary
Temporary Dwelling	Temporary Storage Structure	
Useable Open Space	Windmill	Zoning Administrator
Zoning Lot		

Two terms defined in the current ordinance (Commercial Establishment and Ownership) were removed as we were not able to isolate a purpose for the definition in the context of either the existing or current ordinance.

Article V This is founded on the existing Article 10 - General Regulations and many of its current provisions are included. However, the following sections are highlighted for your attention:

Section 502 mirrors the current Section 1003, but some key provisions have been added. These include A - one use per parcel; C - no new lots that do not conform to the Zoning Ordinance (replaces current 1003, B); E - how setback is measured; and, F - no land contour except as permitted.

Section 506 (formerly 1012) has been reduced in scope to cross-reference a proposed general law ordinance. The reason for this is many of the provisions of the existing language is a poor fit for the Zoning Ordinance, since it regulates behavior rather than development. We have also removed the existing Section 1020 for the same reason.

Section 507 is new and required to enable discretionary decisions where conditions are applied.

Section 508 provides expanded language regulating fences.

Section 509 includes new building height limits and better definition on how height is determined.

Section 511 has been adjusted to remove specific reference to ZBA variances in locating driveways, as such decisions may be better made in the context of a site plan by the Planning Commission.

Section 512 makes reference to City Standards for the Construction of Private Roads, assuming such a document exists. If it does not, it would be necessary to either develop one, or significantly expand this section. Either activity will require input from the City Engineer.

Section 514 provides adjusted standards for parking requirements and liberalizes the existing language somewhat.

Section 516 is new language regulating Accessory Uses.

Section 520 regarding Home Occupations has been expanded to provide for administrative approval of non-intrusive Home Occupations, and Planning Commission approval for those that might be somewhat intrusive.

Section 521 provides new standards for Home-Based Businesses

Section 522 provides standards for certain temporary activities.

Section 523 has not been changed, but we question its intent. If this language was added to comply with the State's amendment to Act 207 regarding Open Space Preservation Development, the structure provided for will not meet the statutory requirements in that it is not voluntary. In addition, it is not clear why the two "development options" are provided or why anyone would "opt" for the second with its more stringent review requirements.

Section 524 clarifies how the setback standards are applied.

Section 525 is new language regulating outdoor lighting.

Removed Sections. In some instances, we have removed language from the General Provisions Article since we find it is more appropriately placed elsewhere in the Zoning Ordinance. The existing Sections 1061 on Sex-Oriented Businesses and 1065 on Tattoo Parlors are good examples as these should be relocated to a subsequent chapter regulating special uses.

Jon Rose
September 7, 2004
Page 4

Draft Zoning Map. Also enclosed for your review at the staff level is our first draft of the existing zoning map. This has been produced from the Assessor's database and is probably not completely accurate. We have tried to make some changes based on the hard copy of the zoning map that we have, but it would be helpful if you could review it carefully both for the proper zoning classifications and to make sure that all parcels are reflected. Included with the map is a memo to you from Matt Rowbotham of our staff explaining the assumptions he made in preparing the map and asking for further guidance in some areas.

Please distribute the enclosed draft copies of Articles I, II and V to the Planning Commission and I will look forward to the study session on September 14th.

Draft

9/1/04

CITY OF MANISTEE ZONING ORDINANCE

The City of Manistee Ordains:

An ordinance to establish zoning districts and regulations governing the incorporated City of Manistee, County of Manistee and State of Michigan in accordance with the provisions of Act 207 of the Public Acts of 1921, as amended; to define certain terms used herein; to provide for regulations governing nonconforming uses and structures; to establish a Zoning Board of Appeals and define its duties and powers; to provide for the administration and enforcement of this Ordinance and to provide penalties for the violation of this Ordinance.

ARTICLE I TITLE, PURPOSE AND INTENT

SECTION 100 SHORT TITLE

This Ordinance shall be known as the "City of Manistee Zoning Ordinance" and will be referred to hereinafter as "this Ordinance."

SECTION 101 PURPOSE AND INTENT

The fundamental purposes of this Ordinance are:

1. To promote and protect the public health, safety, and general welfare;
2. To encourage the use of lands and natural resources in accordance with their character and adaptability;
3. To implement the goals, objectives, and future land use recommendations of the City Comprehensive Development Plan (Master Plan) and to regulate the intensity of land use and parcel areas in a manner compatible with said Plan;
4. To determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
5. To protect the character and stability of the recreational, residential, commercial and industrial areas within the City of Manistee and promote the orderly and beneficial development of the City;

6. To lessen and avoid congestion on the public highways and streets;
7. To provide for the needs of recreation, residence, commerce, and industry in future growth;
8. To promote healthful surroundings for family life in residential areas;
9. To set reasonable standards to which buildings and structures shall conform;
10. To provide for reasonable uses and forms, buildings, and structures which are compatible with the character of development or the uses, buildings, or structures permitted within specified Districts and to provide for sanitary, safety and protective measures that shall be required for such structures;
11. To prevent such additions or alterations or remodeling of existing structures in such a way as to avoid the regulations and limitations imposed hereunder;
12. To reduce the risk of fire, explosion, noxious fumes and odors, heat, dust, smoke, glare, noise, vibration, radioactivity, and other nuisances and hazards to life and property;
13. To prevent improper uses of land and the overcrowding of land and undue concentration of buildings and structures so far as is possible and appropriate in each District;
14. To provide for the completion, restoration, reconstruction, and extension of nonconforming uses;
15. To create an Appeals Board and to define the powers and duties thereof;
16. To designate and define the power and duties of the official or officials in charge of the administration and enforcement of this Ordinance;
17. To provide for the payment of fees for zoning permits and escrow accounts to support the expense of administration and proper review of applications for zoning permits;
18. To provide penalties for the violation of this Ordinance;
19. To provide safety in traffic and vehicular parking;
20. To accomplish any other purposes contained in Public Act 207 of 1921, as amended.

ARTICLE II
DEFINITIONS AND INTERPRETATION

SECTION 200 RULES APPLYING TO THE TEXT

For the purpose of this Ordinance, certain rules of structure apply to the text. Words used in the present tense include the future tense, and vice versa; and the singular includes the plural, and vice versa, unless the context clearly indicates the contrary. The words "person" and "entity" include a corporation, association, organization, partnership, trust, company, or firm as well as an individual. The words "used" or "occupied" as applied to any land or building include the words "intended, designed, or arranged to be used or occupied." The word "lot" includes the words "plot," "tract," or "parcel." The term "shall" is always mandatory and not discretionary; the word "may" is permissive. Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

SECTION 201 DEFINITIONS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

SECTION 202 A

ACCESS: A way or means of approach to provide year-round vehicular physical entrance to a property or lakefront area.

ACCESSORY BUILDING: An accessory structure, as defined herein, which is a supplementary building on the same parcel as the principal building, or part of the principal building, occupied by or devoted exclusively to an accessory use.

ACCESSORY STRUCTURE: A structure which is clearly subordinate or incidental to a principal structure or principal use. Accessory structures include, but are not limited to, the following: storage structures, parking lots, loading docks, radio and television antennas, or any part thereof; but shall not include fences and hunting blinds which are clearly not permanent and are easily removed. Under no circumstances shall a septic system and tile field be considered an accessory structure.

ACCESSORY USE: A use naturally and normally incidental to, subordinate to, and devoted exclusively to, the principal use of the land or buildings.

ADMINISTRATOR: The Manistee City Zoning Administrator as established in Section ___ of this Ordinance.

ADULT FOSTER CARE FACILITY: A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

- A. Nursing homes and hospitals licensed Article 17 of Act 368 of the Public Acts of 1978, as amended;
- B. Hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended;
- C. County infirmary operated by a county department of social services under section 55 of Act 280 of the Public Acts of 1939, as amended;
- D. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended;
- E. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
- F. A veteran's facility created by Act 152 of the Public Acts of 1885, as amended.

ADULT FOSTER CARE SMALL GROUP HOME: An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

ADULT FOSTER CARE LARGE GROUP HOME: An adult foster care facility with the approved capacity of more than thirteen (13) adults who shall be provided foster care.

ALLEY: A public way which is not a street, private street, or sidewalk, which provides secondary access to property, generally but not always to the rear of parcels.

ALTERATIONS: Any construction; modification; remodeling; repair; improvement; relocation; or, replacement of a structure, building, dwelling, accessory building, or structure which needs a permit under the provisions of Section ____ or under the provisions of Section ____.

ALTERED: Any change in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls.

APARTMENT BUILDING: A building which is a dwelling designed for or occupied by three or more families, with separate housekeeping, cooking, and bathroom facilities for each.

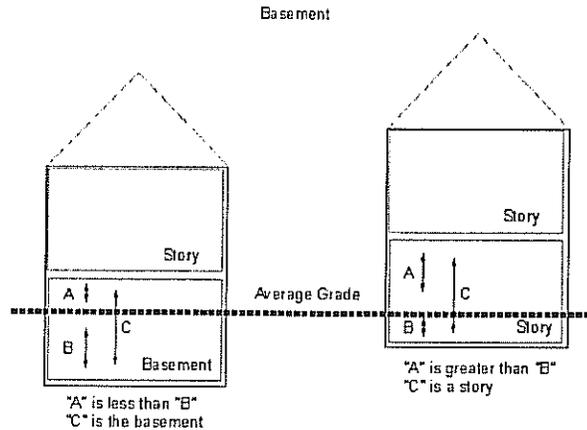
APPEALS BOARD: The Manistee City Board of Appeals, created in Article Twelve.

