

ARTICLE FIVE 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.

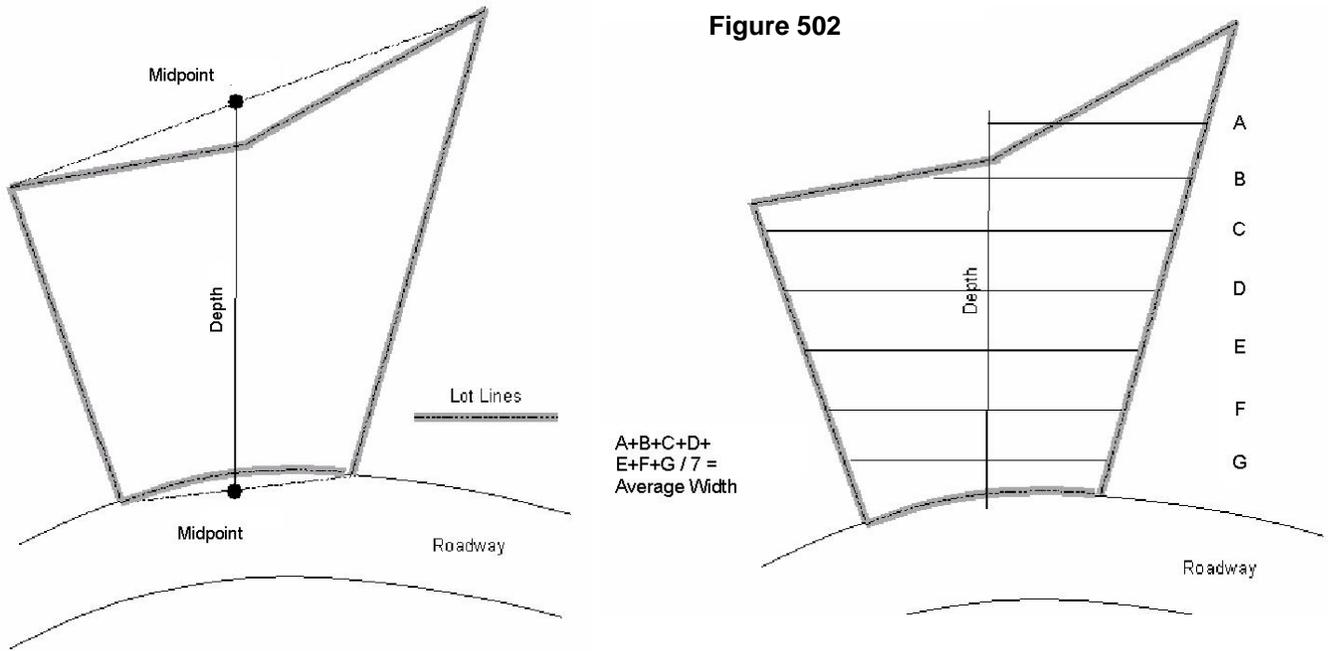
SECTION 501 SCOPE

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 and the City of Manistee Subdivision Control 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 as follows on a parcel:
 1. Within the front yard setback:
 - a. Those parts of a building which are decks, including steps, handicapped ramps, terraces, patios and awnings but built no closer than three (3) feet from the property line, subject to the provisions of [Section 513](#) pertaining to clear vision areas.
 - b. Porches built no closer than three (3) feet from the property line, subject to the provisions of [Section 513](#) pertaining to clear vision areas. Provided that they cannot be enclosed into living area, permanently screened (creating a screened porch) or glassed (creating a sunroom), the use of screen curtains is permissible.

- c. On parcels with steep slopes exterior steps may be located within a required yard when the Zoning Administrator finds that such location is necessary for the practical use of the property.
 2. Within the side or rear yard setback:
 - a. handicapped ramps, terraces, and patios but built no closer than three (3) feet from the property line
 - b. On parcels with steep slopes exterior steps may be located within a required yard when the Zoning Administrator finds that such location is necessary for the practical use of the property.
 - c. Outdoor playsets less than 18 feet in height but built no closer than three (3) feet from the property line and will not require a Land Use Permit.
 3. Anywhere on a parcel and does not require a Land Use Permit:
 - a. Flag poles;
 - b. Hydrants;
 - c. Arbors, trellises, trees, plants, shrubs, subject to the provisions of [Section 513](#) pertaining to clear vision areas;
 - d. Sidewalks and walkways. [Annotation: Section 502.D was changed by amendment Z12-07, effective 10/27/12]
- E. Required setback distances shall be measured perpendicular to and from the property line or edge of right-of-way or ordinary high water mark toward the center of the parcel. For non-platted parcels, where the front lot line is the roadway centerline, setbacks shall be measured from the edge of the right-of-way. Building setback lines shall parallel the parcel line from which they are measured. All measurements of setback distances shall be completed in accordance with [Section 524](#) hereof. [Annotation: Section 502.E was changed by amendment 07-05, effective 5/29/07]
- F. Parcel depth measurements shall be taken from the midpoints of straight lines, one connecting the front property corners and the second connecting the rear property corners. For the purposes of this section, property corners shall be determined by the Zoning Administrator as the points at which the side parcel lines intersect the front and rear lines, regardless of the shape of the property. Parcel width shall be measured at the front yard setback line. Provided that for irregularly-shaped parcels, the Zoning Administrator may determine an average parcel width as the average width measured at right angles to its depth, with no fewer than five (5) equally spaced measurements. See Figure 502.



- G. In the event a site plan is submitted for a proposed building or improvement in an area where fifty percent (50%) or more of the existing buildings on the same side of the street and within the same block do not meet the front yard setback requirements of this ordinance, the Zoning Administrator shall establish the minimum front yard setback for such proposed building or improvement as the most common setback of all existing buildings on the same side of the street within the same block. [Annotation: Section 502.G was changed by amendment 07-08, effective 5/29/07]
- H. 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. No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use or structure which requires Site Plan Review and approval until the proposed use or structure is authorized by a Zoning Permit.

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 there under.
3. No storm water runoff, which is a result of development site design, or other manmade features, shall be allowed to be directed to neighboring parcels, or shall be allowed to result 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. As an alternative, if in the opinion of the City's consulting engineer, the soils are of a type which will allow for efficient drainage, the use of drywells, infiltration trenches, swales, bio-retention or other best management practices for controlling urban runoff quality may be permitted. Single-family standalone residences are exempt from having to receive permitting and design approval for placement of rain gardens, bio-swales, rain barrels or other stormwater management practice, but all stormwater structures must meet applicable setbacks and other general standards. Methods used may include attached or detached accessory stormwater control features as follows:
 - a. Swales: both biofiltration and vegetated/rock swales subject to engineering review.
 - b. Rain Gardens may be permitted subject to engineering review.
 - c. Rain Barrels or Cisterns are permitted in all districts and require a land use permit.
 - 1) Underground cisterns or rain barrels are subject to engineering review and constructed in accordance with the State Building Code.
 - 2) Aboveground rain barrel or cistern systems in excess of 250 gallons must conform to the setbacks for accessory buildings and structures and are subject to engineering review. These systems must be constructed in accordance with the State Building Code. These above ground rain barrels or cistern systems shall be fully enclosed to avoid attracting mosquitos or becoming a hazard.
 - d. Vegetated roof systems may be permitted in accordance with the State Building Code.
 - e. Other methods of onsite stormwater control may be submitted to the Zoning Administrator and, at their discretion, may be approved, approved subject to engineering review, approved subject to Planning Commission review, or denied.

