

**CITY OF HARBOR SPRINGS**

**ZONING CODE**

**2005 EDITION**

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**TITLE V  
ZONING AND PLANNING**

**Chapter 50  
ZONING**

**Preamble.** In accordance with the authority and interest of Act 207 of the Public Acts of the State of Michigan 1921, as amended, in such case made and provided to meet the needs of the State's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; to promote public health, safety, and welfare, and for those purposes the City of Harbor Springs is divided into districts with regulations imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and other land uses or activities that shall be permitted or excluded or subjected to special regulations; to regulate and limit the height and bulk of buildings erected, and regulate and determine the area of yards, courts, and other open spaces, and for those purposes dividing the City into districts of the number, shape, and area, all in accordance with an adopted Master Plan considered for the purposes of this Chapter to be the plan referred to in Act 207 of the Public Acts of the State of Michigan 1921, as amended.



**ARTICLE 1  
GRAMMATICAL USAGE**

**50.100 Grammatical Usage, Generally.** For the purposes of this Chapter, certain terms and words shall have the meaning as is hereinafter provided.

(1) Words used in the present tense include the future; words in the singular number include the plural, and words in the plural include the singular; words in each gender include each of the other genders.

(2) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

(3) The word “building” is included in the word “structure”. A “building” or “structure” includes any part thereof.

(4) The words “dwelling”, “dwelling unit”, “one-family building”, “two-family building”, “multi-family building”, “building”, “house”, “premises”, or “lot” as used in this Chapter shall be construed as if followed by the words “or any part thereof”.

(5) The phrase “used for” may include “arranged for”, “designated for”, “intended for”, “maintained for”, or “occupied for.”

(6) Unless the context clearly includes the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, “either . . . or”, the conjunction shall be interpreted as follows:

(a) “And” indicates that all the connected items, conditions, provisions, or events shall apply.

(b) “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

(c) “Either . . . or” indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

## ARTICLE 2 DEFINITIONS

**50.200 Definitions, Generally.** For the purposes of this Chapter, certain terms and words are hereinafter defined. Terms not herein defined shall have the meaning customarily assigned to them. Reference may be made to WEBSTER'S NEW COLLEGIATE DICTIONARY (the latest edition) to assist in the determination of the meaning of any term not herein specifically defined.

### **50.201 Definitions (A - B).**

- (1) **Accessory Agricultural Sales.** The sale by the proprietor or the residing family of agriculture raised or produced at that location on land devoted principally to agricultural use.
- (2) **Accessory Building.** A subordinate detached building situated upon the same lot as the principal building, the use of which is clearly incidental to the use of the principal building. A subordinate building as aforesaid (including a garage) shall be considered an accessory building, even if attached to the principal building unless there is at least a portion of a building face on the subordinate building which is common with a portion of a building face of the principal building and the common portion constitutes at least 50 percent of the principal building face's total area.
- (3) **Accessory Use.** [A use subordinate to the permitted principal use of a lot and which is clearly incidental to the permitted principal use. If the majority of an establishment's floor space is devoted to a particular use, it will be presumed that such use is the principal use. If the owner or operator of an establishment can satisfactorily demonstrate to the Zoning Administrator or the Planning Commission through presentation of compiled financial statements that the principal use of a lot is a use other than the one to which a majority of the establishment's floor space is devoted, said Establishment shall be re-classified by the Zoning Administrator as is appropriate for the type of business primarily engaged in by the operator. Such re-classification shall be subject to periodic review as deemed appropriate by the Zoning Administrator, and shall be returned to its original classification unless the owner or operator can continue to demonstrate that re-classification is appropriate, based on the compiled financial statements.]<sup>35</sup>
- (4) **Agriculture.** The tilling of soil, the raising of crops, horticulture, and gardening, but not including keeping or raising of animals and fowl, except customary household pets, and not including any disposal of garbage, sewage, rubbish, offal or rendering plants, or the slaughtering of animals. (Also see Farm.)
- (5) **Alley.** Any dedicated public way which is not a street but which affords a secondary means of access to abutting property, and is not intended for general traffic circulation.
- (6) **Alteration.** Any change, addition or modification in construction or type of occupancy of a building.
- (7) **Apartment.** See Building, Apartment.
- (8) **Auto Repair Garage.** A place where the following activities may be carried out: vehicle body repair, engine rebuilding repair, undercoating, painting, tire recapping, upholstery work and auto glass work. (Also see Vehicular Service Stations.)
- (9) **Awning (or Canopy).** A metal, wooden, fiberglass, canvas, or other fire retardant fabric cover, not a part of the roof or the building to which it is attached, which extends over a porch, patio, deck, balcony, walk, window, door or open space.
- (10) **Basement.** That portion of a building which is partly or wholly below grade but is 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

next floor above. A BASEMENT SHALL NOT BE COUNTED AS A STORY. (See illustration on Page 17.1)

(11) **Bed and Breakfast Establishment.** An establishment where the resident owner of an existing, private single-family home offers overnight (transient) lodging and breakfast for compensation to no more than six (6) persons, using no more than three bedrooms and limiting occupancy to no more than two persons per bedroom.

(12) **Berm.** A mound of earth material graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

(13) **Billboard.** A billboard shall mean any structure or portion thereof designed or intended to be used for posting, painting, or otherwise affixing any advertising sign, larger than 20 square feet, which advertising sign does not pertain to the premises or to the use of premises on which the billboard is located or to goods sold or services rendered or activities conducted on such premises.

(14) **Bituminous Material.** Whenever the term “bituminous material” is used in this Code, said term shall be deemed to mean a plant-mixed bituminous aggregate in conformance with Section 7.10, Michigan Department of Transportation 1984 Standard Specifications for Construction”, as amended.

(15) **Boarding House.** A building, other than a hotel, bed and breakfast establishment, or convalescent home, where lodgings and meals for not more than six (6) persons, other than the family, are regularly served for compensation.

(16) **Boat, Commercial.** Any vessel used for the purpose of generating revenue, excepting vessels leased or chartered to others for non-revenue generating purposes.

(17) **Boat, Recreational.** Any vessel used by the owner or lessee thereof for a non-revenue generating purpose.

(18) **Building.** A framed, enclosed structure designed to stand permanently and covering a space of land, for use as a dwelling, store, storehouse, factory, shelter or some other useful purpose. A tent or similar structure, or a recreation vehicle, is not a building, nor is a mere wall, fence or monument.

(19) **Buildable Area.** The buildable area of a lot or parcel is the space remaining after setback, parking, or any other requirements of this Ordinance have been satisfied.

(20) **Building, Apartment.** A building containing three (3) or more dwelling units whose entrances are from a common hallway or area or series of hallways or areas.

(21) **Building, Existing.** For purposes of the off-street parking requirements specified in this Zoning Code, an “existing building” is any building actually constructed, or the construction of which was started, prior to October 4, 1976.

(22) **Building Face.** A vertical exterior wall forming a side of the building.

(23) **Building, Front Line.** The building line which lies closest to the front lot line. (See illustration on Page 17.2)

(24) **Building, Height Of.** [The vertical distance from the average elevation of the natural, undisturbed terrain paralleling the front of a building, or if on a street corner, the average elevation of the natural undisturbed terrain paralleling the front and side of a building, measured at the building line to the highest point of the structure, but not including chimneys, spires, life-safety features, mechanical equipment and similar projections.]<sup>139</sup>

(25) **Building Line.** A line formed by the intersection of a building face and the horizontal plane of a lot. (See illustration on Page 17.2)

(26) **Building, Multi-family.** A building containing three (3) or more dwelling units. The term includes apartment buildings and multiplexes.