ARTICLE: The main divisions of this Ordinance, cited by the words "Article XX." Sections further divide Articles.

ATTIC: That part of a building that is immediately below and wholly or partly within the roof framing.

SECTION 203 B

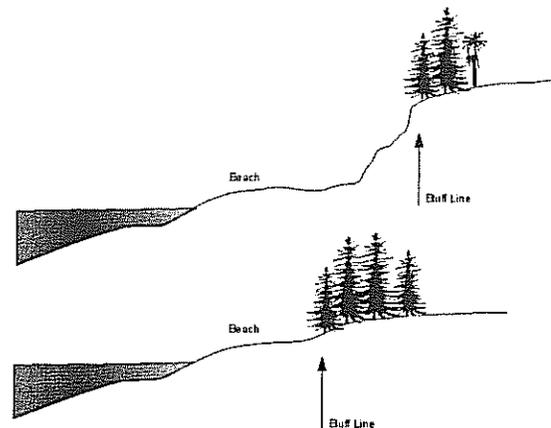
BASEMENT: A portion of a building which is not intended to serve as the main living space in a dwelling, duplex or apartment building, and is built below the main floor joists such that it is partially or wholly below average grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.



BED AND BREAKFAST: An owner-occupied residential building wherein up to six (6) rooms or suites are offered, for compensation, as overnight lodging for transient guests and which may provide one or more meals per day for overnight guests only.

BILLBOARD: An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

BLUFF LINE: The line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front declining steeply on the lakeward side. Where there is no precipitous front indicating the bluff line, the line of perennial vegetation may be considered the bluff line.



BOAT: Means every description of water craft used or capable of being used as a means of transportation on water. (reference; vessel definition from the Marine Safety Act P.A. 303 of 1967, as amended, Compiled Laws Annotated, 281.1008).

BOAT LAUNCH: Shall mean and include boat access, within fifty (50) feet of the shore from or incidental to a single private riparian property, public or private road end abutting Manistee Lake, the Manistee River Channel, or Lake Michigan, and/or a public or private access site.

BUFFER AREA: An open landscaped area that is in addition to setback requirements, that may include berms, but that may not include any structures, designed to buffer noise, light, visual, and other nuisances. (See also Vegetation Belt, Greenbelt.)

BUILDABLE AREA: That portion of a parcel contained by the required front, rear and side yards and excluding any wetland, 100-year flood plain, critical dune, high risk erosion area, drainage way, lake or similar natural feature which poses an impediment or hazard to safe construction or use of property. Contour changes to create a buildable area are permissible only if not contrary to this Ordinance, or any other state or federal statute.

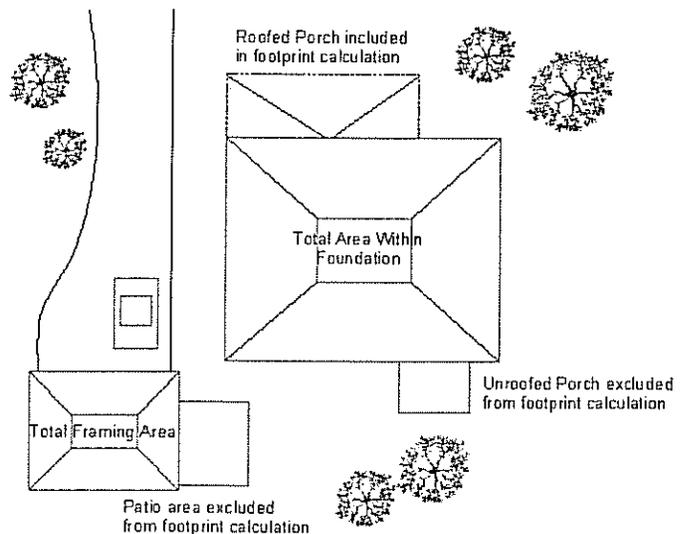
BUILDING: Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of person, animals, chattel, or property of any kind. Buildings shall include: decks and porches, including steps and trailers, whether mounted or on wheels and situated on private property and used for purposes of a building.

BUILDING AREA (also FOOTPRINT): The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios and steps, and of awnings and nonpermanent canopies.

BUILDING ENVELOPE: That portion of a parcel contained within the required front, rear and side yards, as established by the setback dimensions for the zoning district.

BUILDING HEIGHT: The vertical distance measured from grade to the highest point of the roof for flat roofs, to the desk line of mansard roofs, and to the highest point for gable, hip and gambrel roofs.

BUILDING LINE: A line extending through the building foundation, or the outermost portion of a cantilevered building and parallel to the nearest parcel boundary.



SECTION 204 C

CAMPGROUND: A use on a parcel or tract of land licensed by the State under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for three or more recreational units, which includes trailers, as defined in this Ordinance.

CEMETERY: Any one (1) or a combination of more than one (1) of the following (as per MCL 456.522): a burial ground for earth interment; a mausoleum for crypt entombment; a crematory for the cremation of human remains; and a columbarium for the deposit of cremated remains.

CITY: The City of Manistee, a chartered Michigan municipal corporation.

COMMUNICATION TOWER: A radio, telephone, cellular telephone or television relay structure of more than fourteen (14) feet in height attached directly to the ground or to another structure, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

COMMISSION: The Manistee City Planning Commission created pursuant to Public Act 285 of 1931, as amended, being Municipal Planning Act, which has vested with it all the powers and duties of a zoning board pursuant to Public Act 125 of 1921, as amended, being City or Village Zoning Act.

COMMON OR SHARED DRIVE: A commonly shared driveway way that connects or serves two or more properties.

COMPREHENSIVE PLAN: The comprehensive, long-range master plan intended to guide growth and development in the City of Manistee which includes recommendations on future land use, economic development, housing, recreation, transportation, open space, and community facilities.

CONDOMINIUM: A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

CONSERVATION LANDS: Environmentally sensitive areas with characteristics such as steep slopes, wetlands, floodplains, high water tables, forest areas, endangered species habitat, dunes, shoreline, or areas of significant biological productivity or uniqueness that have been designated for protection from any activity that would significantly alter their ecological integrity, balance, or character.

COUNCIL: The City Council of the City of Manistee.

SECTION 205 D

DENSITY: The number of dwelling units per acre. The maximum density is that number of dwelling units per acre that is allowed based on the total lot area.

DRIVE THROUGH ESTABLISHMENT OR FACILITY: An establishment that by design, physical facilities, services or by packaging procedures encourages or permits some or all customers to receive services, obtain goods or be entertained while remaining in their vehicles.

DRIVEWAY: A private vehicular roadway providing access to a street or highway from a property.

DRIVEWAY CURB CUT: The opening along a curb line at which point vehicles may enter or leave the street.

DUPLEX: A dwelling designed for or occupied by two families only, with separate housekeeping, cooking, and bathroom facilities for each.

DWELLING, OR DWELLING UNIT: A structure or building or portion thereof that is used exclusively for human habitation by one (1) family and so designed and arranged as to provide living, sleeping, sanitary, and kitchen accommodations.

SECTION 206 E

EASEMENT: A private irrevocable agreement of record between landowners, public utilities, and/or persons, for a specific purpose such as, but not limited to, utilities, driveways, pipelines, or pedestrian ways.

ENVIRONMENTAL ASSESSMENT: A review or statement of the effect a proposed development or project, and other major actions, may have on the environment.

ENVIRONMENTAL IMPACT STATEMENT: A thorough analysis which evaluates the effects a proposed development or project, and other major actions, and alternatives to those developments, projects or actions, may have on the environment and that inventories existing environmental conditions at the project site and the surrounding area, including air and water quality, water supply, hydrology, geology, soil type, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics, history, and archaeology.

ERECTED or ERECTION: As applied to any building or structure, erected or erection means built, constructed, reconstructed, moved upon, or any physical operation or work on the land which the building or structure is to be built, constructed, reconstructed or moved upon, including excavation, filing, draining or the like.

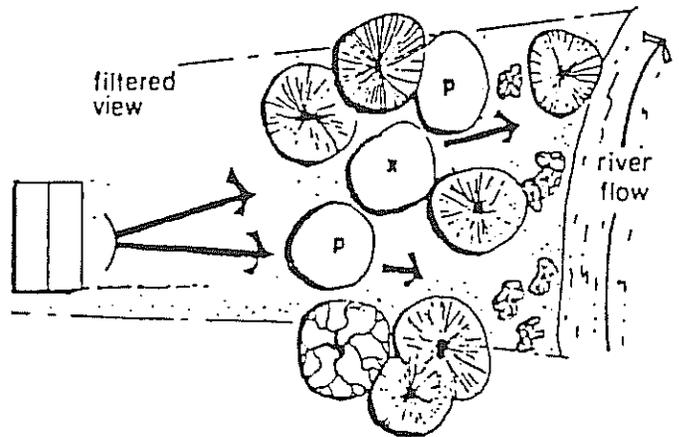
ESSENTIAL SERVICES: Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, stream, water, sewage, and other utilities and the equipment and appurtenances necessary for such systems to furnish an adequate level of service for the City.

SECTION 207 F

FAMILY: An individual or a collective number of individuals living together in one dwelling as a single housekeeping and cooking unit, whose relationship is of a permanent and distinct domestic character. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

FENCE: A structure or planted hedge which is designed to restrict passage (whether or not the fence has a gate); prevent viewing through it; and/or, be decorative.

FILTERED VIEW OF WATER: A vista or view of a river, lake or stream that is partially screened by woody vegetation of sufficient density to buffer development from said water body, to provide for bank stabilization and erosion control, to serve as an aid in filtration of surface runoff, and to provide cover to shade the water. Vegetation need not be so dense as to completely block the view of the water, but shall not include clear cutting.