[Annotation: Section 503.3 was amended by adding language for green infrastructure options by amendment Z15-05, effective 7/14/15]

- 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.

SECTION 504 WATER SUPPLY AND SEWAGE FACILITIES

A structure intended or used for human occupancy shall be connected to a public sewer and water supply or to such private facilities in compliance with the City Code, as amended, and approved by the Manistee-Mason District Health Department.

SECTION 505 WATER PROTECTION

Notwithstanding anything to the contrary contained in this Ordinance, the following provisions shall apply:

A. Where any building, structure or improvement is proposed for property abutting Manistee Lake, the Manistee River Channel, Lake Michigan or any man-made lake, additional waterfront setbacks shall be provided to offer protection for said water body. Such setbacks shall be increased to the following (see Table 7-1 for a complete schedule of regulations):

B.

District	PD	GC	R-1	R-2	R-3	R-4	C-2	C-3	W-F	L-I	G-I
Waterfront Yard (feet)	20	100	100	20	20	20	20	20	20	N/A	50

Provided, that these increased setback standards shall not apply to walkways, boat docks, boat slips, boat houses and boat launches. The increased setback areas shall be designed to provide additional protection for the water bodies. [Annotation: Section 505.A was changed by amendment 07-07, effective 5/29/07] [Annotation: GC was added by amendment Z10-06, effective 10/30/10] [Annotation: PD was added by amendment Z12-08, effective 10/27/12]

- C. A site plan for any improvement proposed for property abutting the Manistee Lake or River Channel shall provide for a filter and buffer landscape strip a minimum of ten (10) feet in width along the edge of the water. Natural shoreline and existing vegetation shall be preserved where appropriate. It shall be the landowner's responsibility to maintain (and establish, if necessary) this vegetation belt in a healthy state.
- D. No building or structure shall be built, located or constructed within a 100 year flood plain, as may be determined by the Michigan Department of Natural Resources or the Federal Emergency Management Agency, unless constructed according to the Michigan Construction Code, as it applies to construction in flood plains, consistent with criteria set forth in Section 1910 of National Flood Insurance Program Regulations, promulgated under the National Flood Insurance Act of 1968.
- E. Where buildings and structures are proposed to be located within or adjacent to floodplains and areas of high-risk erosion, techniques shall be implemented to mitigate any impact on water bodies and bluff lines. The mitigation techniques shall also be designed to minimize the economic hardships that individuals and the City may face in the event of property loss due to severe erosion or flooding. The Planning Commission may require an applicant to submit an Environmental Assessment on the condition of the floodplain or the bluff line.

Where a bluff is determined to be eroding or in danger of eroding, structures and buildings shall be setback a minimum of ten (10) feet in addition to the respective minimum waterfront yard setback, from the bluff line; provided, that a minimum of 30 years protection from shore land or bluff erosion is provided by said setback, as determined by the Department of Natural Resources.

- F. The City encourages property owners, developers, and others to construct walkways, or to dedicate easements to the City for the eventual construction of walkways, along lands abutting the Manistee Lake or River Channel. Where an easement or walkway will be provided, it shall be illustrated on a site plan and may be located within or on posts or pilings above the ten (10) foot filter and buffer landscape strip required per [Section 505 B](#).
1. The easement or walkway shall be a minimum of ten (10) feet wide and shall be aligned to connect with existing, anticipated, or future walkways on neighboring properties.
 2. A walkway shall be approved by the City Engineer and shall conform to the City of Manistee's sidewalk standards, as promulgated under [Section 1024](#) of the General Law Ordinances of the City of Manistee.

SECTION 506 RESERVED

SECTION 507 CONDITIONS OF APPROVAL

The Zoning Administrator, Planning Commission, City Council and Zoning Board of Appeals may attach reasonable conditions with the approval of special land uses, planned unit developments, site plans, variances, and other discretionary zoning decisions. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- C. Be necessary to meet the intent and purpose of this Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

SECTION 508 FENCES

Fences, walls, and decorative fences shall require a zoning permit issued by the Zoning Administrator and shall comply with the following regulations and requirements:

A. Location:

1. Fences, walls and decorative fences shall not be located outside or beyond the property or lot lines of the lot upon which said improvement shall be placed.
2. Decorative Fences, as defined herein, may be placed in any location on a parcel, provided that on a waterfront lot in the R-1, R-2, R-3 and R-4 Districts, no portion of such fence shall constructed in the waterfront setback. [Annotation: Section 508.2 was changed by amendment 07-05, effective 5/29/07]
3. Fences, other than decorative fences as defined herein, shall not be located in the front setback of any lot in the R-1, R-2, R-3, R-4 or C-2 Districts.

B. Height:

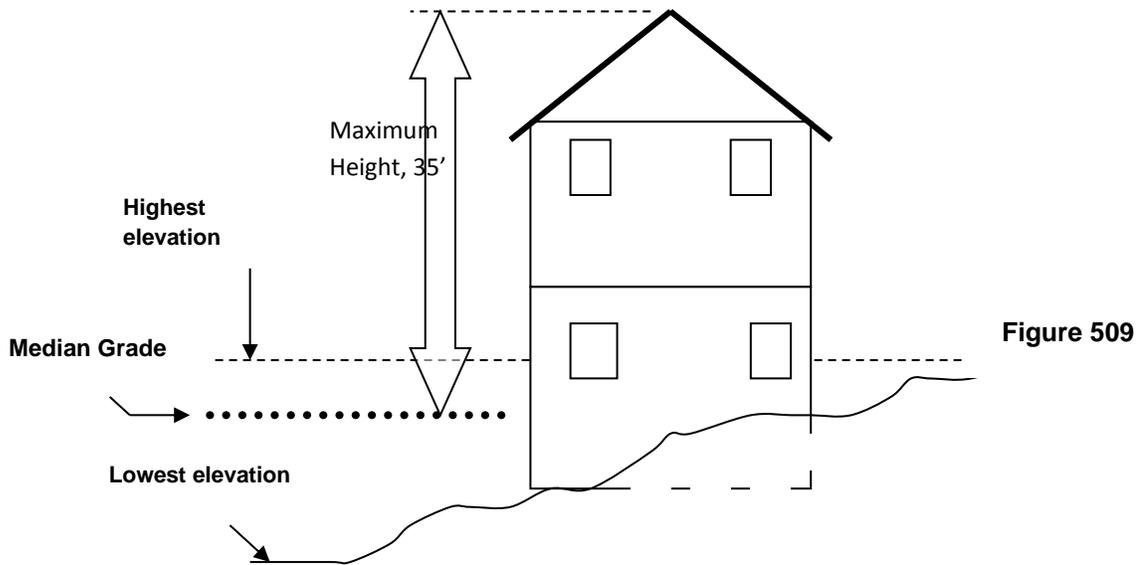
1. Fences and walls shall not exceed six (6) feet in height in any district, unless such fences are constructed in conformance with the setback restrictions in the district. However, the Planning Commission may approve a greater height in the L-I and G-I Districts if the increased height will better screen a use from the roadway or adjacent residential uses.

C. Design and Type:

1. All fences shall be constructed with the finished side exposed, the support posts placed on the inside, and in a manner which serves to enhance the aesthetic appearance of the neighborhood or surrounding.
2. Decorative fences shall be constructed, by way of illustration, in a style similar to split rail or wrought iron fences. Decorative fences shall be designed to incorporate no more than fifty percent (50%) opaque surface area.
3. Except in the G-I District, no fence shall include barbed or razor wire strands or electrification.