(27) **Building, Multiplex.** A building containing three or more dwelling units, where each dwelling unit has a separate main entrance directly to the outside.

(28) **Building, One-family.** A building designed and used as a dwelling entirely separated from other structures on adjacent properties.

(29) **Building, Principal.** The largest building on a lot devoted to a permitted principal use.

(30) **Building, Temporary.** A building without permanent foundation erected or devoted to the development of or in connection with the principal site use for a limited period of time.

(31) **Building, Townhouses.** A multiplex building containing three (3) or more dwelling units where: each dwelling unit is divided from the one adjacent to it by a party wall extending the full height of the building; and, each dwelling unit has a separate exterior entrance and is capable of individual use and maintenance without trespassing upon adjoining properties; and each dwelling unit has independent utilities and service facilities.

(32) **Building, Two-family.** A building containing two dwelling units.

(33) **Building, Within.** The enclosed space located within the confines of the faces of a building. (See illustration on Page 17.3)

#### 50.202 Definitions C - D)

(1) **Carport.** A partially open structure for sheltering vehicles erected in conformity with the site requirements for garages.

(2) **Carriage.** Any horse-drawn passenger vehicle.

(3) **Church.** A building used principally for religious worship, but the word "church" shall not include or mean an undertaker's chapel or funeral building.

(4) **City.** The incorporated municipality of Harbor Springs, Michigan.

(5) **Clinic.** A place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but shall not include facilities for in-patient care or major surgery.

(6) **Club, Lodge or Fraternity.** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or the like, but not for profit, and without payment of dividends to members. Serving of meals and beverages to members and guests on an infrequent basis is part of the principal activity of a club, lodge or fraternity. Serving of meals and beverages on a regularly-scheduled basis to members and guests is an accessory use to a club, lodge or fraternity.

(7) **[Coffee/beverage Bar.** An Establishment (other than a Drive-in or Drive Through Establishment) which: (a) is accessory to a retail establishment; and, (b) prepares and/or sells non-alcoholic beverages and only such limited food items as are customarily accessory to beverage sales, such as cookies, doughnuts or baked goods (and specifically excluding such food items as pizza, soups, sandwiches, salads, ice creams, frozen yogurt and other food items

to which beverage sales are normally accessory) for immediate consumption on or off-site; and (c) has no more than 349 square feet devoted to a bar and/or beverage preparation areas; and, (d) has no more than 8 seats for customer seating.]<sup>36</sup>

**(8) Coin-operated Amusement Device.** An instrument, machine or contrivance which may be operated, or set in motion upon the insertion of a coin, token or similar object, or activated and/or paid for by any other means, and which provides games, entertainment or amusement.

**(9) Coin-operated Amusement Device Arcade.** Any establishment open to the public wherein the principal use consists of coin-operated amusement devices.

**(10) Conditional Use.** A use specified in this Chapter as permissible in a specific use district only after special conditions are met.

**(11) [Condo-Hotel.** A facility meeting the definition of a Hotel with ownership structured as a condominium, co-operative or other ownership/financing arrangement found by the Planning Commission to be similar in function and/or operation, but shall not include timeshare estates or timeshare licenses of condominium units as defined in the Condominium Act. A Condo-Hotel may include cooking facilities, a kitchen, and a clothing washer and dryer.]<sup>102</sup>

**(12) Contiguous.** In actual contact with; adjoining.

**(13) Convalescent or Nursing Home.** A structure with sleeping rooms where persons are housed or lodged and are furnished with meals and nursing care, and where limited medical care may be available.

**(14) Court.** An open, unoccupied land area other than a yard, bounded on three (3) sides by buildings.

**(15) Day Care Center.** Any facility, other than a day care home, in which minor children

are received for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Day care center does not include a Sunday school or a vacation bible school.

**(16) Day Care Home.** A home occupation in a private dwelling unit in which no more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood marriage, or adoption. Day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

**(17) [Deck.** A non-load bearing outdoor platform without walls or a roof, that is wholly or partially supported from the ground below, and is more than thirty (30) inches above grade, and which may be surrounded by a railing, balustrade, or parapet. A deck can be freestanding or attached to a building.

**(18) Deck, Roof Top.** A deck constructed above any top plate of a structure and which is designed to function as useable outdoor area.]<sup>134</sup>

**(19) [Delicatessen.** An Establishment which primarily sells bulk food specialty items for home consumption such as breads, cheeses and meats, and, may, as a subordinate, incidental use, sell prepared food items such as sandwiches, soups, salads, cooked meats and poultry, for home or workplace consumption, but is not a Take-Out Food Establishment.]<sup>70</sup>

**(20) [Density, Residential.** The number of dwelling units on a parcel of property.]<sup>19</sup>

**(21) District.** A portion of the incorporated part of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**(22) Drive-in or Drive-through Establishment.** A business establishment so

developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

**(23) Drive-in Restaurant.** A business establishment for the serving of food and/or beverages, with driveways and approaches so developed and designed so as to serve patrons while in the motor vehicle, or permit patron self-service for consumption within motor vehicles, as differentiated from a restaurant with indoor seating only.

**(24) [Dwelling or Dwelling Unit.** A room or rooms connected together, constituting a separate independent housekeeping establishment for one (1) family only, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities. An individual apartment unit, as distinguished from an apartment building, is one (1) type of dwelling unit.]<sup>156</sup>

### 50.203 Definitions (E - G).

**(1) Earth Materials.** Earth materials include top soil, subsoil, sand, gravel, clay and any combinations of natural materials located on or in the earth itself (but not including oil or gases) as they exist in their normal state.

**(2) Efficiency Unit.** An efficiency unit is a dwelling unit consisting of one (1) room exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room providing not less than three hundred and twenty (320) square feet of floor area.

**(3) Erected.** The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erecting.

**(4) Essential Services.** The phrase "essential services" means the erection, construction, alteration, maintenance, addition,

reconstruction, or replacement by public utilities or the City's Departments of Public Works of underground, surface or overhead distribution of gas, electricity, communications, steam or water transmission or distribution systems, and collection, supply or disposal systems; including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith (but not including buildings), reasonably necessary for the furnishing of adequate service to this City and surrounding territory by such public utilities or the City's Departments of Public Works or for public health, safety or general welfare.

**(5) Establishment.** A person, firm or organization transacting business or providing service or information to its members or to the public.

**(6) [Establishment, Drive-in Food.** An Establishment which:

(a) Prepares food intended for consumption in vehicles that may or may not be parked on the site; or

(b) Provides for the ordering of food while the customers are seated in vehicles.

**(7) Establishment, Fast Food.** An Establishment where food is consumed on or off the site and food is:

(a) Pre-made and wrapped before customers place orders, and/or

(b) Served with disposable tableware for on-site food consumption.

(c) A fast food Establishment also exhibits two or more of the following characteristics:

(i) Food is ordered from a wall menu at a service counter.

(ii) Food consumed on the premises is ordered while customers are standing.

(iii) Payment is made by customers before food is consumed.