FLOODPLAIN: Any land area susceptible to being inundated by floodwaters from any source.

FLOOR AREA: The sum of the horizontal area of each story of a building measured from the exterior faces of the exterior walls, but not including basements, unfinished attics, attached garages, breeze ways and enclosed or unenclosed porches, decks or patios.

SECTION 208 G

GRADE: The median level of the surface of the ground on a parcel determined by subtracting the lowest elevation point from the highest, multiplying the result by 0.667 and adding the product to the elevation of the lowest point.

GRADE, FINISHED: The proposed median grade of a parcel as set forth on the site plan.

GREENBELT: An open area that may be cultivated or maintained in a natural state surrounding development or used as a buffer between land uses or properties. (See also Buffer Area, Vegetation Belt.)

SECTION 209 H

HAZARDOUS SUBSTANCES: One or more of the following:

- A. A chemical, toxic substance, or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

C. "Hazardous waste" as defined in Article II, Chapter 3, Part 111 of P.A. 451 of 1994, as amended, being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act.

D. "Petroleum" as defined in Article II, Chapter 8, Part 213 of P.A. 451 of 1994, as amended, being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act.

HOBBY: An activity carried out by a person primarily for pleasure and self-entertainment.

HOME-BASED BUSINESS: A business operation carried out for gain from a residential property which operation is clearly subordinate and incidental to the residential nature of the property and which involves business activities generally conducted at other locations.

HOME OCCUPATION: An activity carried out for gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling, but not a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

HOTELS: A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

SECTION 210 I

IMPERVIOUS SURFACE: Any material of the built environment that prevents absorption of storm water into the ground, including pavement and rooftops.

INN: A commercial facility for the housing and feeding of transients which is contained in whole or in part in buildings or structures that were previously private single family dwellings, as distinguished from a boarding house, lodging house, or apartment. An Inn would be smaller in square footage than a motel or hotel and open to the general public.

SECTION 211 J

JUNK: Any scrap, waste, reclaimable material, or debris, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition or abandoned.

and retail facilities intended primarily for the owners, crews, and guests of boat owners using the marina, provided there are three or more waterfront slips under a single control.

MASTER DEED: A legal instrument under which title to some or all rights of real estate ownership are conveyed and by which a condominium is created and established, including as exhibits and incorporated by reference the approved bylaws for the condominium subdivision plan.

MAYOR: The chief elected official of the City as selected by the City Council.

MINI/SELF STORAGE FACILITY: A structure or group of structures divided into storage units, stalls or lockers of no more than five hundred (500) square feet in area and which are offered to the public for a fee on a monthly or yearly basis for the storage of goods.

MOTEL: An establishment providing sleeping accommodations to the general public with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, as distinguished from a boarding house, hotel, lodging house, or an apartment.

SECTION 215 N

NONCONFORMING BUILDING, STRUCTURE: A structure or building lawfully in existence prior to the effective date of this Ordinance which does not conform to the requirements of the Zoning District in which it is situated.

NONCONFORMING LOT: A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the applicable zoning district or other zoning regulations.

NONCONFORMING USE: A use of lands or structures lawfully in existence on the effective date of this Ordinance but which does not conform to the regulations of the Zoning District in which it is situated.

SECTION 216 O

OUTDOOR RECREATION - PARK: Public or private playgrounds, pocket parks, natural area, ball fields, open space preserves, arboretums, gardens, beaches, and similar uses, but not facilities designed for overnight or camping use.

SECTION 217 P

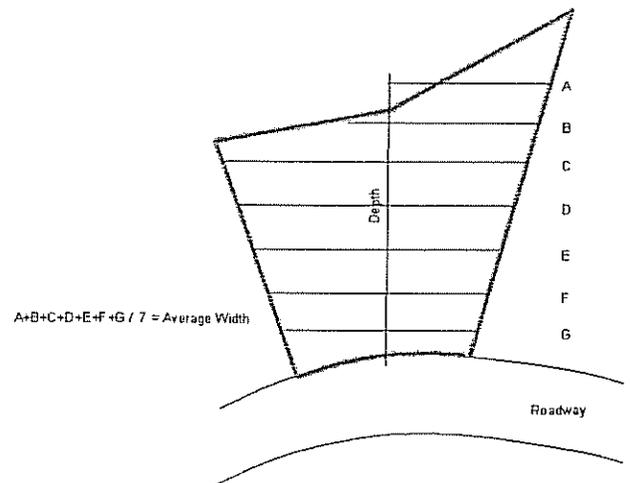
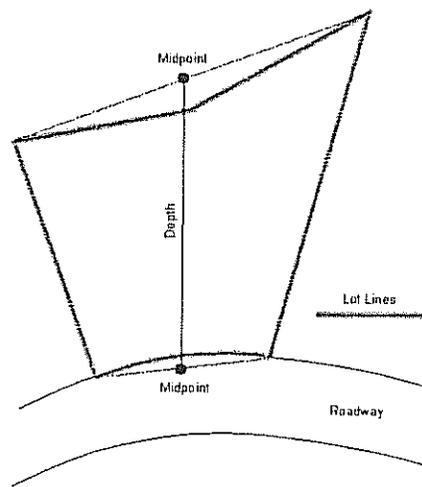
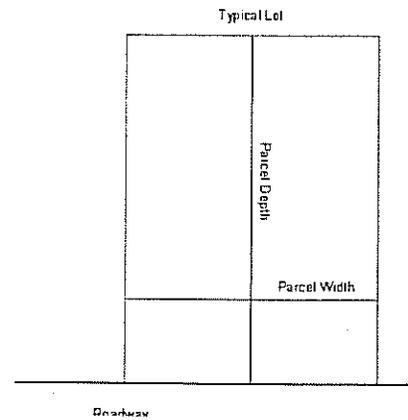
PARCEL: An area of land separated from other parcels of land by description on a plat, condominium subdivision plan or by metes and bounds description, recorded in the Manistee County Office of the Register of deeds, and which complies with the dimensional requirements of this Zoning Ordinance.

PARCEL AREA: The area contained within the boundaries of a parcel.

PARCEL MEASUREMENTS: Parcel depth is considered to be the distance between the midpoints of straight lines connecting the foremost points of the front property line and rearmost points of the rear property line. Parcel width is the distance between the side property lines at each side of the parcel. In determining parcel width on odd-shaped parcels, if the parcel abuts a curving street and, as a result, the side property lines are not parallel, the measurement of the width shall be at the front yard setback line. In determining parcel width on other odd-shaped parcels, the average width measured at right angles to its depth, with no fewer than five (5) equally spaced measurements.

PARCEL, SUBSTANDARD: A parcel of record or a parcel which is described in a land contract or deed executed and delivered before the designation of a high risk erosion area and which does not have adequate depth to provide the minimum required setback from the bluff line for a permanent structure. The term also means those lots which are legally created after the designation of a high risk erosion area, which have sufficient depth to meet setback requirement for permanent structures, but which subsequently become substandard due to erosion processes.

PARENT PARCEL: A parcel of record on the effective date of this ordinance amendment, or the "parent parcel" or "parent tract" as defined by the Michigan Land Division Act.



PARKING SPACE: One (1) unit of parking area provided for the parking of one automobile or similar motor vehicle.

PERSONAL PROPERTY SALES: Events such as garage sales, yard sales, basement sales or other similar events where personal property is offered for sale on a limited basis.

PHYSICAL REQUIREMENTS: All the requirements of this Ordinance dealing with designated areas for specific physical (tangible) improvements or uses/functions required for an approved use, structure, building and parcel, including but not limited to, placement of accessory structures, improvements within buffer areas, building height, easements, floor area, improvements within a greenbelt, access drives, loading areas, solid waste storage areas, service drives, parking areas, and other requirements.

PLANNED UNIT DEVELOPMENT: A special land use pursuant to Section ___ intended to accommodate developments with mixed or varied uses, innovative design features and/or sites with unusual topography or unique settings within the community.

PRINCIPAL BUILDING: A building in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE: The primary or predominant use of any parcel.

PROPERTY LINE: The outside perimeter of a legally described parcel of land.

PUBLIC UTILITY: Any person, firm, corporation, municipal department or board fully authorized to furnish, under federal, state, or municipal regulations, electricity, gas, steam, communications, telegraph, transportation, water or sanitary or storm water sewerage facilities to the public.

PUBLIC WAREHOUSE: A structure used for storage of customer's goods, wares and vehicles on a rental basis, in which the owner/operator of the facility handles the storage of the goods, wares and vehicles and the owners of the stored items and vehicles will have limited access to their possessions.

SECTION 218 Q RESERVED

SECTION 219 R

REQUIRED SPATIAL RELATIONSHIPS: All the requirements of this Ordinance dealing with minimum or maximum size, area or space required for an approved use, structure, building and parcel, including but not limited to, buffer areas, greenbelts, and yards.

RIGHT-OF-WAY: Land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, trailway, electric

withstand normal moving stresses, and a site review to determine whether the structure is accessible to moving equipment.

SWEETENING PLANT: A facility or plant which is designed for the removal of sulfur compounds from natural gas from gas and oil wells.

SECTION 221 T

TATTOO: Any method of placing permanent designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance, by the aide of needles or any other instruments designed to touch or puncture the skin, resulting in either the coloration of the skin, or the production of scars or scarring, other than by branding.

TATTOO PARLOR: An establishment where persons are tattooed for consideration, other than by a licensed medical practitioner or cosmetologist; or any place where tattooing is regularly conducted whether or not it is in exchange for compensation.