SECTION 509 HEIGHT

A. Maximum Building Height. No building or structure or part thereof shall be erected or altered to a height exceeding thirty-five (35) feet, as measured from the finished median grade elevation of a site, except as follows:



1. Buildings or structures in the C-1 District may be erected or altered to a height of forty (40) feet. Buildings in the C-3 District may be erected or altered to a height of fifty (50) feet.
 2. Buildings or structures in the L-1 and G-1 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. All such structures shall require the approval of the Fire Chief.
- B. 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.
- C. For the purposes of this Section, median grade shall be determined to be the elevation of the crown of the road at the center point of the parcel for all sites where there is less than fifteen (15) feet variation in elevation across the building envelope of the site. For parcels with more than fifteen (15) feet variation across the building envelope, the median grade shall be determined by subtracting the lowest elevation point in elevation within the building envelope from the highest, multiplying the result by 0.667 and adding the product to the elevation of the lowest point.

- 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 P-D, R-4, C-1, C-2, W-F, L-I and G-I Districts, driveway entrances and exits to a property shall comply with the following standards unless superseded by State or Federal statute or rule. [Annotation: PD was added by amendment Z12-08, effective 10/27/12]
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, measured from the edge of the respective rights-of-way. Provided that, parcels greater than one hundred (100) feet in width, which shall have driveways curb cuts at least sixty (60) feet from an intersection measured at the edge of the public right-of-way.
 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 a local 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. In the G-C, R-1, R-2 and R-3 districts, driveway curb cuts shall be placed at least thirty (30) feet from an intersection. [Annotation: G-C was added by amendment Z-15-04, effective 7/14/15]
- C. All driveways in every district shall be located at least three (3) feet from a side yard property line.
- D. A driveway curb cut shall not be constructed into a city-owned street unless a driveway is also being constructed. [Annotation: word "unto" was replaced with "into" by amendment Z15-05, effective 7/14/15]
- E. 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.

- F. All driveways shall be paved with asphalt, concrete, or pervious paving and connect to the public right-of-way. [Annotation: pervious paving was added by amendment Z15-05, effective 7/14/15]
- G. 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

Except within a PUD approved in accordance with [Section 1870](#), 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. Provided, however, the Zoning Administrator, upon consultation with the City Engineer and/or Chief of Police, may require a greater clear vision area where necessary due to traffic speeds, volumes or the topography of the site. Provided, further, that the Planning Commission may, upon the recommendation of the Zoning Administrator, waive or modify such standard within the C-3 and C-2 districts to permit buildings to conform to existing front and side yard patterns in the immediate vicinity.

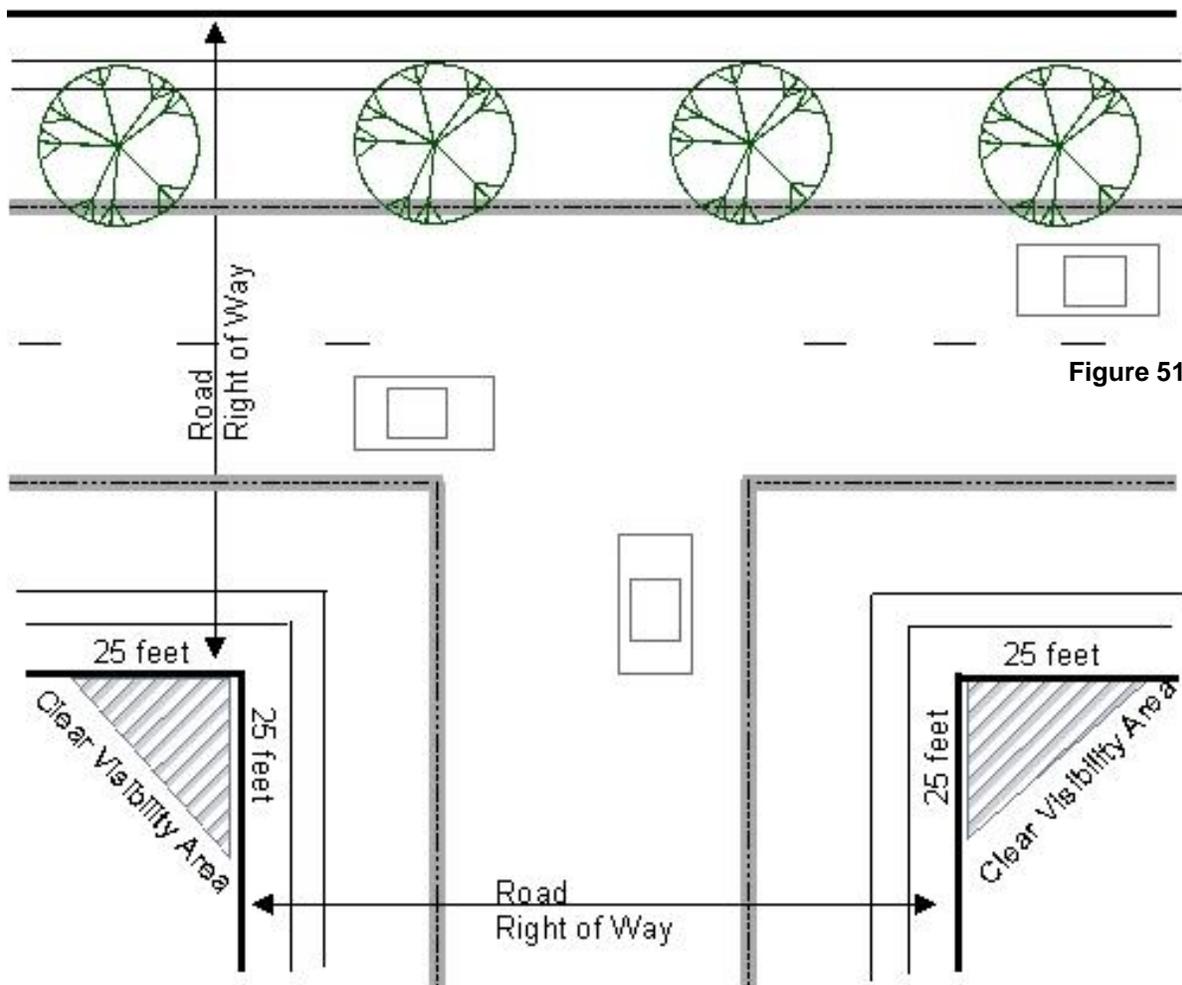


Figure 513

SECTION 514 VEHICULAR PARKING SPACE, ACCESS, BIKE PARKING AND SIDEWALKS

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. All parking areas except for Dwelling Units for Single Family, duplex units and mobile homes; the maximum number of parking spaces shall not exceed 1.5 times the minimum number of required parking spaces

Use	Number of Parking Spaces Per Unit of Measure
Dwellings	Two (2) spaces per Dwelling Unit for Single Family, duplex units and mobile homes. One and a half (1.5) spaces for Multi-Family.
Hotels, Motels, Inns and Transient Lodging Places	One (1) space for each rentable room.
Hospitals, Nursing and Personal Care Facilities	One (1) space for each four beds, and one (1) space for each employee during the time the largest number of employees are present.
Places of public assembly	One (1) space for each four seats of legal capacity.
Medical clinics and medical and dental offices	One (1) space for each 50 square feet of usable floor area in waiting rooms, one (1) space for each examining room, dental chair and similar use area, and (1) space for each employee during the time the largest number of employees are present.
Offices, other than medical or dental clinics	One (1) space for each 250 square feet of office space.
Eating and drinking establishments	One (1) space for each three seats of legal seating capacity.
Retail establishments	One (1) space for each 450 square feet of floor area dedicated to retail activity, exclusive of storage areas.
Industrial and warehouse uses	One (1) space for each employee during the time the largest number of employees are present plus five (5) spaces for visitors.