(iv) The service counter is closer to an entry/exit than is the seating/dining area.

(v) The business interior is brightly illuminated (greater than eight candle foot power as measured in a horizontal plane three feet above the floor).

**(8) Establishment, Formula Food.** Means an Establishment which:

(a) Is required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, employee uniforms, interior decor, signage or exterior design; or

(b) Adopts a name, appearance and food presentation format (such as standardized menus, standardized ingredients, standardized food preparation, employee uniforms, interior decor, signage or interior design) which causes it to be substantially identical to another food Establishment regardless of ownership or location.

**(9) Establishment, Take-out Food.** An Establishment that offers ready-to-eat, prepared snack foods, beverages or full meals for immediate consumption off the site, which foods are normally consumed while patrons are walking or standing in the public right-of-way or are seated in vehicles.<sup>71</sup>

**(10) [Family.** An individual; or, an individual plus one (1) non-related individual; or a group of individuals related by blood, marriage or adoption, plus one (1) non-related individual; or, a group not exceeding four (4) unrelated persons plus descendants, but not exceeding eight (8) in total, all of whom are domiciled together as one functional unit, whose relationship is of a continuing, non-transient, permanent and distinct domestic character with a demonstrable and recognizable bond among them characteristic of a cohesive unit whose intention is to live and cohabit together for the foreseeable future, using common cooking facilities and who are living together as a single, nonprofit housekeeping unit. "Family" shall not include any society, club, employee housing,

dormitory, fraternity, sorority, association, lodge, organization, school, boarding house or group of students or other individuals whose relationship is of a transitory or seasonal nature, such as students living together for the limited duration of a school term, or others living together for similar determinable periods of time, or whose primary motivation for sharing a residence is convenience or economics.]<sup>145</sup>

**(11) Farm.** All of the contiguous neighboring or associated land operated as a single unit on which agriculture is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, a farm shall not include activities which are not permitted under the definitions of "Agriculture" contained in this Chapter.

**(12) Fence, Residential.** A man-made, unroofed barrier which may act as an enclosure or which is decorative or ornamental.

**(13) [Fitness Center.** An establishment that provides physical fitness training to individuals via the use of exercise equipment or individual physical fitness training.]<sup>84</sup>

**(14) Floor Area, Residential.** For purposes of computing parking requirements, the measurement of usable floor area for residential uses shall be the sum of the area of the first story measured to the exterior building faces, and, similarly measured, the area having more than seven (7) feet six (6) inches headroom, of any upper story that is connected by a fixed stairway and which may be made usable for human habitation; but excluding the floor area of basements, garages, accessory buildings, attics, breezeways, and unenclosed porches.

**(15) Floor Area, Commercial.** For purposes of computing parking requirements, the measurement of usable floor area for commercial purposes shall be the sum of the horizontal areas of the several floors of the building measured to the exterior building faces.

Unfinished attics, attached garages, mechanical rooms, and areas included in structures or buildings providing parking for motor vehicles shall not be included.

**(16) [Food Market, Full Line.** A retail food Establishment providing a full range of food and grocery items including meats, poultry, produce, dairy products, canned and dried goods for home preparation.

(a) A Delicatessen may be allowed as a subordinate and incidental use. Cooking equipment shall be limited to indoor ovens.

(b) No seating shall be provided outdoors on the site and no more than 8 seats indoors.

(c) Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(d) No Full Line Food Market shall be permitted that can be classified as a Drive-In Establishment, Take-Out Food Establishment or Fast Food Establishment as defined in this Code.

**(17) Food Market, Specialty.** A retail food Establishment, with no more than 8 seats on site, which sells a limited range of bulk food items sold primarily for off site preparation and consumption.

(a) The following types of markets are Specialty Food Markets:

- (i) Full line bakery
- (ii) Candy, cookies, nuts and confectionery
- (iii) Meat or produce market
- (iv) Vitamins/health food store

(v) Cheese store

(vi) Delicatessen.

(b) No Specialty Food Market shall be permitted that can be classified as a Drive-In Establishment, Take-Out Food Establishment, Fast Food Establishment or Formula Food

Establishment as defined in this Code, provided, a Specialty Food Market selling frozen desserts as an incidental, subordinate use shall be permitted, subject to all other provisions of this Code.

(c) All food sold for consumption off the premises shall be placed in covered containers or wrappings.

(d) Adequate facilities shall be provided on-site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(e) Cooking equipment shall be limited to indoor stoves and ovens.

(f) The use may be combined with a liquor store having an SDD (Specialty Designated Distributor) or SDM (Specialty Designated Merchant) license, but not a Class C license.<sup>72</sup>

**(18) Front Line.** See Building, Front Line.

**(19) Front Yard.** See Yard, Front.

**(20) Garage, Private.** [An accessory building or portion of a principal building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory. A private garage which is a portion of a principal building shall not exceed one-half (1/2) of the total square footage of the living space of the principal building; provided that no property owner shall be prohibited from building an attached private garage not exceeding 576 square feet, regardless of the total square footage of the principal living space. A garage attached to a principal building must satisfy the minimum setback requirements for a principal building in the District in which it is located.]<sup>44</sup>

**(21) Garage, Public.** Any building or premises other than a vehicular service station



used for housing or care of more than three (3) automobiles, or where any number of automobiles are: equipped for operation; repaired; or kept for remuneration, hire or sale. A public garage as herein defined shall not be construed as an accessory building.

**(22) Garage, Service-repair.** See Auto Repair Garage.

**(23) Grade.** The ground elevation established for the purpose of regulating the number of stories and the height of buildings.

**(24) Greenbelt.** A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Chapter.

#### **50.204 Definitions (H - L).**

**(1) Hard Surfaced.** See Bituminous Material or Paving Surface.

**(2) Home Occupation.** An occupation or profession customarily carried on by an occupant of a dwelling unit AT THE DWELLING UNIT as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

**(3) Hospital.** A building, structure or institution in which sick or injured persons are given medical or surgical treatment, operating under license by the Health Department and the State of Michigan, and which is used for primarily in-patient services, including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

**(4) [Hotel.** A building containing a minimum of ten (10) individual sleeping rooms or suites not containing individual cooking facilities, kitchens or clothing washers or dryers ("overnight units") in which: overnight lodging facilities are provided for compensation to the general public; and in which ingress to and

egress from the overnight units shall be made only through an inside office or lobby supervised at all hours of the day or night by an employee of the owner or operator of the hotel; and in which each overnight unit must have a private bathroom attached thereto. A hotel may include a restaurant, cocktail lounge, public banquet halls, ball rooms, or meeting rooms.]<sup>103</sup>

**(5) House, Boarding.** See Boarding House.

**(6) House, Rooming.** See Rooming House.

**(7) House, Trailer.** See Mobile Home.

**(8) Intensification of Use.** To add a new or different use.

**(9) Junk.** Worn out and discarded material in general; or any material or thing not currently in use and not having any significant extrinsic value; also rubbish of any kind.

**(10) Junk Yard.** An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to: scrap iron and other metals, paper, rags, rubber tires and bottles. A "junk yard" includes automobile wrecking yards.

**(11) Kennel.** Any lot or premises on which three (3) or more dogs, six (6) months old or over, are kept for sale, breeding, boarding or training purposes, or are either permanently or temporarily boarded for remuneration.