TEMPORARY DWELLING: A dwelling established for a limited duration with the intent to discontinue such use upon the expiration of a predetermined time period, but not a manufactured home.

TEMPORARY STORAGE STRUCTURE: A storage structure established for a limited duration with the intent to discontinue such use upon the expiration of a predetermined time period.

TOXIC SUBSTANCES: Those poisonous substances which, by physical contact, ingestion or inhalation, could cause damage to humans, animals or aquatic life as set forth on the Toxic Substance Listing, maintained by the U.S. Environmental Protection Agency, and listed on the Critical Materials Register, as created pursuant to the Michigan Water Resources Act, P.A. 245 of 1929, as amended.

TRAILER: A structure that can stand on wheels, be towed, and hauled by another vehicle on a roadway, and used for short-term human occupancy, camping and recreational use, carrying of materials, goods, or objects, or as a temporary office.

SECTION 222 U

USE: The primary or main purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

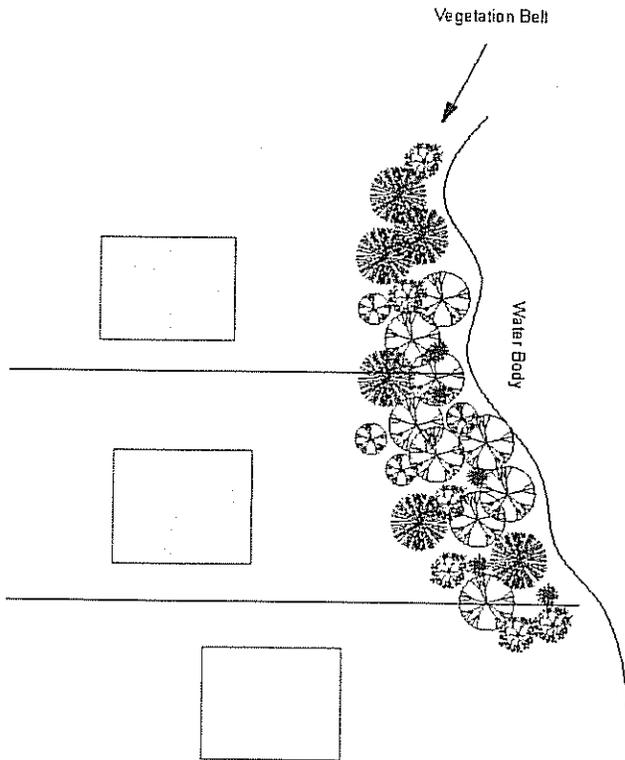
USEABLE OPEN SPACE: Any parcel or area of land or water where the actual and intentional use is enjoyment of owners, occupants, and their guests of land adjoining such open space. Useable open space may include active recreational facilities such as swimming pools; play equipment; competitive sports fields and courts; and picnic tables.

SECTION 223 V

VARIANCE: A relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary or practical difficulty.

VEGETATION BELT: An area which does not have any buildings which is designed to mitigate the movement of nutrients in the ground into a water body by use of woody plant material whose roots are likely to remove nutrients from the soil prior to the nutrients reaching the water body, and for erosion and bank stabilization. (See also Buffer Area, Greenbelt.)

VEHICLE: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a manufactured home.



SECTION 224 W

WATER BODIES: Surface water, lakes, wetlands, rivers, streams, creeks, brooks, ponds, springs, but not including storm water retention ponds, sediment ponds, or impromptu or uncontrolled collection of storm water.

WATER'S EDGE: The elevation contour line at five hundred eighty one and twenty six hundreds (581.26) feet above sea level.

WETLAND: Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation and/or aquatic life, and is classified as forested or non-forested emergent or flats in the Manistee County Land Use/Cover Classification system prepared under the Michigan Resource Inventory Act and characterized by a soil type which is alluvial land, undifferentiated, variably textured flood plain sediments.

WINDMILL (WIND ENERGY CONVERSION SYSTEMS): A windmill or a wind energy conversion system shall mean all, or any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;

representational object notwithstanding that processing or other acts may be required to make its content apparent.

SHARED PARKING: Joint use of a parking area by more than one use or business.

SIGN: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product which are visible from any public way and used as an outdoor display to advertise, identify, promote, direct, display, or attract attention.

SITE PLAN: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation and utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development and legal description pursuant to Section ___ of this Ordinance.

STATE LICENSED RESIDENTIAL FACILITIES: A dwelling located in a structure constructed for residential purposes, licensed by the state, pursuant to Michigan statute for a home for the care of six (6) or fewer senior citizens.

STREET: Any public vehicular way that is:

- A. An existing state, county, or locally maintained roadway;
- B. Shown upon an approved plat pursuant to law;
- C. Approved by other official legal action;
- D. Excluding an alley or private street.

STREET, LOCAL: A street designed primarily to provide vehicular access to abutting property and to carry limited through traffic.

STREET, PRIMARY: A street with traffic signals at important intersections and stop signs at local or secondary streets.

STREET, PRIVATE: A road or street which is part of a recorded subdivision, condominium or land division, and shown as a private road on the plat or site plan, or a road which is not public which services more than one (1) dwelling and/or business.

STREET, SECONDARY: A street that collects traffic from local streets. Secondary streets connect local traffic with primary streets.

STRUCTURE: Anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, but not including automobiles, trucks, trailer, hunting blinds, fences, hedges, sidewalks, gardens, and shore stabilization devices.

STRUCTURE, MOVABLE: A structure which is determined to be movable based on a review of the design and size of the structure, a review of the capability of the proposed structure to

withstand normal moving stresses, and a site review to determine whether the structure is accessible to moving equipment.

SWEETENING PLANT: A facility or plant which is designed for the removal of sulfur compounds from natural gas from gas and oil wells.

SECTION 221 T

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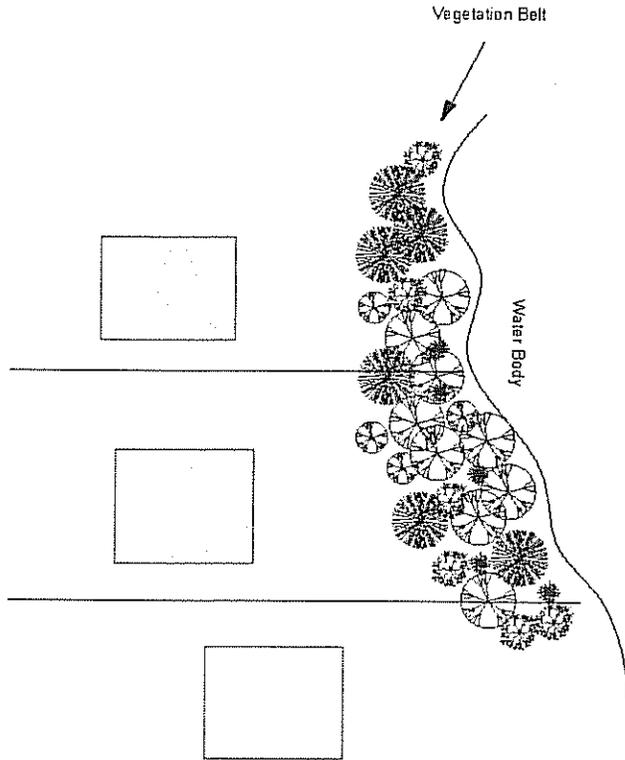
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WINDMILL (WIND ENERGY CONVERSION SYSTEMS): A windmill or a wind energy conversion system shall mean all, or any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;

- B. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

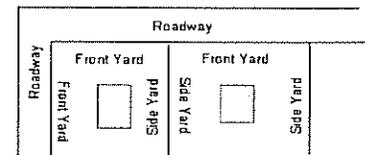
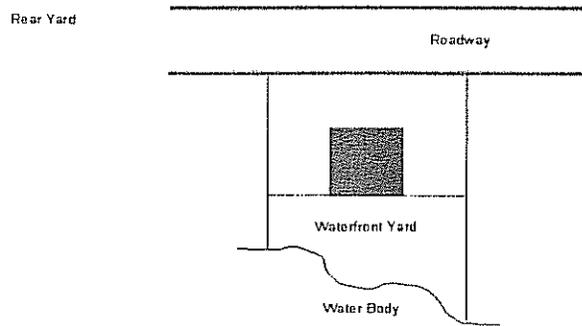
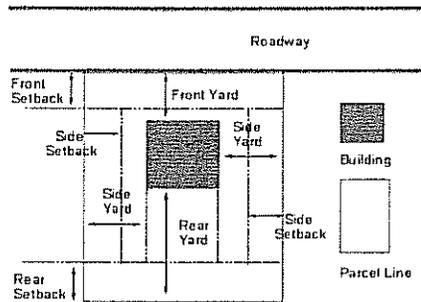
WOODY PLANT MATERIAL: Vegetation characterized as having a wooden stem or trunk (as opposed to a fibrous or grass stem).

SECTION 225 X

RESERVED

SECTION 226 Y

YARD: An open space that lies between the building or buildings and the nearest lot line. Front yard means a yard between the front property line, which is adjacent to a road right-of-way, and the nearest building line. Rear yard means a yard between the property line on the opposite side of the parcel from the property line adjacent to a road right-of-way and the rear building line. Side yard means the remaining yard(s) between the front and rear building lines and the side line (s) of the parcel. Waterfront yard means a yard between the water's edge and a building line. It may be situated in what would be a side or rear yard if the water body was not present. A parcel may have any combination of yards, so that it may not have a rear yard, it may have two front yards, etc.