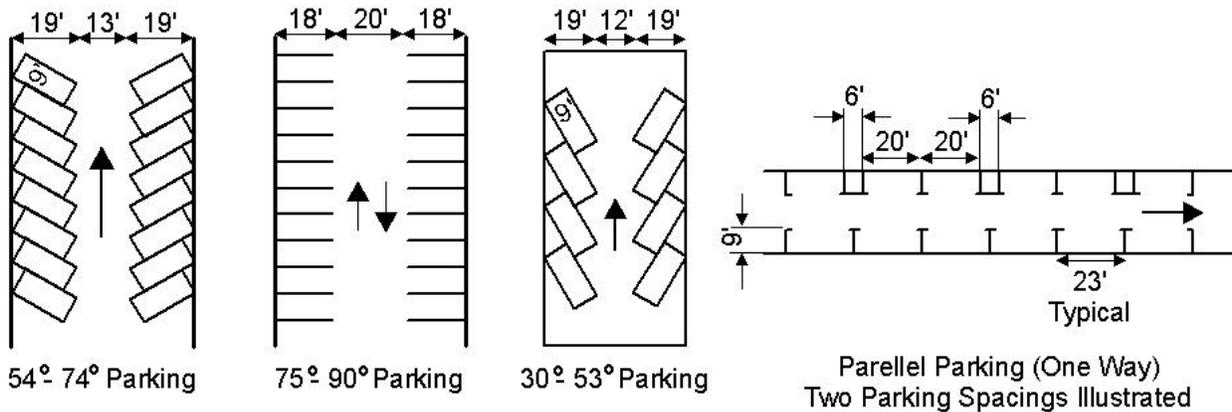
[Annotation: Section Title was changed from Vehicular Parking Space, Access and Lighting to Vehicular Parking Space, Access, Bike Parking and Sidewalks and Section A was amended by Amendment Z12-04; effective 10/27/12]

- 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.
- C. 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.

Figure 514



**Parking Area Dimensions
(for standard-size vehicles)**

- 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, bituminous material or pervious paving with approved curbing and painted parking lines. [Annotation: Item E was amended by Amendment Z12-04, effective 10/27/12]
[Annotation: Item E was amended by amendment Z15-05, effective 7/14/15]
- F. Parking areas with ten (10) or more spaces shall include designated pedestrian walkways through the parking lot in addition to landscaped planting islands and perimeter buffers in accordance with [Section 531](#), in all instances where sufficient space is available. Landscape islands must meet the following size requirements:
1. Landscape islands containing a tree shall be a minimum of 160 square feet and a minimum of nine (9) feet wide.
 2. Landscape islands containing a pedestrian pathway shall be a minimum of eleven (11) feet wide, with a pathway of a minimum width of five (5) feet and a minimum of three (3) feet of landscape area on both sides.
 3. If landscaped islands are not used for storm water infiltration, the islands must be raised and curbed. [Annotation: Item F was added by amendment Z15-05, effective 7/14/15]
- G. For all permitted uses and special uses in the P-D District the parking provisions of this section shall not apply, except hotels, marinas, and places of public assembly. [Annotation: Item G was added by amendment Z15-04, effective 7/14/15]
- H. For all permitted uses and special uses in the C-3 District the parking provisions of this section shall not apply, except to hotels, motels, and residential use condominiums. [Annotation: Item F was amended by Amendment Z10-03, effective 10/30/10]
- I. 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.
- J. Within the C-1, C-2, C-3, and P-D 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. [Annotation: P-D was added by amendment Z15-04, effective 7/14/15]
- K. No parking area designed for more than 4 vehicles shall be located closer than five (5) feet from the front property line. [Annotation: Item I was added by Amendment Z12-04, effective 10/27/12]
- L. Bike Parking and the installation of a Bike Rack is required for all uses that require Medium Site Plan Review, unless waived in writing by the Zoning Administrator. Bike Parking and the installation of a Bike Rack is required for all uses that require Detailed Site Plan Review unless waived by the Planning Commission. [Annotation: Item J was added by Amendment Z12-04, effective 10/27/12]

- M. In all Districts except the L-I and G-I, sidewalks are required and shall be constructed in accordance with the City of Manistee Sidewalk Standards except as follows:
1. Dwelling, Single Family,
 2. Duplex's if waived by the Planning Commission during the Special Use Permit process,
 3. Accessory Structures, or
 4. Additions or Alterations to existing structures that do not require a Special Use Permit.
- [Annotation: Item K was added by Amendment Z12-04, effective 10/27/12]

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 (for example radio or television antennas, or upper story accessory dwellings).
- 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. A detached accessory building shall not be located closer than ten (10) feet to the principal structure.
- D. An accessory building and structure in the R-1, R-2, R-3 and R-4 Districts shall not be higher than eighteen (18) feet and side walls shall not be higher than twelve (12) 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 L-I and G-I accessory buildings shall not be taller than the principal building. In all Districts except C-1, L-I and G-I, the building area of all accessory buildings shall not exceed the building area of the principal building, except in accord with [Section 1804](#), hereof.
- 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, except as permitted pursuant to [Section 1831](#), pertaining to Accessory Dwellings.
- G. Accessory Wind Energy System
1. Design and Installation. - All accessory wind energy conversion systems (ground and roof mounted) shall comply with the building code currently adopted by the City of Manistee. Applications shall be accompanied by engineering drawings of the accessory wind energy conversion system structure including the tower, base, and footings. An engineering analysis of the tower showing compliance with the currently adopted building code and certified by a licensed professional engineer shall also be submitted. The installation of the accessory wind energy conversion system shall meet manufacturer's specifications.

2. Plan Submittal – A Basic Site Plan is required for accessory wind energy conversion systems. The plan must include a drawing showing the rotor clearance from the finished median grade elevation of the site.
3. Height – Accessory wind energy conversion systems shall be measured from the finished median grade elevation of the site as follows:
 - a. Accessory wind energy conversion systems in the P-D, G-C, R-1, R-2, R-3, R-4, and W-F District shall not be constructed to a height higher than thirty five (35) feet.
[Annotation: PD was added by amendment Z12-08, effective 10/27/12]
 - b. Accessory wind energy conversion systems in the C-1 District shall not be constructed to a height higher than forty (40) feet.
 - c. Accessory wind energy conversion systems in the C-3, L-I, and G-I shall not be constructed to a height higher than fifty (50) feet.
4. Rotor Clearance - A minimum ten (10) foot clearance from the ground shall be maintained to the vertical blade tip of a Horizontal Axis Wind Turbine and to the bottom of the rotating spire or helix of a Vertical Axis Wind Turbine.
5. Guy Wires - The use of Guy wires shall be prohibited.
6. Placement on Parcel - Accessory wind energy conversion systems shall not be located closer to an adjoining parcel than the height of the accessory wind energy conversion system or setback requirements for the zoning district, whichever is greater.
7. Noise – The property owner of an accessory wind energy conversion system shall provide for measures acceptable to the Planning Commission to prevent any noise in excess of 60 decibels at any property line or in excess of five decibels above the background noise, whichever is greater, as measured at the nearest property line.
8. Vibration - Accessory wind energy conversion systems shall not cause vibrations through the ground which are perceptible beyond the property line of the parcel in which it is located.
9. Spacing - Minimum spacing between accessory wind energy conversion systems (on and off site) shall be per the manufacturers specifications. Accessory wind energy conversion systems shall not be located closer than ten (10) feet to the principal structure on the property which it is located.
10. Accessory Equipment - All electrical equipment and battery storage shall be located within a locked panel or building (principal or accessory structure) so as not to be readily accessible. A small sign shall be placed on the panel or building with emergency contact information. Manufacturers Materials Safety Data Sheet (s) for all coolants, lubricants, batteries (acid), etc. shall be provided to the City prior to installation, and updated or amended sheets provide as may be required and a copy must be maintained on site.
11. Reception Interference - Accessory wind energy conversion systems shall not cause interference with television, microwave, navigational or radio reception to neighboring areas.