**(12) Landfill.** The orderly deposit of earth and non-earth materials not including putrescible materials for the purpose of elevating the grade to develop the site for use.

**(13) [Life-Safety Features.** A necessary component of a building whose primary use is to eliminate or reduce danger and hazards to occupants and users of a building, such as enclosed stairwells on a roof, or enclosed

elevator systems on a roof, railings on a roof, or fire suppression systems on a roof.]<sup>141</sup>

(14) **[Liquor Store.** [An establishment selling primarily packaged alcoholic beverages for consumption off the premises.]]<sup>73</sup>

(15) **Loading Zone.** An off-street space on the same lot with a building, or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

(16) **Lot.** A parcel of land, the dimensions of which are depicted on a properly recorded plat in the office of the Register of Deeds; or a parcel of land held in separate ownership from the ownership of adjacent parcels as evidenced by a bona-fide deed recorded in the office of the Register of Deeds.

(17) **Lot Area.** The total surface area within the lot lines of a lot.

(18) **Lots, Corner, Interior and Through.** A “corner lot” is a lot of which at least two (2) sides are contiguous to a street, for their full length; or a lot which is contiguous to a curved street. An “interior lot” is a lot other than a corner lot. A “through lot” is an interior lot or corner lot having frontage on two (2) streets which do not intersect at a point contiguous to such lot.

(19) **Lot Coverage.** The part or percent of the lot occupied by buildings including accessory buildings.

(20) **Lot Line, Front.** In the case of an interior lot, the line (and any straight line continuation thereof) contiguous to the street line. In the case of a corner lot, or a double frontage lot, the front lot line is that line contiguous to the street right-of-way line which is designated as the front street in a recorded plat, or if not designated in a plat, in the request for the zoning compliance permit.

(21) **Lot Line, Rear.** Any lot line which nearly parallels the front lot line.

(22) **Lot Line, Side.** Any lot line other than the front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

(23) **Lot Depth.** The horizontal distance between the front and rear lot lines. In the case of irregularly shaped lots, the mean depth shall be taken.

(24) **Lot Line.** Any boundary line separating one lot from another.

(25) **Lot Width.** The horizontal distance between the side lot lines measured at the points where said lot is the narrowest. .]<sup>140</sup>

#### **50.205 Definitions (M - O).**

(1) **Master Plan.** The comprehensive plan adopted by the Planning Commission, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the City and including any unit or part of such plan, and any amendment to such plan or parts thereof, and is intended to be the plan referred to in Act 207 Public Acts of 1921, as amended, Section 1, Part 2.

(2) **Mean Grade.** Mean grade is defined as the arithmetical average of elevations of points on the boundary lines of a lot uniformly spaced and not more than one hundred (100) feet apart.

(3) **Mobile Home.** A one- (1) family dwelling unit consisting of a pre-built (factory built) housing module, or a combination of such modules, designed so it may be drawn or carried to its site by a motor vehicle, and thus so constructed, equipped and installed on a lot (site), as to provide a dwelling unit for one (1) or more persons containing living, cooking, sleeping, heating, lighting, toilet and bathing facilities. Normally such home would not have a permanent foundation but would be readily

detachable and removable from its site. This definition does not include a vehicle such as a tent trailer, travel trailer, self-contained trailer, motor home or camp trailer twenty-eight (28) feet or less.

(4) **Mobile Home Park.** A parcel of land upon which two (2) or more mobile homes are located or any parcel of land licensed pursuant to the provisions of Act 419 of the Public Acts of 1976, as amended.

(5) **Modular Home.** A structure transportable in one or more sections, not built on a chassis, constructed according to the City's Building Code and designated to be used as a dwelling unit with permanent foundation when connected to the required facilities.

(6) **Motel.** A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, motor courts, motels, and similar appellations which are designed as integrated units or individual rooms under common ownership.

(7) **Non-conforming Building.** A building, or a portion thereof, lawfully existing as of the effective date of the Ordinance adopting the Harbor Springs Zoning Code of 1990, which does not conform to the provisions of the said Zoning Code in the district in which it is located.

(8) **Non-conforming Use.** Any lawful use made of a building or land as of the effective date of the Ordinance adopting the Harbor Springs Zoning Code of 1990, but which use does not conform to the use regulations of the district within which the building or land is located.

(9) **Nuisance.** The word "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or

detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this Chapter, nuisances and all such nuisances are hereby declared illegal.

(10) **Nursery.** Any grounds, or premises on or in, which nursery stock is propagated, grown, or cultivated for the purpose of distributing and/or selling the same as a business and required to be licensed under Act 189, Public Acts of 1931, as amended.

(11) **Nursing Home, Also Convalescent Home.** A structure with sleeping rooms where persons are housed or lodged and are furnished with meals and nursing care, and where limited medical care may be available.

(12) **Occupancy Load.** The number of individuals normally occupying a building or part thereof, or for which the existing facilities have been designed.

(13) **Off-street Parking Lot.** An area for the parking of automobiles, not on a public right-of-way, providing vehicular parking spaces along with adequate drives and aisles for maneuvering, for the owner, employees, customers and patrons of the use for which the lot is created.

#### **50.206 Definitions (P - R).**

(1) **Parking Space.** An accessible area, either garage or surfaced area, of definite length and width, exclusive of drives, aisles, or entrances giving access thereto, and for the parking of permitted vehicles.

(2) **Parking Structure.** A structure utilized for the off-street parking of automobiles.

(3) **[Patio.** A level surfaced area adjacent to a principal building that has an average elevation of not more than thirty (30) inches above grade, and without walls or a roof and usually made of concrete, brick, or other masonry material.]<sup>135</sup>

(4) **Paving.** Whenever the terms “to pave” or “paving” are used in this Code it shall be deemed to mean to construct a surface, or a surface constructed of a plant-mix bituminous aggregate at least two (2) inches thick in conformance with Section 4.00, or a concrete surface at least five (5) inches thick in conformance with Section 4.50, Michigan Department of Transportation 1979 Standard Specifications for Construction, as amended.

(5) **Person.** The word “person” means a natural person, firm, co-partnership, association or corporation and their legal successors.

(6) **Principal Use.** The primary use to which a lot is devoted.

(7) **Public Service Facilities.** Public service facilities shall include such buildings, uses and services as voting booths, pumping stations, fire houses, police stations, electric transmission facilities, temporary quarters for welfare agencies, public health activities and similar governmental uses, including essential services.

(8) **Public Utility.** Any person, firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation to the public, electricity, gas, steam, communication, transportation, drainage or water.

(9) **Putrescible.** Subject to decay and decomposition and to becoming putrid.

(10) **Rear Yard.** See Yard, Rear.

(11) **Recreation Vehicles.** Recreation vehicles include the following:

(a) A “travel trailer”, which is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and which is permanently identified as a “travel trailer” by the manufacturer.

(b) A “pickup camper”, which is a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses.

(c) A “motorized home”, which is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

(d) A “folding tent trailer”, which is a canvas or plastic folding structure mounted on wheels and designed for travel and vacation use.

(e) A “utility trailer”, which is a vehicle designed for the purpose of hauling miscellaneous goods and materials.

(f) “Boats” and “boat trailers”, which shall include boats, floats and rafts, plus the normal equipment to transport the same on the highway.

(g) Snow Mobile and All Terrain Vehicles, plus the normal equipment to transport the same on the highway.