SECTION 227 Z

ZONING ADMINISTRATOR: See Administrator

ZONING LOT: Any tract or contiguous tracts of land established by plat, subdivision or otherwise and in the same ownership, whether one or more platted lots or parts of lots, as identified by property tax parcel number in the Manistee County assessment roll.

ARTICLE V

GENERAL PROVISIONS

SECTION 500 PURPOSE

It is the purpose of this Article to set forth regulations that may apply generally in all Zoning Districts to all permitted uses and special uses and to provide detail on how the standards of this Ordinance shall be applied.

SECTION 501 SCOPE

The use of all land and structures and the construction, reconstruction, alteration, repair and moving of all structures within the City of Manistee shall conform with all applicable provisions of this Ordinance unless the nonconformance is a matter of record on the effective date of this Ordinance.

SECTION 502 USES, SPATIAL AND PHYSICAL REQUIREMENTS

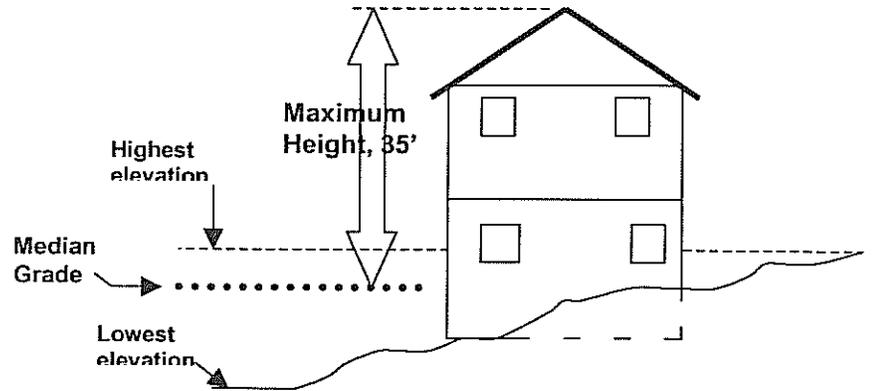
- A. Each parcel in the City shall be limited to not more than one (1) principal use; provided that multiple-tenant or multiple-occupant commercial, industrial or mixed-use developments may be regarded as single uses if approved pursuant to the standards of this ordinance.
- B. The continuing maintenance of required spatial relationships and physical requirements of this ordinance for a use, structure, building, and/or parcel shall be the obligation of the owner of the use, structure, building and parcel.
- C. No parcel shall be split, divided or created which does not meet the spatial requirements of this Ordinance, except as may be permitted specifically elsewhere in this Ordinance. No building, structure or use shall be constructed, expanded, renovated or established except in conformance with this Ordinance.
- D. Required spatial relationships and physical requirements of this ordinance shall apply uniformly within each respective zoning district to all uses, structures, buildings and parcels except that the following may be located anywhere on a parcel:
 - 1. Those parts of a building which are unroofed porches and decks, including steps, which do not exceed seventy (70) square feet in size, handicapped ramps, terraces, patios and awnings and nonpermanent canopies, but built no closer than three (3) feet from the property line. All roofed porches and decks and those unroofed porches and decks, including steps, which are larger than seventy (70) square feet, will be considered part of the structure and will be governed by the yard requirements of the Zoning District in which the parcel is located. Provided, however, that on parcels with steep slopes exterior steps to be located within a required yard when the Zoning Administrator finds that such location is necessary for the practical use of the property.
 - 2. Flag poles;

3. Hydrants;
 4. Clothes lines;
 5. Arbors, trellises, trees, plants, shrubs, subject to the provisions of Section 513 pertaining to clear vision areas.
 6. Recreation equipment, outdoor cooking equipment; and
 7. Sidewalks, private driveways and walkways.
- E. Required setback distances shall be measured perpendicular to and from the property line or edge of right-of-way or water's edge toward the center of the parcel. Building setback lines shall parallel the parcel line from which they are measured.
- F. Land filling and other contour changes to create a buildable area shall not be undertaken, except in conformance with the requirements of this Ordinance and applicable State and Federal requirements.

SECTION 503 PERFORMANCE STANDARDS

- A. No parcel, building or structure in any Zoning District shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable element or condition so as to adversely affect the surrounding area or adjoining premises provided any use permitted by this Ordinance may be undertaken and maintained if acceptable measures and safeguards are employed to limit dangerous and objectionable elements to acceptable limits as established by the following performance requirements:
1. No vibration shall be permitted in excess of the applicable City noise regulations (City Code Part Six, Chapter 662: Peace Disturbances) or regulations promulgated by rule thereunder.
 2. No audible noise shall be permitted in excess of City noise regulations (City Code Part Six, Chapter 662: Peace Disturbances) or regulations promulgated by rule thereunder.
 3. No storm water runoff, which is a result of development site design, or other manmade features, shall be allowed to collect which results in water standing on the surface, unless the standing water is a part of a properly managed and maintained storm water retention system, sediment pond; or the standing water is in a naturally occurring wetland or water body.
- B. The Administrator shall enforce this Section and Section 504 by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for administration of the statutes, rules or ordinances cited above.

1. Buildings or structures in the _____ Districts may be erected or altered to a height of forty (40) feet.
 2. Buildings or structures in the ____ Districts may be erected or altered to a height of 60 feet, provided that a fire lane shall be provided within twenty (20) feet of the building or structure. Said fire lane shall be paved and shall have a minimum width of twenty (20) feet.
- C. Measurement. Building height shall be measured from median finished grade elevation to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the highest point for gable, hip and gambrel roofs.
- D. The requirements of this Section 509 shall not apply to radio, cellular telecommunication and television antenna systems.



SECTION 510 ACCESS TO PUBLIC STREETS

In every Zoning District, every use, building or structure established after the effective date of this Ordinance shall be located on a parcel which abuts a public road or a private road or easement which provides access to a public road, such private road or easement being at least sixty-six (66) feet in width, unless a lesser width was duly established of record prior to the effective date of this Ordinance or as part of a Planned Unit Development, provided that private easements in all cases shall be at least twenty (20) feet in width.

SECTION 511 DRIVEWAYS AND CURB CUTS

- A. In the _____ Districts only, driveway entrances and exits to a property shall comply with the following standards unless superseded by State or Federal statute or rule.
1. The location of a driveway curb cut to any street shall be a minimum of fifty (50) feet from an intersection of any two streets; except for parcels greater than one hundred (100) feet in width, which shall have driveways curb cuts at least sixty (60) feet from an intersection.
 2. Driveway curb cuts shall be aligned with driveways on the opposite side of the street or offset a minimum distance of thirty (30) feet, measured from centerline to centerline.
 3. Driveways on the same side of the street shall be separated by at least thirty (30) feet, measured from centerline to centerline. Provided, that common or shared drives shall have zero distance between them but shall comply with required distances from intersections and other driveways as set forth in this section.

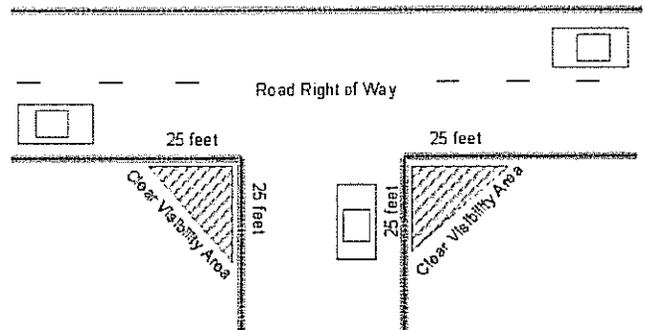
4. Exit-only or entrance-only driveways and driveways for dwellings and duplexes, shall be a minimum of ten (10) feet, and no more than twenty (20) feet in width. All other driveways shall be a minimum of twenty (20) feet but no more than thirty five (35) feet in width.
- B. A driveway curb cut shall not be constructed unto a city-owned street unless a driveway is also being constructed.
 - C. In those areas without curbs and gutters, the requirements of this section shall apply and be administered as if the curb and gutters were present.
 - D. Upon the recommendation of the Zoning Administrator, the Commission may approve a site plan that does not comply the requirements of this section where local conditions make full compliance impossible, providing the distances between the new driveway from street intersections and other driveways is the greatest possible.

SECTION 512 PRIVATE STREETS

Every private street that provides, or may provide in the future, access to and from a public street for three (3) or more dwelling units or principal buildings on separately owned parcels shall be constructed within a right-of-way not less than sixty-six (66) feet in width and which is established by duly recorded conveyance. Private streets shall be designed and constructed in accordance with the Standards for the Construction of Private Roads of the City of Manistee. A Private Street shall not include driveways to a dwelling and/or business or accessory buildings thereto when the driveway is located on the same parcel of land as the serviced structure; a city street as shown on maps certifying the same to the Michigan Department of Transportation; two-track trails which have been in common use for fifteen (15) or more years and which provide the only access to a parcel of property.

SECTION 513 CLEAR VISIBILITY AT CORNERS

No parking space, fence, hedge, planting, sign, structure, or any other element of the built environment, shall be located, erected or maintained, within a distance of twenty-five (25) feet from a street right-of-way which obstructs safe vision at a street corner.



SECTION 514 VEHICULAR PARKING SPACE, ACCESS AND LIGHTING

- A. For each principal building or establishment hereafter erected or altered and located in any Zoning District, including buildings and structures used principally as places of public assembly, there shall be provided and maintained suitable space off the public right-of-way which is adequate for the parking or loading of motor vehicles in the proportions shown below. The parking spaces called for hereunder shall be considered minimum requirements under this Ordinance. Where more than one use exists or is proposed on a parcel, the minimum shall be the sum of the required parking for each use,

except where it is demonstrated to the Commission that such provisions would be excessive, in which case shared parking may be permitted.