12. Shadow Flicker - The property owner of an accessory wind energy conversion system shall minimize shadow flicker to any occupied building on nearby properties.
13. Potential Ice Throw - Any potential ice throw or ice shedding from the accessory wind energy conversion system shall not cross the property lines of the site or impinge on any right-of-way or overhead utility line.
14. Visual Impact - All visible components of an accessory wind energy conversion system shall be painted a non-reflective, non-obtrusive neutral color and maintained in good repair in accordance with industry standards.
15. Safety – Accessory wind energy conversion systems shall have an automatic braking system to prevent uncontrolled rotation.
16. Other Regulations - On-site use of Accessory wind energy conversion systems shall comply with all applicable State Construction and Electrical Codes, Federal Aviation Administration requirements, Michigan Aeronautics Commission requirements, the Michigan Tall Structures Act (P.A. of 1959, as amended), and the Michigan Public Service Commission and Federal Energy Regulatory Commission standards.
17. Historic District – Prior to the issuance of any permits the City of Manistee Historic District Commissions shall review and approve any proposal to locate an accessory wind energy conversion system within a historic district, approval being subject to the requirements for the Historic District. [Annotation: Wind Energy Conversion System, Accessory replaced Windmill Accessory under Ordinance Amendment Z11-08, effective 12/28/11]

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 the viability of the principal use is not dependent in any significant way on the accessory 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 and upper story dwellings above a commercial or office use, especially in the C-3 district.

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. Membrane-covered framework or metal roofed temporary structures shall be prohibited in all districts.
- D. In all districts, except L-I and G-I, a temporary structure shall not exceed one hundred (100) square feet in size.

SECTION 519 DWELLINGS

- A. All structures used or proposed to be used as a dwelling as defined herein, shall comply with dwelling standards of this Ordinance and the standards of the State of Michigan and United States Department of Housing and Urban Development, as applicable. All dwellings constructed shall have a minimum square footage and minimum width required in each respective Zoning District.
- B. **Manufactured Housing.** Dwellings located in a Manufactured Housing Community regulated pursuant to Act 96 of the Public Acts of 1997, as amended shall comply with the terms of this Ordinance as applicable and the terms of said Act and the rules promulgated thereunder.
- C. Every new Dwelling, Single Unit shall be constructed with 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 rise be less than the manufacturer's recommendation for the shingles on the roof. [Annotation: Section 519.C was added by amendment 07-09, effective 5/29/07]

SECTION 520 HAZARDOUS SUBSTANCE GROUNDWATER PROTECTION

- A. **Applicability.** All businesses and facilities (except fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor) which:
 - 1. use or generate hazardous substances in quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less; or
 - 2. store greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less, shall comply with the following groundwater protection requirements.
- B. **Groundwater Protection Requirements:**
 - 1. **Groundwater Protection, generally:**
 - a. The project and related improvements shall be designed to prevent groundwater contamination from hazardous substance discharge to the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, street slopes, and natural and man-made drainage systems.
 - b. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surface or groundwater, on-site or off-site.
 - c. General purpose floor drains and storm drains shall be:
 - 1) connected to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with state, county and municipal requirements; or
 - 2) authorized through a state groundwater discharge permit; or
 - 3) connected to a storm water system.

- d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals.
 - e. In determining conformance with the standards in this Ordinance, the Administrator or Commission, whichever is applicable, shall take into consideration the publication titled "Small Business Guide to Secondary Containment; Practical Methods for Above-ground Storage and Containment of Hazardous Substances and Polluting Materials" published by the Clinton River Watershed Council, May 1990, and other references.
 - f. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Department of Public Health and the Manistee-Mason District Health Department.
 - g. If the site plan includes territory within a Wellhead Protection Overlay Area submit a signed statement providing permission for periodic follow-up groundwater protection inspections by the Administrator, county and state officials.
3. Above-ground Storage
- a. Primary containment of hazardous substances shall be product-tight containers which are protected from weather, leakage, accidental damage, and vandalism.
 - b. Secondary containment for the storage of hazardous substances and polluting materials is required. Secondary containment shall be one of the following, whichever is greatest:
 - 1) sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance; or
 - 2) shall be at least as great as volumes required by state or county regulations; or
 - 3) shall, if not protected from rainfall, contain a minimum of
 - a) 110 percent of the volume of the largest storage container within the dike of the secondary containment area, plus
 - b) the volume that is occupied by all other objects within and below the height of the dike of the secondary containment area plus
 - c) the volume of a 6 inch rainfall.
 - c. Secondary containment structures such as out buildings, storage rooms, sheds and pole barns shall not have floor drains which outlet to soils, groundwater, or nearby drains or rivers.
 - d. Areas and facilities for loading/unloading of hazardous substances and polluting materials, as well as areas where such materials are handled, stored or used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, wetlands, groundwater or soils.

- e. State of Michigan and Federal agency requirements for storage, leak detection, record keeping, spill prevention, emergency response, transport and disposal shall be met.
 - f. Bulk storage of pesticides shall be in accordance with requirements of the Michigan Department of Agriculture.
4. Underground Storage
- a. Underground storage tank installation, operation, maintenance, closure and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Michigan Department of Natural Resources.
 - b. Bulk storage facilities for pesticides and fertilizers shall be in compliance with requirements of the Michigan Department of Agriculture.