(12) **Repairs.** The rebuilding or removal of a part of an existing building for the purpose of maintaining its original type and classification.

(13) **Restaurant.** [An Establishment (other than a Coffee/Beverage Bar) which (a) prepares and sells food or beverages for immediate consumption; or (b) sells for immediate consumption food prepared by others excepting sales (in their original package) of candy bars; or (c) sells for immediate consumption non-alcoholic beverages prepared by others, excepting sales (in their original package) of bottled or canned beverages which are subject to Michigan's bottle deposit laws. The determination of when food or beverages are sold for immediate consumption is based on criteria such as the type of packaging in which such food or beverages is contained when sold and delivered to a customer (e.g., whether sold

in disposable plastic or paper containers), whether the food or beverage is served hot or cold, and whether observable experience with a particular establishment or similar establishments demonstrates that such food or beverages is primarily consumed by the public either on premises or immediately off premises, on the public streets and parks.

**(14) [Restaurant, Full Line.** A Restaurant selling a full line of prepared food and drinks using non-disposable plates, glasses and utensils for immediate consumption on the site. The Restaurant provides tables and chairs, table service, and is available to persons of all ages.

(a) No Full Line Restaurant shall be permitted that can be classified as a Drive-In Food Establishment, Take-Out Food Establishment, Fast Food Establishment or Formula Food Establishment as defined in this Code.

(b) Sale of alcoholic beverages shall be subordinate to the primary use as a Restaurant, Full Line.

(c) Substantially all foods from the standard menu shall be available for purchase during the hours that alcoholic beverages are being served except for the first hour and the last hour of each business day.

(d) Customers shall be provided with individual menus while seated at a table or counter.

(e) Outside seating may be allowed subject to an approved design review application in accordance with the standards contained in this Code.

(f) Fast food for consumption off the premises shall be incidental to the primary use. Such food shall be placed in covered containers or wrappings.

(g) Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(h) At least one restroom shall be available for use by both sexes within, or conveniently adjacent to, the specific business premises and on the same property on which the use is located. This restroom shall comply with all provisions of the State Uniform Building and Plumbing Codes as to the required size, location and accessibility standards, and shall be available for use by both the employees and patrons of the business.

(i) Maximum seating capacity shall not exceed the standards in the State Uniform Building and Fire Codes, the number of seats approved by the Planning Commission through public review, or the number of seats in the previous business, whichever is less. The seating capacity shall be posted on the premises.

**(15) Restaurant, Specialty.** A Restaurant selling a limited range of food and/or beverage products, including frozen desserts, for immediate consumption on the site. Such Restaurants provide seating but are not required to provide table service or menus.

(a) No Specialty Restaurant shall be permitted that can be classified as a Drive-In Establishment, Take-Out Food Establishment, Formula Food Establishment or a Fast Food Establishment, as defined in this Code, PROVIDED a Specialty Restaurant selling predominantly frozen desserts, which would otherwise be classified as a prohibited Fast Food and/or Take Out Food Establishment, is permitted, subject to the other provisions of this Code.

(b) A Specialty Restaurant must contain at least 200 square feet, but not more than 1,349 square feet, in area.

(c) At least 8 seats must be available for use on-site. The customer seating area must be open to patron use during all hours of operation and the use is managed to encourage on-premises consumption of food products.

(d) The service counter must be located within the interior of the business premises and must be located and arranged so that customers must first pass by or through the

seating area to reach the counter and patron queues will be contained within the building.

(e) Outside seating may be allowed subject to an approved design review application in accordance with the standards contained in this Code.

(f) All products sold for consumption off the premises, other than frozen desserts, are to be placed in covered containers or wrappings.

(g) At least one restroom shall be available for use by both sexes within, or conveniently adjacent to, the specific business premises and on the same property on which the use is located. This restroom shall comply with all provisions of the State Uniform building and Plumbing Codes as to the required size, location and accessibility standards, and shall be available for use by both the employees and patrons of the business.

(h) Adequate facilities shall be provided on the site for storage of trash and garbage generated by the use. The on-site storage is designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on public sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(i) [Cooking equipment shall primarily be limited to indoor stoves and ovens but outdoor grills may be permitted provided they comply with Health Department regulations.]<sup>154</sup>

(j) The parking requirement for a Specialty Restaurant shall be based on a retail use.<sup>74</sup>

**(16) Roadside Stand.** A wholly or partially enclosed stand for the temporary sale of products produced on the land where to be sold, which stand shall be located so as to permit customers to drive completely off the street right-of-way while dealing.

**(17) Rooming House.** A residence in which non-family members are sheltered for compensation.

**(18) Rubbish.** Rubbish means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, flyash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

#### **50.207 Definitions (S - Z).**

**(1) Sanitary Land Fill.** Any operation which involves piling, placing, storing, dumping or depositing, in a hole or trench, any material in the form of rubbish and/or waste materials.

**(2) Satellite Dish Antenna.** An earth-based station whose purpose is to receive communications or other signals from orbiting satellites or other extraterrestrial sources together with other equipment related to such purposes.

**(3) Screening.** A wall, berm, fence or line of growing trees and shrubs, or combination of these, for the protection of adjoining premises.

**(4) Shed.** A lightly constructed one- (1) or two- (2) story building for temporary use during the erection of a permanent building; or a light one- (1) story structure attached to, or auxiliary to another building and intended for storage only.

**(5) Setback, Front Yard.** The minimum distance between the street line and any point on a structure located on a lot, excluding approved fences or signs.

**(6) Setback, Side Yard.** The minimum distance between any side lot line and any point on a structure located on a lot, excluding approved fences or signs.

**(7) Setback, Rear Yard.** The minimum distance between any rear lot line and any point on a structure located on a lot, excluding approved fences or signs.

(8) **[Shopping Center.** A commercial establishment of at least ten thousand (10,000) square feet in building area, designed, constructed, and managed as a total entity and providing a combination of uses including, but not limited to, personal service, retail business, general and professional offices, and restaurants, excluding drive-through restaurants.]<sup>62</sup>

(9) **Side Yard.** See Yard, Side.

(10) **Sign.** A publicly displayed, visible notice using words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to indicate an individual, a firm, a profession or a business. It shall include any publicly visible announcement, demonstration, display, illustration or insignia used to promote or advertise the interests of any person. It includes time and temperature clocks and similar devices.

(11) **Sign, Address.** A sign containing only numbers which locates a building on a given street.

(12) **Sign, Directional.** A sign stating the route to a use.

(13) **Sign, Off-premises.** A sign which advertises products, uses, goods, services or activities not available on the premises where the sign is located.

(14) **Sign, Principal.** A sign pertaining to products, uses, goods, services or activities available on the premises where the sign is located.

(15) **Sign, Free-standing.** A sign supported by its own foundation and not attached to a building.

(16) **[Sign, Message Board.** A sign with a message that can be changed periodically by mechanical means, such as by adding or replacing a preprinted message, using hand writing or using changeable letters. A message

board sign is subject to all other restrictions on signs in this Zoning Code as are now or hereafter adopted.

(17) **[Sign, Open House.** A temporary off-premises sign used to advertise the sale of real estate and direct traffic to the property for sale.]<sup>124</sup>

(18) **Special Land Use.** A use specified in this Chapter as permissible in a specific use district only after certain special standards are met.