	<u>Use</u>	<u>Number of Parking Spaces Per Unit of Measure</u>
1.	Dwellings	Two (2) spaces for each dwelling unit for single family, duplex units and mobile homes, 1½ per dwelling unit for multiple family
2.	Hotels, Motels, Inns and Transient Lodging Places	One (1) space for each two units, and one (1) space for each employee.
3.	Hospitals, Nursing and Personal Care Facilities	One (1) space for each four beds, and one (1) space for each employee.
4.	Places of public assembly	One (1) space for each four seats of legal capacity.
5.	Medical clinics and medical and dental offices	One (1) space for each 200 hundred square feet of office space, plus three (3) spaces for each doctor, dentist or other senior medical professional.
6.	Offices, other than medical or dental clinics	One (1) space for each 200 square feet of office space.
7.	Eating and drinking establishments	One (1) space for each three seats of legal seating capacity.
8.	Retail establishments	One (1) space for each 300 square feet of floor area dedicated to retail activity, exclusive of storage areas.
9.	Industrial and warehouse uses	The greater of one (1) space for each 1,000 square feet of floor area, or one space for each employee in the largest shift.

B. In the case of uses or businesses not addressed in paragraph A hereof the required parking shall be determined by the Zoning Administrator, subject to Planning Commission concurrence. The latest edition of the Institute of Traffic Engineers *Parking Generation* shall be consulted in determining a parking requirement for any such use or business.

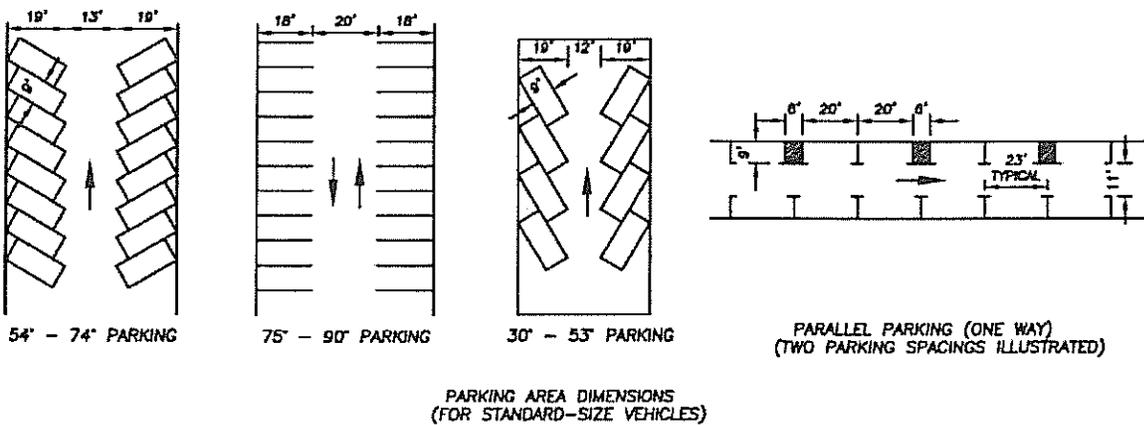
D. The minimum dimensional standards for parking spaces and aisles shall be as follows.

Minimum Parking Space and Maneuvering Lane Standards

Parking Pattern	Lane Width		Parking Space		Total Width of Two Tiers Plus Lane	
	One-way (ft)	Two-way (ft)	Width ⁽¹⁾ (ft)	Length ⁽²⁾ (ft)	One-way (ft)	Two-way (ft)
Parallel	11	18	9	23	40	36
30°-53°	12	18	9	19	50	56
54°-74°	13	19	9	19	51	57
75°-90°	15	20	9	18	51	56

(1) Measured Perpendicular to the space centerline.

(2) Measured along the space centerline.



- D. The approval of the City Engineer shall be obtained for the location of exits and entrances to parking areas and for the design and construction thereof.
- E. Off-street parking areas for all uses requiring City approval shall be paved with concrete or bituminous material with approved curbing and painted parking lines. Parking areas with ten (10) or more spaces shall include landscaped planting islands and perimeter buffers in all instances where sufficient space is available.
- F. For all permitted uses in the _____ District, except hotels, motels, inns, and transient lodging places of six (6) or more units, the parking provisions of this Section shall not apply.
- G. Parking areas required under this Section, and city-owned parking lots, shall not be used for the storage of, camping within, or continuous parking or storage of recreational vehicles, trailers, motor vehicles and junk for more than a twenty-four (24) hour period.
- H. Within the ___ Districts, the Planning Commission may approve shared parking arrangements among various uses when it can be demonstrated that parking in sufficient quantities for all such uses as set forth in this Section shall be available at all times.

SECTION 515 ACCESSORY BUILDINGS AND STRUCTURES

- A. All accessory buildings and structures shall be located in the side yard or rear yard, except when built attached to the principal building.
- B. Accessory buildings shall be located in compliance with the setback requirements of this Ordinance.
- C. An accessory building attached to the principal building of a parcel shall be made structurally a part thereof, and shall comply in all respects with the requirements applicable to the principal building.
- D. An accessory building and structure in the _____ Districts shall not be higher than fourteen (14) feet and side walls shall not be higher than ten (10) feet, unless a higher structure is approved by the Planning Commission and the Historic District Commission (if applicable) to achieve architectural compatibility with the principal building.
- E. In all Districts except _____ accessory buildings shall not be taller than the principal building. In all Districts except _____, the building area of all accessory buildings shall not exceed the building area of the principal building.
- F. No accessory building shall be used as a dwelling or for temporary or permanent residential or lodging purposes or as sleeping quarters for human beings.

SECTION 516 ACCESSORY USES

- A. When an activity or use is conducted in conjunction with another principal use and the former use; (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. Uses may be considered accessory to the principal use regardless of whether the accessory use is separately identified in this ordinance as a permitted or special use
- B. Interpretation of Accessory Uses: For purposes of interpreting accessory uses:
 - 1. A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use.
 - 2. To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.
 - 3. An accessory use shall not generate any effects on neighboring properties, including, but not limited to, noise, parking, traffic, glare, or dust, greater than or more burdensome than such impacts from the main use on the property.

4. By way of example, and not to limit the application of this section, common accessory uses may include swimming pools or tennis courts associated with and integrally related to a residential subdivision or multi-family development, two or fewer boat slips associated with a residential or commercial development, automated car wash associated with a gasoline station.

SECTION 517 TEMPORARY DWELLINGS

Unoccupied parking or storage of temporary dwellings, recreational vehicles, trailers, etc. on a street or front yard is prohibited for more than forty eight (48) hours at a time. No person shall use or permit the use of any temporary dwelling or trailer as a principal or seasonal dwelling on any site, lot, field, parcel or tract of land, except:

- A. As temporary quarters during the construction and installation of a dwelling conforming to this Ordinance when the following conditions are met:
 1. The location of the temporary dwelling or trailer shall comply with all setback requirements of this Ordinance.
 2. The use of the temporary dwelling or trailer shall not be contrary to the public health, safety or welfare.
 3. The temporary dwelling shall, at all times, have a clear and unoccupied space of seven (7) feet on all sides.
 4. The use of the temporary dwelling or trailer shall be limited to six (6) months beginning with the issuance of a permit. The permit may be renewed for not more than six (6) months at a time upon approval of the Administrator for good cause shown.
- B. As part of a campground licensed by the Michigan Department of Public Health.

SECTION 518 TEMPORARY STORAGE STRUCTURES

- A. A temporary storage structure shall not be occupied as a dwelling.
- B. A temporary storage structure shall be located only in the side or rear yard of a property and shall meet the setback requirements of its respective district. The Administrator prior to placement must approve the site for the temporary structure.
- C. In all districts, except Industrial, a temporary structure shall not exceed one hundred (100) square feet in size.

SECTION 519 DWELLINGS

No person shall use, occupy, or permit the use or occupancy of a structure as a dwelling, which does not comply with dwelling standards of this Ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any Zoning District, except in a designated manufactured housing community, and except as hereinafter provided. All dwellings shall comply with the following minimum standards.

- A. All dwellings constructed shall have a minimum square footage and minimum width required in each respective Zoning District.
- B. All dwellings shall comply in all respects with the Michigan State Construction Code, including minimum area and heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan Construction Code, then such federal or state standard or regulation shall apply.
 - 1. Foundations: A dwelling shall be firmly attached to a permanent foundation constructed on site in accordance with said State Construction Code and shall have the same perimeter dimensions of the dwelling, except cantilevers. Manufactured housing shall be installed pursuant to the manufacturer's set-up instructions and shall be secured to the foundation by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission or said State Construction Code, whichever is stricter, and with the wheels removed and shall not have any exposed towing mechanism, undercarriage or chassis.
 - 2. Framing, structural components, and insulation shall comply with the said State Construction Code, or in the case of mobile homes, shall comply with the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, as amended, and which bears a HUD seal or certification by a certified inspector signifying inspection and compliance with the same.
 - 3. The final finish of all dwellings shall comply with the said State Construction Code.
- C. All dwellings shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatuses and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- D. Every dwelling hereinafter erected shall have a roof slope of at least an average of four (4) feet, or greater, vertical rise for each twelve (12) feet of horizontal distance. In no case, however, shall the vertical distance be less than the manufacturer's recommendation for the shingles on the roof. The Planning Commission may waive upon a finding that a lesser roof slope would be compatible architecturally with existing structures in the neighborhood.
- E. All dwellings shall contain only additions or rooms or other areas which are constructed with similar quality workmanship as the original structure. Further, such additions shall include permanent attachment to the principal structure. Such permanent attachment shall not include a bearing load on any manufactured housing.