SECTION 521 RESERVED

SECTION 522 TEMPORARY ACTIVITY PERMITS

- A. The City Council 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 City Council 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 City Council 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 City Council 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 and existing parcels combined shall conform to this Ordinance and the requirements of the Land Division Act, being Act 288 of the Public Acts of 1976, as amended.
- B. Divided Lots. Unless expressly approved by the Planning Commission as a part of a Planned Unit Development, no parcel of land shall be divided by a public or private right-of-way or road easement such that any portion of the parcel isolated from the remainder of the parcel by such right-of-way includes less than the minimum area and frontage for the zoning district in which it is located.
 - 1. Each portion of such divided lot exclusive of the right-of-way or easement, shall either:
 - a. Comply with the district requirements for minimum net lot area, road frontage, lot width, width to depth ratio and setback, or
 - b. Be considered permanently combined with such other portions of the lot such that the combined portions, exclusive of the area within the right-of-way, are considered one (1) zoning lot to comply with the district requirements for minimum net lot area, road frontage, lot width, width to depth ratio and setback.
 - 2. Not more than one (1) principal building may be erected on a Divided Lot and the standards of [Section 515](#) pertaining to Accessory Buildings shall apply to Divided Lots, providing that all required setback standards of this Zoning Ordinance shall be met.
 - 3. No portion of a Divided Lot, as defined herein, may be sold or otherwise conveyed if the Divided Lot, either prior to or after the conveyance, shall fail to meet the requirements of this Zoning Ordinance pertaining to minimum net lot area, road frontage, lot width, width to depth ratio and setback.
 - 4. One or more platted lots, any of which do not meet the net lot area and road frontage requirements of this Zoning Ordinance and which are separated from one another by a public or private road right-of-way or road easement and which have common ownership and which have been used historically as one (1) site, shall be considered to be one (1) zoning lot.
 - 5. One or more platted lots, any of which do not meet the net lot area and road frontage requirements of this Zoning Ordinance and which are separated from one another by a public or private road right-of-way or road easement and which have not been used historically as one (1) site, may become one (1) zoning lot if a copy of a recorded deed incorporating the owner's intent to permanently combine such parcels is provided to the City.
 - 6. Once a Zoning Lot, as defined herein, is designated and used as such, it shall not be used or developed except in conformance with the requirements of this Zoning Ordinance.
- C. Open Space Preservation Development: Within the R-1 District, the owner of property may elect to develop an Open Space Preservation Development in accord with the terms of this subparagraph. A maximum of eighty (80%) percent of the 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 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.

1. **Minimum Open Space 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.
2. **Determining Maximum Allowable Parcel Divisions:** The maximum number of new parcels which may be created within the parent parcel shall be the same number that would be permitted on the site under the provisions of the R-1 district. To determine this density, the applicant shall either:
 - a. Submit a conceptual plan of division of the parcel. This conceptual plan shall contain proposed parcels, roads, rights-of-way, areas which are not in the buildable area, and other pertinent features, in compliance with City ordinances and stipulations. This plan must be drawn to scale; or
 - b. Multiply the buildable area of the parcel as defined herein, by 85% to account for rights-of-way and divide the result by the minimum parcel area in the R-1 district.
3. **Siting Criteria for New Parcels:** Creativity and originality in parcel layout shall be encouraged to achieve the best possible relationship between buildable land and open space. The Planning Commission shall evaluate proposals to determine whether the proposed site plan meets the site plan criteria of [Article 22](#) and the following:
 - a. Protection and preservation of beach areas 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.
 - b. Maintenance or creation of a significant an upland buffer of natural native species vegetation adjacent to wetlands and surface waters.
 - c. Preservation of scenic views and vistas unblocked and uninterrupted, particularly as seen from adjacent roads and surface water.
 - d. Protection of wildlife habitat areas of species listed as endangered, threatened or of special local concern.
 - e. Protection and preservation of sites of historic, archaeological, or cultural value
 - f. Provision of reasonable and contiguous open space areas that are attractive and useful for future residents and the larger community.
 - g. Documentation that a homeowners association made up of parcel owners in the development, or a recognized non-profit land conservancy shall own or control the open space. The owner(s) of the open space shall be required to maintain the open

space. In the alternative, the City of Manistee may, but shall in no way be required to, accept title to the open space as an addition to the City's park system.

4. Application and Site Plan Review Process. A pre-application conference shall be held involving the applicant, the site designer, and the Zoning Administrator to discuss the applicant's objectives and how these may be achieved under this Ordinance. 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. All Open Space Preservation Developments shall be processed in accordance with [Article 22](#) pertaining to Site Plan Review.

SECTION 524 STRUCTURES PROJECTING INTO SETBACKS

No structure shall be placed within the required setback area (required yard). Setbacks shall be measured from the property line, or the ordinary high water mark, 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.
 - b. Sign lighting as regulated by [Section 2102, B.](#)
 - 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 façade lighting.
 - e. Residential yard lighting.
 - f. 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, as illustrated in Figure 525. 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.