(19) **[Story, Half.** The top story of a building, the entirety of which story lies under a sloping roof and/or a sloping roofing system, and: (a) Each roof composing the roofing system slopes an equal distance in each direction from the peak of each roof, and each roof within the roofing system has a minimum slope of 4/12 pitch; and, (b) Wall plates on at least two opposite exterior walls under each roof within the roofing system do not extend more than one foot above the finished floor of the top story; and, (c) The floor area of the top story does not exceed fifty (50%) percent of the area within the exterior walls of the building beneath the top story, provided that for purposes of this calculation, any portion of the floor area of the top story where the distance between the base floor and the base of the sloping roof is four feet or less, shall be excluded. If the top story of a building does not fit within the definition of a half-story, or within the definition of an unhabitable attic, the top story shall be considered a full story.]<sup>58</sup>

(20) **Story; Story Height.** The portion of a building included between the surface of any floor and the surface of the floor or roof next above it.

(21) **Street Line.** The street right-of-way line.

(22) **Structure.** Anything constructed or erected, the use of which requires location on the

ground or attachment to something having location on the ground.

(23) **Structural Alteration.** Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof, exterior walls, windows, or door openings.

(24) **Super Graphic.** A sign which is an integral architectural feature of a building and which, if removed, would obviously diminish a significant architectural objective of the structure.

(25) **Temporary Building or Use.** A structure or use permitted by the Zoning Administrator to exist for a specific limited period of time during periods of construction of a principal building or use, or for special events.

(27) **Tents.** Tents, as used in this Chapter, shall not include those used solely for children's recreational purposes.

(28) **Trailer Court.** See Mobile Home Park.

(29) **Travel Trailer Park (Overnight Camping Facility).** A place utilized for the temporary storage of travel trailers, for camping purposes, where there is no permanent storage of mobile homes for year-round occupancy, and where commercial activity is limited to service the needs of the temporary occupants of the travel park.

(30) **Uninhabitable Attic.** The space between the ceiling beams of the top habitable story and the roof rafters of a building, said space not intended for or usable as habitable living space. An uninhabitable attic shall not be considered a story or half story for the purposes of this Chapter.

(31) **Use.** Is the purpose for which land or a building is designed, arranged, or intended to be used, or for which land or a building is or may be occupied.

(32) **Utility Room.** A utility room is a room used primarily for storage, for housing a heating unit, or for laundry purposes.

(33) **Variance.** A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals.

(34) **Vehicular Service Station.** A space, structure, or building or part of a building, for the retail sale, service or supply of motor vehicle fuels, lubricants, air, water, batteries, tires, motor vehicle washing or lubricating, and the sale of other minor accessories, or customary facilities for the installation and replacement of such minor commodities.

(35) **Veterinarian Clinic.** A place for the care, diagnosis and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinarian clinic may include customary pens or cages which are permitted only within the walls of the clinic structure.

(36) **Video Store.** A retail establishment whose primary activity is the renting of video cassette tapes.

(37) **Wall.** A dense, impenetrable, vertical structure of definite height and location constructed of wood, glass, masonry, concrete or similar material.

(38) **Yard.** The area of a lot surrounding a principal building. A yard shall be unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter (See illustration on Page 17.4):

(a) **Front Yard.** A yard extending the full width of a lot, the depth of which is the minimum horizontal distance between the front lot line and the front line of the principal building.

(b) **Rear Yard.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the principal building.



(c) Required Yard. That portion of any lot on which a building is prohibited.

(d) Side Yard. A yard between a principal building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot lines to the nearest point of the principal building.

**(39) Zoning Administrator or Zoning Official.** The administrative official (or his designee) appointed by the City Council who is responsible for the enforcement of this Ordinance.]]<sup>50,146</sup>