F. The foregoing standards shall not apply to manufactured housing located in a licensed manufactured housing community except to the extent required by State or Federal law or otherwise specifically required in this Ordinance pertaining to such communities.

SECTION 520 HOME OCCUPATIONS

A. Minor Home Occupations. Home occupations shall receive a zoning permit upon a finding by the Zoning Administrator that the proposed home occupation shall comply with all of the following requirements.

1. The home occupation(s) shall be conducted entirely within enclosed structures and shall be limited to the personal residence of the person engaging in the home occupation and not more than one approved accessory building.
2. The home occupation(s) shall be an accessory use to the residential use of the property.
3. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation. No exterior sign shall be permitted.
4. With the exception of material purchased over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, arts and craft supplies or heating fuel, the home occupation(s) shall not involve the:
 - a. Generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 229.433 et. seq.), or
 - b. Use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910.2 (Dept. of Labor Regulations).
5. Not more than one (1) automobile associated with the home occupation may be parked on the street at any time. Any other parking shall be on the parcel where the home occupation is taking place, however, an additional parking area shall not be constructed and the existing driveway prior to the establishment of the home occupation shall be used for other customer parking.
6. Only the inhabitants of the residence plus not more than one (1) non-resident shall be employed by the home occupation.
7. No additional rooms or accessory structures may be added to the dwelling to accommodate the home occupation.
8. Home occupation shall be a permitted use in the respective Zoning District.

B. Major Home Occupations. Home occupations shall receive a zoning permit upon a finding by the Planning Commission that the proposed home occupation shall comply with the following requirements.

1. The home occupation(s) shall be conducted entirely within enclosed structures and shall be limited to the personal residence of the person engaging in the home occupation and not more than two approved accessory buildings.
 2. The home occupation(s) shall be an accessory use to the residential use of the property.
 3. The activities and carrying on of the home occupation shall be operated in such a manner that other residents of the area, under normal circumstances, would not be aware of the existence of the home occupation. One exterior, unlighted wall mounted sign shall be permitted with a total area of not more than six (6) square feet.
 4. With the exception of material purchased over the counter for household cleaning, lawn care, operation of a photocopy machine, paint, printing, arts and craft supplies or heating fuel, the home occupation(s) shall not involve the:
 - a. Generation of any hazardous waste as defined in P.A. 64 of 1979, as amended, being the Hazardous Waste Management Act (MCL 229.433 et. seq.), or
 - b. Use of materials which are used in such quantity, or are otherwise required, to be registered pursuant to the Code of Federal Regulations, Title 29, Chapter XVII, part 1910.2 (Dept. of Labor Regulations).
 5. Not more than one (1) automobile associated with the home occupation may be parked on the street at any time. Any other parking shall be on the parcel where the home occupation is taking place and parking for not more than two (2) automobiles may be constructed in addition to the area of the driveway in existence prior to the establishment of the home occupation.
 6. Only the inhabitants of the residence plus not more than two (2) non-resident shall be employed by the home occupation.
 7. Home occupation shall be a permitted use in the respective Zoning District.
- C. Any change or alteration in the nature or activities of a Home Occupation shall be regarded as a new Home Occupation and shall require a new application hereunder.

SECTION 521 HOME BASED BUSINESSES

A Home Based Business shall be treated as a Major Home Occupation subject to the provisions of Section 520, B, and to the following additional standards:

- A. In addition to the occupants of the residence and not more than two non resident employees, a Home Based Business may employ other persons, provided their work activities are undertaken at locations other than the location of the home occupation.
- B. Any motorized vehicles and equipment used in the Home Based Business shall be stored in an enclosed structure when not in use. No outdoor storage of vehicles, equipment, materials or scrap shall be permitted.

- C. The operator of a proposed Home Based Business shall attach an operational plan for the Home Based Business to the application for a zoning permit for the Major Home Occupation. The operational plan shall provide the following information:
1. The hours the Home Based Business will operate.
 2. A description of employee parking and workforce staging plans.
 3. A site plan in accord with Section _____, indicating the location of any storage of vehicles and equipment as well as any employee or customer parking.
 4. A description of the shipping and delivery requirements of the Home Based Business.
 5. A description of any material used in the Home Based Business which will be stored on the premises.
- D. The Planning Commission shall review the application for a Home Based Business and shall approve such application if it finds that the proposed Home Based Business shall meet the requirements of this Section and Section 520, B hereof.
- E. Any change or alteration in the nature or activities of a Home Based Business shall be regarded as a new Home Based Business and shall require a new application hereunder.
- F. A failure to fulfill the terms of the Home Based Business, the site plan and its attachments shall be grounds for revocation of Planning Commission approval of a Home Based Business.

SECTION 522 TEMPORARY ACTIVITY PERMITS

- A. The Planning Commission may issue permits for the temporary use and occupancy of property for uses not otherwise provided for in this Ordinance (carnivals, special events, flea markets, environmental testing devices) and which do not require the erection of any structures requiring foundations or connection to public water or sewer. For the purpose of this section, a temporary activity shall not extend for more than six (6) months in any year. There shall be no minimum duration for a temporary activity. Provided, however, that sales of personal items from a private residence or church, such as garage or yard sales, shall not require a temporary activity permit if such sale does not extend for more than three (3) days in any ninety (90) day period.
- B. The Planning Commission shall issue Temporary Activity Permits in response to a properly completed application, if it finds that such activity shall:
1. Conform with applicable minimum development standards, including but not limited to setbacks, off-street parking and loading, and signs;
 2. Maintain adequate setbacks between stalls, fixtures and equipment to allow emergency access;
 3. Be compatible with the physical character and the use of nearby properties;
 4. Not adversely impact the public health, safety, and general welfare of the City, its residents and businesses.

5. The Zoning Board of Appeals shall establish a definite time limit for the existence of any such temporary use which shall not exceed six (6) months.

C. In accordance with Section 507, the Planning Commission may establish conditions upon the approval of a Temporary Activity permit, including establishment of a definite time limit for the existence of any such temporary use which shall not exceed six (6) months

SECTION 523 PARCEL DIVISIONS

A. New parcels created shall conform with this Section and the applicable provisions of one of the following development options. The splitting and combining of one adjacent parent parcel with another is allowed, conditioned on both parent parcels not having been split previously under either Development Option listed below. In these cases the resulting reconstituted parent parcels shall be the basis for further allowable land divisions.

This does not comply with statutory open space preservation requirements, because it requires Zoning Admin. Approval for Option 1 and Option 2 is structured as a PUD.

1. Development Option 1, (available only if approved by the Administrator) Country Properties: A maximum of eighty (80%) percent of any parent parcel's buildable area may be divided into new parcels averaging not less than 10,000 square feet in area. The remaining twenty (20%) percent of the parent parcel shall be kept as usable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means acceptable to

the Administrator.

2. Development Option 2, Conservation Planned Unit Development: A maximum of eighty (80%) percent of any parent parcel's buildable area may be divided into new parcels averaging not less than 10,000 square feet in area. The remaining twenty (20%) percent of the parent parcel shall be kept as useable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means acceptable to the Planning Commission.

a. Eligibility: Parent parcels not previously split may be developed per Development Option 2.

b. Minimum Conservation Land Requirement: The development density which would normally be realized on the entire parent parcel shall be transferred to the area of the parent parcel which is not the twenty (20%) percent of the parent parcel which shall be kept as usable open space in perpetuity by conservation easement, plat dedication, restrictive covenant, or other legal means.

c. Determining Maximum Allowable Parcel Divisions: The maximum number of new parcels which may be created within the parent parcel shall be the same number calculated by dividing the total area of the parent parcel which is buildable area by the minimum parcel area required in the respective zoning district. To illustrate this density the applicant to the Administrator shall submit a conceptual plan of division of the parent parcel. This plan shall contain proposed parcels, roads, rights-of-way, areas

which are not in the buildable area, and other pertinent features. This plan must be drawn to scale, but does not need to be based on a field survey.

- d. Siting Criteria for New Parcels: Diversity and originality in parcel layout shall be encouraged to achieve the best possible relationship between Buildable and Conservation Land (per Section A.2.b). The Planning Commission shall evaluate proposals to determine whether the proposed site plan meets the site plan criteria of Section ___ and the following:
- 1) Protects and preserves all beach contiguous to a lake or stream, wetland, flood plain; existing public utility easements; existing public rights-of-way; waterfront setback areas; slopes over twenty five (25%) percent; and buffer areas around such features from clearing, grading, filling, and construction.
 - 2) Maintains or creates an upland buffer of natural native species vegetation of at least one hundred (100) feet in depth adjacent to wetlands and surface waters.
 - 3) Leaves scenic views and vistas unblocked and uninterrupted, particularly as seen from adjacent roads and surface water.
 - 4) Avoids siting new construction on prominent hilltops or ridges, by taking advantage of lower topographic features or by siting in forested areas.
 - 5) Protects wildlife habitat areas of species listed as endangered, threatened or of special local concern.
 - 6) Designs around and preserves sites of historic, archaeological, or cultural value, insofar as needed to safeguard the character of the feature.
 - 7) Protects rural roadside character and improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public streets. Establishes buffer zones along the scenic corridor of rural roads with historic buildings, stonewalls, hedgerows, and so on.
 - 8) Provides that Conservation Lands (per Section A.2.b) shall be reasonable and contiguous. While Conservation Lands are exempt from the 4 to 1 maximum parcel depth to width ratio, fragmentation of these lands shall as much as practical be minimized so that (except for common greens and playground areas) these areas are not divided into numerous small parcels located in various parts of the development.
 - 9) When Conservation Lands (per Section A.2.b) are held in common by surrounding parcel owners the proposed site plan shall:
 - a) Provide for active recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby parcels in the buildable area(s).