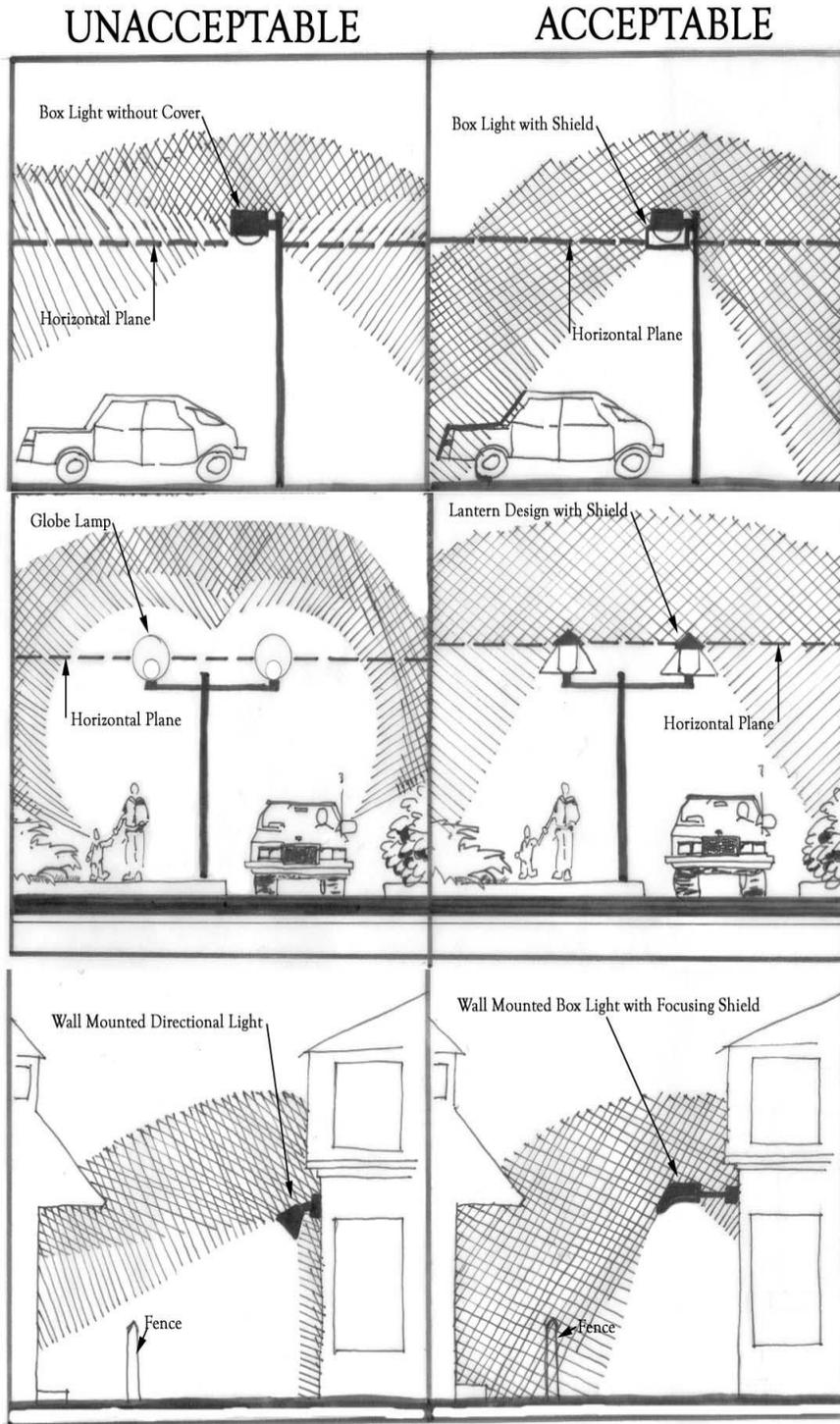


Figure 525

SECTION 526 OUTDOOR STORAGE

A. Residential Districts.

1. Within the R-1, R-2, R-3 and R-4 Districts, the outdoor storage or parking of trucks of more than one and one-half (1½) tons or trailers of any kind shall be permitted only in accordance with this Section. The storage or parking of trucks of more than one and one-half (1½) tons, truck trailers, recreational vehicles and boats shall be prohibited in any front yard in all districts, except as accessory to a use permitted by right or by special land use permit.
2. The outdoor storage of recreational vehicles and boats units shall be regarded as a permitted accessory use in the R-1, R-2, R-3 and R-4 Districts, if such storage conforms to the provisions of this section.
3. Such outdoor storage may be permitted within the rear yard or in one (1) side yard, provided all stored material is placed no closer than three (3) feet from a side lot line or five (5) feet from a rear lot line and provided that such storage does not prevent clear access between the front and rear yards of the parcel for a person on foot.
4. Such storage shall not be permitted in any front yard, except that trucks of more than one-and one-half (1½) ton, recreational vehicles or boats and trailers may be stored in a driveway within a front yard for a period of not more than twenty-one (21) consecutive days.
5. The open storage of disassembled or component parts for any vehicle of any type shall be deemed a nuisance in accord with the City of Manistee Nuisance Ordinance (Chapter 654 of the City of Manistee Codified Ordinances) and shall be prohibited at all times.
6. Recreational vehicles shall not be used for lodging or housekeeping purposes, except as otherwise authorized by permit.
7. Any recreational vehicle or boat stored out of doors shall be the property of the resident, except that one (1) such authorized unit may be the property of a non-resident.
8. No recreational vehicle or recreational unit shall be parked or stored on any roadway or road right-of-way, except in accord the City of Manistee Parking Ordinances.

B. Commercial and Industrial Districts. Yards for storage of heavy machinery, supplies and materials generally used by road builders, earth movers, and construction contractors, or unused motor vehicles, trailers or boats, or parts thereof, which may or may not be not wholly owned by the property owner, shall be only located in areas approved by the Planning Commission. Such storage yards shall be entirely enclosed with a solid fence evergreen plantings or other year-round screening not less than six (6) feet high. Fencing or walls shall not be more than eight (8) feet high and shall be constructed and maintained in such suitable manner in accordance with this Zoning Ordinance. In approving or disapproving such a fence to screen outdoor storage, the following standards shall be applied:

1. Fences and walls shall be constructed of durable materials such as wood planks, brick, cement block, or structural resin intended to remain in good condition in the northern Michigan climate. Sheet metal, chainlink, chainlink with woven screening and other similar materials that may be subject to rusting, weathering or deflection under severe weather conditions shall not be permitted.
2. All fencing materials shall be located in accord with the terms of this ordinance and completely on the property of the owner. The Planning Commission may require that sufficient area be set aside on the outside of the fencing to permit maintenance of the fencing from the owner's property.

SECTION 527 ESSENTIAL SERVICES

The Planning Commission shall have the power to permit the use of lands and the erection and use of buildings and facilities for an essential service in any district. The Planning Commission may further authorize buildings in connection with an essential service to be constructed to a height or of a building area greater than permitted in the district upon a finding that such use, height and area is reasonably necessary for the public convenience and service.

SECTION 528 PERFORMANCE GUARANTEE FOR COMPLIANCE

In authorizing any variance, or in granting any conditional, temporary or special land use approval permits, the Planning Commission and the Zoning Board of Appeals may require that a performance guarantee be furnished to insure compliance with the requirements, specifications and conditions imposed with any such approval to insure continued compliance with any conditions of approval and/or the proper discontinuance of a temporary use by a stipulated time. Such performance guarantee may be in the form of a cash deposit, certified check, or irrevocable bank letter of credit, at the discretion of the Planning Commission or Zoning Board of Appeals.

SECTION 529 RESERVED

SECTION 530 UNCLASSIFIED USES

The Planning Commission may find that a land use, while not specifically classified in this ordinance as a permitted or special land use, may be sufficiently similar to uses listed as permitted by right or as special uses. In that event, such unclassified uses may be reviewed and treated as similar classified uses within the district. In reaching such a finding, the Zoning Administrator shall first evaluate the proposed use in terms of the potential generation of traffic, congestion, noise, odors, dust, litter and similar impacts. In addition, the proposed use shall be evaluated to determine the degree to which it may support or conflict with the intent of the district and other permitted and special land uses. If the Zoning Administrator determines that such use is similar to the uses permitted by special use permit, a report

outlining the determination shall be provided to the Planning Commission with a recommendation to consider such use as sufficiently similar to permitted or special land uses within the district and the approval standards that should be used to evaluate the proposed use. Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use which, although permitted, involves other features which were not contemplated or specified by this Ordinance, the Zoning Administrator shall request a determination by the Planning Commission. If the Planning Commission determines that such use is not contemplated or specified by this Ordinance, or that it involves features which were not contemplated or specified herein, such use shall be prohibited.

SECTION 531 LANDSCAPING AND SCREENING

Whenever a greenbelt, buffer area or vegetation belt is required under the terms of this ordinance, it shall be established in accord with the terms of this Section within six (6) months from the date of issuance of a certificate of occupancy, unless the Planning Commission in any conditions of approval provide for another timeframe for completion.

- A. A landscape plan required under the terms of this ordinance shall be prepared and submitted in conjunction with a site plan. Such landscape plan shall be prepared by a Licensed Landscape Architect, professional engineer or by a qualified landscape designer. Such landscape plan shall provide, to the greatest extent possible, for the preservation and protection of existing natural features on the site. [Annotation: word "Registered" was changed to "Licensed" by amendment Z15-05, effective 7/14/15]
- B. The landscape plan shall include an inventory of existing trees, wood lots, streams, lakes, wetlands, view sheds and other natural features of the site and detail on the measures proposed to preserve and protect such features. All existing trees having five (5) inches or greater diameter at breast height shall be identified by common or botanical name. Trees proposed to remain, to be transplanted or to be removed shall be so designated. A cluster of trees standing in close proximity (5 feet or closer) may be designated as a "stand" of trees, and the predominant species, estimated number, and average size shall be indicated.
- C. All proposed planting areas for grass, trees, shrubbery and other green space shall be illustrated in the landscape plan. Such illustration shall include the species proposed, the number of plantings, the size of such plantings including the caliber and height, irrigation measures proposed and related information.
- D. The location and nature of lighting, signs, utility fixtures, earth changes, streetscape and any other matter that may affect the appearance of the site shall be illustrated on the landscape plan or site plan.
- E. Not less than thirty percent (30%) of the proposed landscaped area shall consist of woody vegetation, including trees and shrubbery. Landscaped open space shall not include driveways and parking areas. To the greatest extent possible, existing trees over five inches (5") diameter at breast height, shall be retained and protected. Areas of a site plan intended for stormwater detention or retention shall only be included in such required

minimum landscaped area if formally landscaped with shrubbery and turf and contoured such that no fencing shall be required.