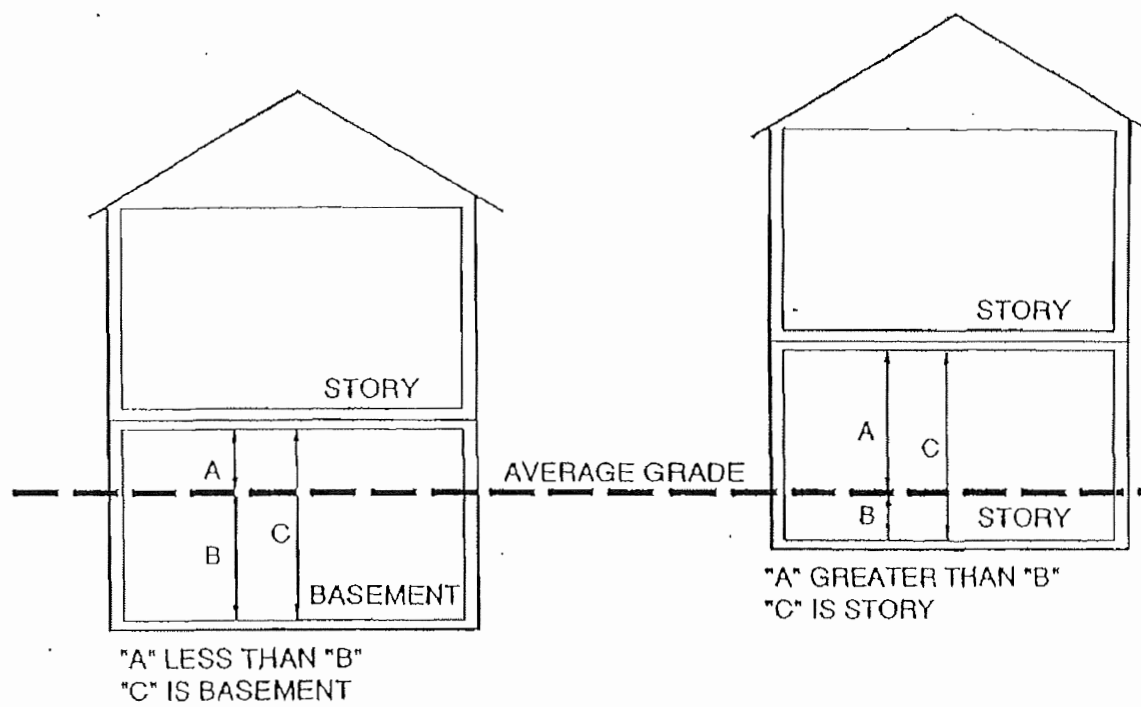


ILLUSTRATION 17.1

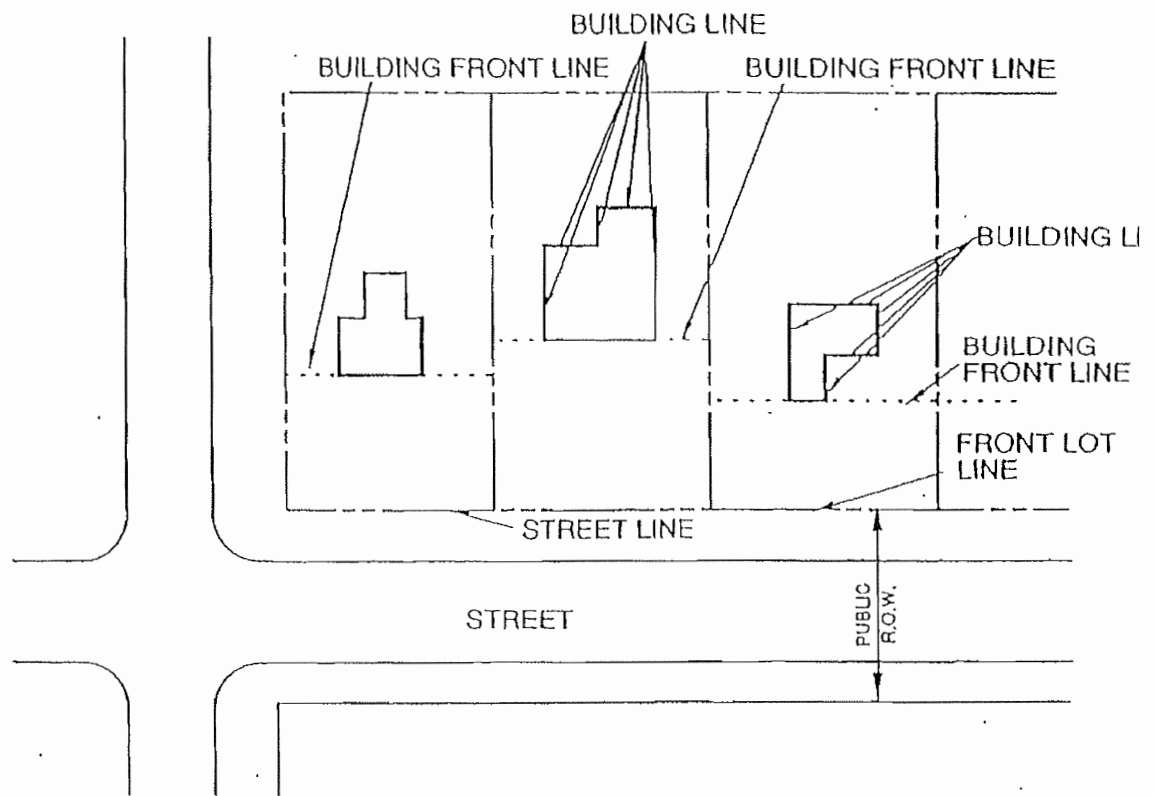
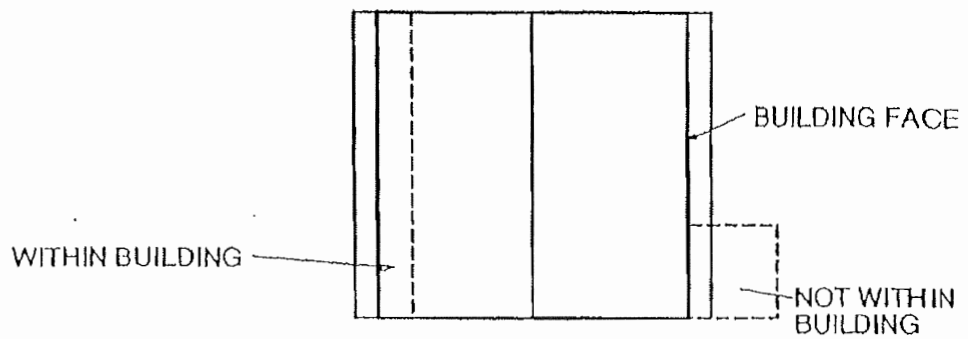


ILLUSTRATION 17.2



WITHIN BUILDING

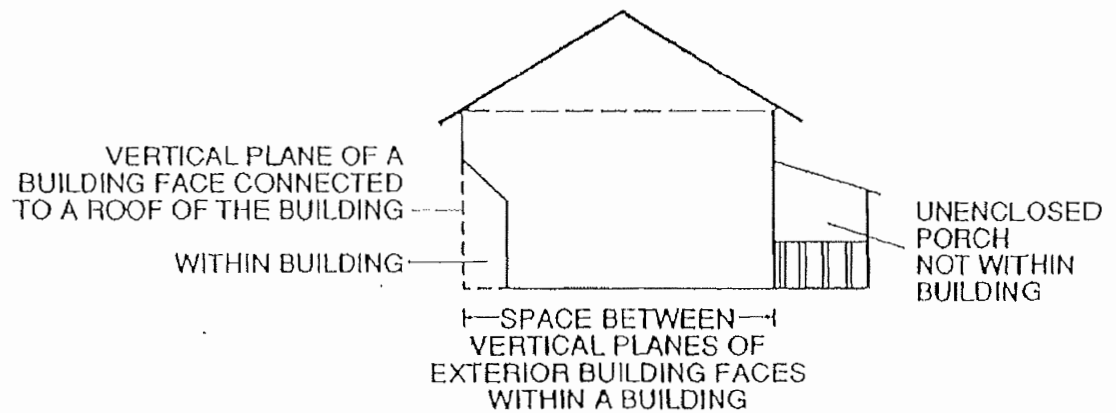
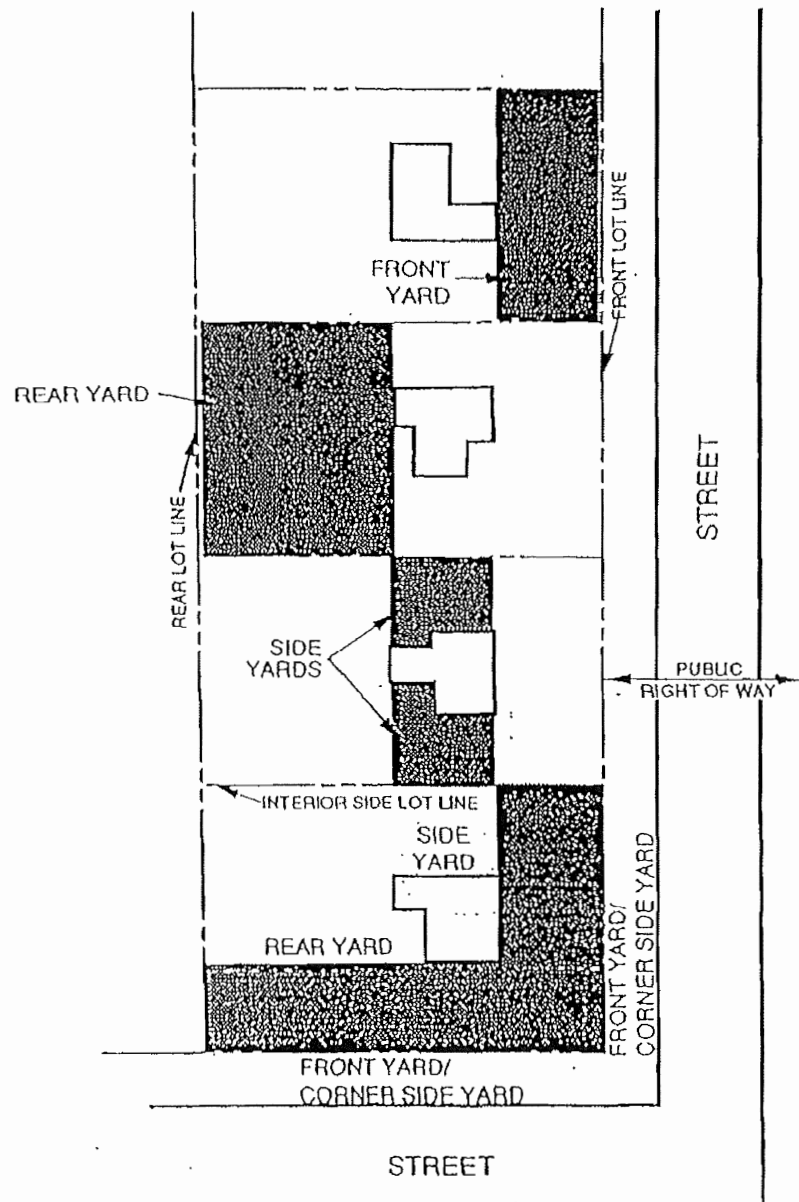