- b) Include a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between parcels, activity areas, special features, and contiguous developments.
- c) Ownership of Conservation Lands (per Section A.2.b) may remain with the owner of the parent parcel, a homeowners association made up of parcel owners in the development, the City, or a recognized non-profit land conservancy.
- d) Conservation Lands (per Section A.2.b) created pursuant to Development Option 2 may be used for any permitted use allowed in the respective zoning district pursuant if the parcel contains a large enough buildable area and if said use is permitted by the conservation easement and the Open Space Preservation Act (Act 179 of 2001). Such parcels shall be covered by a conservation easement prohibiting the further splitting or development of these lands in the future. Both the City and one of the following shall hold such conservation easement jointly: a homeowners association made up of parcel owners in the development or a recognized non-profit land conservancy.

B. Application and Site Plan Review Process:

- 1. A pre-application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance is encouraged for all parcels to be split under provisions of Development Option 1. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference. If necessary a site visit may be scheduled during the pre-application conference.
- 2. A pre-application conference between the applicant, the site designer, and the administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance shall be mandatory for all parcels to be split under provisions of Development Option 2. Engineering, site plans, or surveys, shall not be required for the pre-application conference and shall not be accepted or reviewed at the pre-application conference. If necessary a site visit may be scheduled during the pre-application conference.
- 3. The application shall then be processed under the Special Use Permit, Section ___ et. seq. of this Ordinance, and Planned Unit Development Districts Section ___ et. seq. of this Ordinance. The City shall simultaneously approve the land division splits as part of the review.

SECTION 524 SETBACKS

No structure, other than fences, shall be placed within the required setback area (required yard). Setbacks shall be measured from the property line to the foundation of the structure (including porches and steps), unless an upper portion of the structure projects beyond the foundation, then the setback shall be measured from the property line to a point which is perpendicular to the

furthest most point of the projections, exclusive of any eaves. Further, at no time will the eaves be permitted to extend into the required setback area more than one-third of the required setback.

SECTION 525 OUTDOOR LIGHTING REQUIREMENTS

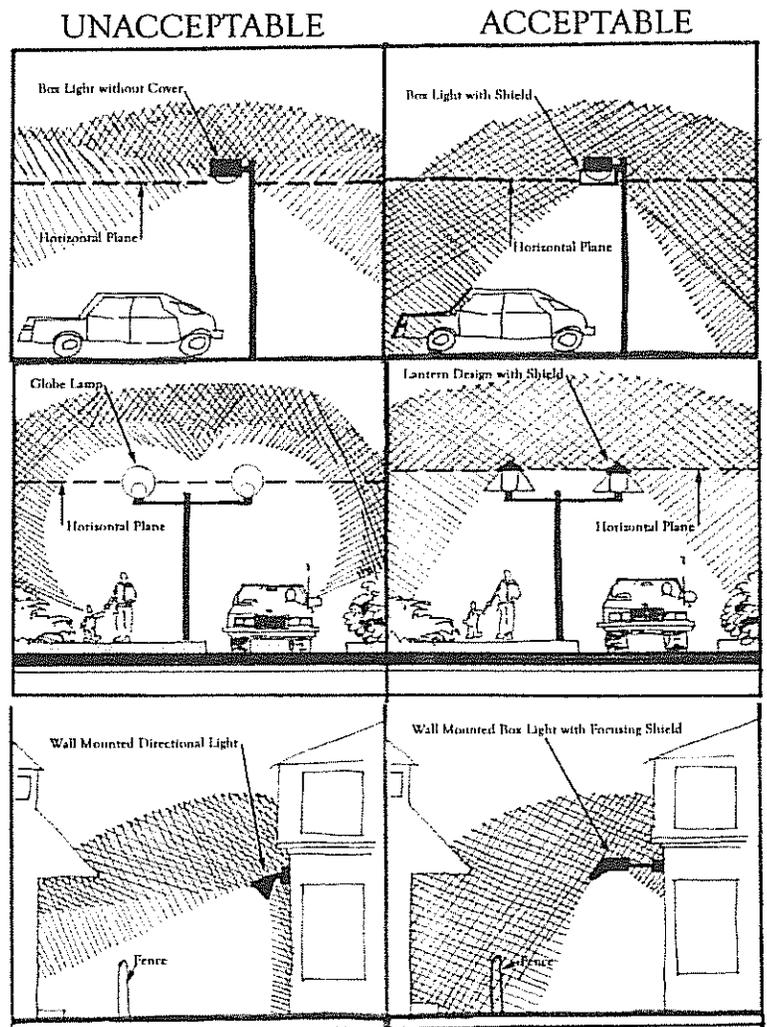
- A. Intent and Purpose: To maintain safe nighttime driver performance on public roadways, by minimizing both brightly lighted surfaces and lighting glare, to preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow”, and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plan or plot plans submitted for approval under the terms of this Zoning Ordinance.
- B. General Provisions:
1. Exempted areas and types. The following types of outdoor lighting shall not be covered by this Ordinance:
 - a. Residential decorative lighting such as porch lights, low level lawn lights, and special seasonal light such as for Christmas decorating, and residential yard lights whether building mounted or pole mounted.
 - b. Sign lighting as regulated by Section ____.
 - c. Lighting associated with detached single family housing.
 2. Regulated Lighting. The following types of lighting shall be regulated by this Ordinance:
 - a. Parking lot lighting and site lighting for commercial, industrial and institutional developments.
 - b. Multiple Family Developments parking lot lighting and site lighting.
 - c. Publicly and privately owned roadway lighting.
 - d. Building facade lighting.
 - e. Other forms of outdoor lighting which, in the judgment of the Planning Commission is similar in character, luminosity and/or glare to the foregoing.
 3. Standards: Lighting shall be designed and constructed in such as manner to:
 - a. Ensure that direct or directly reflected light is confined to the development site.
 - b. Lamps and luminaries shall be shielded, hooded and/or louvered to provide a glare free area beyond the property line and beyond any public right-of-way, or the light source is not directly visible from beyond the boundary of the site.
 - c. The light from any illuminated source shall be designed so that the light intensity or brightness at any property line shall not exceed one (1) foot candle.

d. Lighting fixtures shall have one hundred percent (100%) cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. No light fixture shall be mounted higher than twenty (20) feet above the average grade of the site, except for approved outdoor recreation area lighting.

e. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section.

f. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness or color. Beacon and search lights are not permitted.

g. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.



**Historic Overlay Review Committee Meeting
August 31, 2004**

Present: Tamara Buswinka, Steve Harold, Dennis terHorst and Roger Yoder

Others: Jon Rose, John Perschbacher, Gordon McLellan Jr., Mukesh Patel, and Mark Pressell

GORDON & LINDA MCLELLAN, 335 RIVER STREET - NEW FACADE

Members discussed the proposed renovation to 335 River Street. Mr. McLellan's proposal included changes to the facade of the building.

MOTION by Roger Yoder, seconded by Tamara Buswinka to approve changes as presented.

Voting as follows:

Yes: Steve Harold and Roger Yoder

No: Tamara Buswinka and Dennis ter Horst

MOTION FAILED DUE TO LACK OF MAJORITY VOTE

MOTION by Tamara Buswinka, seconded by Roger Yoder to approve the request as presented with the interior of the sign panel flat painted surface with no copper. Mr. McLellan has to bring back to the committee interior sign panel decorative elements if different that what was on the drawing on file at City Hall.

MOTION PASSED UNANIMOUSLY

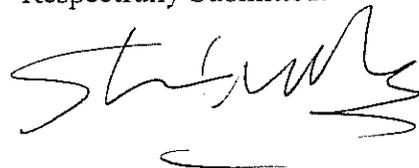
MANISTEE INN AND MARINA, 378 RIVER STREET - ALTERATIONS TO THE BUILDING

Mark Pressell, Architect for the project and Mukesh Patel explained the proposed project to the members of the Historic Overlay Review Committee. Plans are for the construction of two additional stories , balconies, and replacing existing exterior of building.

MOTION by Steve Harold, seconded by Roger Yoder to approve as presented, applicant will have to bring back the surface materials for the exterior and paint colors once decided and all aluminum installed on the exterior of the building will be painted.

MOTION PASSED UNANIMOUSLY

Respectfully Submitted.





70 Maple Street • P. O. Box 358 • Manistee, Michigan 49660

231-723-2558
FAX 231-723-1546

September 7, 2004

Joseph and Deborah Pienta
P.O. Box 121
Manistee, MI 49660

RE: Mini-Storage Facility

Dear Mr. & Ms. Pienta:

We have received several complaints about your Mini-Storage Facility on Main Street. Review of your request shows that some items that you stated would be provided at your facility have not been completed.

You stated to the Planning Commission when you made your request that there would be no outside storage and that the property would be enclosed with a chainlink fence that would be locked at night. Hours of operation were limited by the Planning Commission from 8:00 a.m. to 8:00 p.m.

Please see that the hours of operation are strictly adhered to and that items that are currently stored outside are either removed or moved inside the facility. The fencing should be installed before the weather turns for the year. If you have any questions, please call me at 723-2558.

Sincerely,

CITY OF MANISTEE

Jon R. Rose
Community Development Director

JRR:djb

cc: City of Manistee Planning Commissioners