- F. The area between the edge of the street pavement and property line, with the exception of paved driveways and parking areas permitted by this ordinance, shall be used exclusively for the planting and growing of trees, shrubs, lawns, rain gardens and other landscaping designed, planted and maintained to serve as a healthy and attractive amenity on the site. [Annotation: "rain gardens" was added to item F by amendment Z15-05, effective 7/14/15]
- G. In the event a proposed development includes uses more intense in terms of noise, lighting, traffic, residential density or similar impacts than an existing adjoining use, the Planning Commission may require provision for plantings or other aesthetic screening to mitigate and lessen the potential impact on such adjoining land use.
- H. The applicant shall replace any trees, shrubbery or other plantings that fail to become established and remain viable for a period of two (2) years following completion of all construction on the site. In accordance with [Section 2204, H](#), the City shall require an irrevocable bank letter of credit, certified check or cash in an amount as determined by the City which shall be sufficient to assure the establishment of a viable landscaped area. In the event any of the landscaped materials do not become established and the applicant shall fail to provide a viable replacement, the City shall utilize such bond, irrevocable bank letter of credit or cash to install replacement landscaping materials. After two years of demonstrated viability of all landscape materials, the remaining balance, if any, of such bond, irrevocable bank letter of credit or cash shall be returned to the applicant.
- I. All landscaped areas required pursuant to this section shall be equipped with a watering system capable of providing sufficient water to maintain plants in a healthy condition. Irrigation systems shall be maintained in good working order.

SECTION 532 KEY STREET SEGMENTS

Key street segments are located throughout the City and are identified on the zoning map. Key street segments tend to include a mix of land uses, and, due to traffic patterns, are appropriate locations for certain uses within a zoning district. If a property fronts on a key street segment, certain uses shall be permitted as Special Land Uses that are not otherwise permitted in other locations throughout the zoning district boundaries. For the purposes of this ordinance the following street segments as described here and as illustrated on the City of Manistee Zoning Map, shall be considered key street segments:

- A. US-31, from the northerly City limits to the southerly City limits
- B. Main Street, from the southerly City limits to 13th Street
- C. 13th Street, from Main Street to Vine Street
- D. Vine Street, from 13th Street to 8th Street
- E. 8th Street, from Vine Street to US-31
- F. Kosciusko Street, from 8th Street to 5th Street

- G. 5th Street, from Kosciusko Street to Sibben Street
- H. Sibben Street, from 5th Street to 1st Street
- I. 1st Street, from Sibben Street to Tamarack Street
- J. Cedar Street, from 1st Street to Water Street
- K. Water Street, from Cedar Street to Maple Street
- L. Maple/Washington Streets, from 4th Street to the northerly City limits
- M. Fifth Avenue, from Maple/Washington Streets to Hastings Street
- N. Glocheski Street for its entire length

SECTION 533 CONDOMINIUMS

- A. Purpose. This section further regulates condominiums, whether for residential use or non-residential use.
- B. Site Condominium development as defined herein shall be regulated per the standards set forth in the Subdivision Control Ordinance and the Condominium Act. A condominium unit which is, or which is proposed to be a parcel as defined herein, shall meet the requirements of this ordinance pertaining to lot or parcel area, width, and the required yards.
- C. [Section 523](#) A and B shall apply to parcel divisions resulting from condominium development projects.
- D. Submittal of a Condominium Plan. A condominium plan shall be submitted for review and approval in accordance with the site plan review and approval process of [Section 2200-2209](#). Such plan shall include the documents and information required by Section 66 of the Condominium Act, and the following information to the extent not included in such Act:
 - 1. The information required for a detailed site plan review under [Article 22](#) of this Ordinance.
 - 2. A narrative describing the overall objectives of the condominium development.
 - 3. Existing building footprint for Condominium Conversion.
 - 4. Area and volume of each proposed condominium unit, including dimensions of living areas.
 - 5. Common elements (including general and limited).
 - 6. Location and dimensions of each building, lot, and total development.
 - 7. The condominium plan shall depict a building envelope around each building so as to demonstrate compliance with the minimum lot area requirement, the minimum lot width requirement, and the minimum building setback requirements of the district in which the condominium is located.
 - 8. Approval or tentative approval of the proposed design and location of the entrance to the condominium from the City Engineer and/or Michigan Department of Transportation, if applicable.

9. The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
 10. Such other information as the Planning Commission may reasonably request in their review of the proposed condominium development. Unless requested by the Planning Commission, the proposed master deed and condominium bylaws need not necessarily be submitted with the application.
- E. Standards for Approval. To receive approval, a condominium development plan shall satisfy the following requirements.
1. The plan shall satisfy the standards and requirements for detailed site plan approval pursuant to [Article 22](#) of this Ordinance.
 2. The proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the proposed project, shall comply with the Condominium Act and other applicable laws, ordinances or regulations.
 3. Unless modified pursuant to [Section 1870](#) hereof, the condominium development shall comply with all applicable provisions of this Ordinance, including without limitation, density, minimum living area of units, lot coverage, building height, lot area, lot width and yard size requirements with respect to each of the buildings in which the condominium is located.
 4. If a condominium development is proposed to have public streets, the streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the City of Manistee.
 5. The City may require the condominium development to include pedestrian sidewalks at specific locations; street lighting at intersections or otherwise within the street rights-of-way; and greenbelts or other landscaping in order to obscure the view of other types of land uses that may be near or adjacent to the condominium, such as commercial or industrial uses, highways, railroads and the like.
 6. The condominium development shall be connected to public water and public sanitary sewer facilities.
- F. Compliance with City Ordinances: Condominium development shall meet the standards of the applicable zoning district, as well as all other standards in the City of Manistee Zoning Ordinance, and other applicable Local, State or Federal Laws.
- G. Expandable or Convertible Condominium Conversions. Approval of a final condominium plan shall not constitute approval of expandable or convertible portions of a condominium conversion project unless the expandable or convertible areas are specifically reviewed and approved by the Planning Commission in compliance with the procedures, standards and requirements of this section.
- H. Review of Condominium Master Deed and Bylaws. An approved condominium plan shall be incorporated by reference in the master deed for the condominium. The Master Deed shall

be subject to the approval of the City Attorney, consistent with this section and any conditions of approval of the condominium. A copy of the master deed as recorded with the County Register of Deeds shall be provided to the City. [Annotation: Section 533 Condominiums was added by Amendment Z10-03, effective 10/30/10]

SECTION 534 COMMUNITY GARDENS

Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers or herbs by multiple individuals.

- A. Community Gardens shall be permitted in all Zoning Districts.
 - 1. A Community Garden shall be considered an accessory use under [Section 516](#) hereof if located on a parcel with an existing use.
 - 2. A Community Garden shall be considered a principal use if located on a vacant parcel of land.
- B. The following structures shall be permitted when utilized with a community garden and when otherwise in compliance with this ordinance.
 - 1. One (1) Storage Building not larger than 100 square feet (permit required).
 - 2. One (1) Greenhouse not larger than 100 square feet and covered with glass, plastic or fiberglass in which plants are cultivated (permit required).
 - 3. Raised/accessible planting beds, compost or waste bins.
 - 4. Fences that comply with [Section 508](#).
 - 5. One ground mount sign not to exceed four (4) square feet.
- C. Reclamation Standards. In the event the community garden is discontinued for a period of more than one year, all buildings and structures shall be removed and the site shall be restored with grass or other acceptable methods of landscaping. [Annotation: Section 534 Community Garden was added by Amendment Z11-06, effective 9/25/11]

SECTION 535 KEEPING OF CHICKENS OR DUCKS

The keeping of Chickens or Ducks is permitted in the R-1, R-2 and R-3 Districts if conforming to Section 606 Animals of the General Law Ordinances of the City of Manistee. [Annotation: Section 535 Keeping of Chickens or Ducks was added by Amendment Z15-08, effective 8/19/15]