ILLUSTRATION 17.3



## YARDS

ILLUSTRATION 17.4

**ARTICLE 3  
GENERAL REGULATIONS**

**50.300 General Provisions.** The following provisions shall apply to the interpretation of this Code, and the application of the provisions of this Code to the use of land and the location and use of buildings and other structures within the City of Harbor Springs:

**(1) Interpretation of Code.**

(a) General Interpretation. In interpreting and applying the provisions of this Chapter, they shall be deemed to be the minimum requirements adopted for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by this Chapter to interfere with or subrogate or annul any ordinances, rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this Chapter, or which shall be adopted or issued, pursuant to law relating to the use of a building or premises, nor is it intended by this Chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this Chapter imposes a greater restriction upon the use of buildings or requires larger open spaces than are imposed or required by any such ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provisions of this Chapter shall control.

(b) Conflicting Regulations. Wherever any provision of this Chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provision of this Chapter shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Chapter, then the provisions of such other ordinance shall govern. Whenever any provision of any Zoning District as hereinafter created in this Chapter imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by any

other provision of this Chapter, then the provision contained in the specific Zoning District shall apply.

(c) Conflict Between Title and Text of this Chapter. In case of any difference of meaning or implication between the text of this Chapter and any caption, preamble, or illustration, the text shall control.

**(2) General Scope of City Zoning.** No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used which does not comply with all of the general and specific regulations of this Code and all the general and special regulations established by this Chapter for the district in which any building or land is located, nor shall the intensity of use be increased in any manner except in conformity with regulations hereby established for the district in which such property is located.

**(3) Authority, Generally.** Authority given to any person or board under this Chapter shall be construed as adding to and not taking from the authority held under any other Chapter of the Ordinance Code of the City. The powers and duties contained in this Chapter shall be construed as separate and distinct from authorities or duties required of any official or board under any other Chapter of the Ordinance Code of the City, and shall not be construed as conflicting herewith or limiting the scope thereof.

**(4) Zoning of Vacated Areas.** Whenever any street, alley or other public way within the City of Harbor Springs shall have been vacated by official government action, and when the lands within the boundaries thereof attach to and become a part of the land adjoining such street, alley or other public way, such lands formerly within such vacated street, alley or public way shall automatically, and without further governmental action, thenceforth acquire and be subject to the same zoning regulations as are applicable to the lands to which same shall attach and the same shall be used for that same

use as is permitted under this Chapter for such adjoining lands.

**(5) Exemptions.**

(a) Exemptions for Essential Services. Essential services shall be exempt from the provisions of this Chapter. Buildings required in conjunction with an essential service may be permitted in any district when approved by the Planning Commission. In granting such permission the Planning Commission shall take into consideration the effect such building will have on the adjacent land area and buildings. A determination of fact that a necessity exists for the building to provide service to the community must be made. The Commission shall also determine the location, size, design and use of such building, including all necessary landscaping in connection therewith.

(b) Non-Conforming Uses of Land, Non-Conforming Structures, Non-Conforming Uses of Structures and Premises, and Non-Conforming Lots.

(c) Intent. Within the districts established by this Chapter or amendments that may later be adopted there exist lots, structures, and uses of land and structures which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or future amendment.

It is the intent of this Chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of

a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Chapter and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner.

(d) Non-conforming Uses of Land.

Where, at the effective date of adoption or amendment of this Chapter, lawful use of land exists that is made no longer permissible under the terms of this Chapter as adopted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(i) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Chapter.

(ii) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Chapter.

(e) [Non-conforming Structures.

Where a lawful structure exists at the effective date of adoption or amendment of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(i) No such structure may be enlarged or altered in a way which increases its non-conformity; provided, this provision shall not restrict the repair, maintenance, renovation or reconstruction of such a structure, in its exact location.

(ii) Should such structure be moved for any reason for any distance

whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.]<sup>12</sup>

(f) Non-Conforming Uses of Structures and Land. If a lawful use of a structure, or of structure and land in combination, exists at the effective date of adoption or amendment of this Chapter, that would not be allowed in the district under the terms of this Chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(i) No existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

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

(iii) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the non-conforming use may not thereafter be resumed.

(iv) Discontinuance of Non-Conforming Use. If any non-conforming land or building use is discontinued for a period of one (1) year, all rights to such non-conforming use shall expire, and the future use of said premises shall be in conformity with the provisions of this Chapter.

(v) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

(g) Change of Tenancy or Ownership. There may be a change of tenancy, ownership or management of any existing non-conforming uses of land, structures or premises

provided there is no change in the nature or character of such non-conforming uses.

(h) [[Pre-Existing Lots. Nothing in the area requirements of this Chapter relating to lot area or width shall prohibit the erection of a building for a use permitted in a zoning district on a lot which has been owned under separate ownership from adjacent lots since a date prior to October 14, 1976, even though such lot has less area or width than the lot area or width for the use otherwise required by this Chapter for the district in which such lot is located: Provided that all other regulations of the district are complied with. Provided further that any lot created after October 14, 1976, with the express approval of the City of Harbor Springs, shall also be considered a pre-existing lot under this Section. [Provided further, that each platted lot in the Plat of Southard and Crandall's Addition to the Village of Little Traverse, shall be deemed a pre-existing lot under this section, and the following front and corner side yard setback requirements shall apply to any such lot, the zoning district front or corner side yard setback requirements otherwise applicable to such lot notwithstanding:

(i) A principal building having a front or corner side yard setback of 15 feet on a platted lot in the Plat of Southard and Crandall's Addition to the Village of Little Traverse shall be deemed a permitted conforming building on such lot, provided the height of such building shall not exceed 32 feet; and,

(ii) If an attached garage is part of a principal building on a platted lot in the Plat of Southard and Crandall's Addition to the Village of Little Traverse, the attached garage portion of the principal building must be set back at least 20 feet. Covered porches not exceeding 18 feet in height on a principal building may extend not more than 7 feet into the required front or corner side yard setback, and shall be deemed conforming]]<sup>65,101</sup>

(i) [Emergency Escape and Rescue Openings and Window Wells. If an emergency escape and rescue opening and/or window well is required for a building by the state building code, such opening and/or window well shall be



exempted from the setback requirements of this Code, but only to the extent necessary to comply with said building code.]]<sup>121</sup>

**50.301 General Requirements.** Unless otherwise expressly modified, the following provisions shall apply to the use of all land and the location and use of all buildings and other structures within the City of Harbor Springs:

**(1) [Zoning Permit Requirement.**

(a) Before the excavation, or modification of topography, of any lot, and before proceeding with the erection, alteration, repair, moving or removal of any structure, building, temporary building, sign, fence, awning, canopy, parking lot or part thereof, an owner or authorized agent shall apply for and obtain a zoning permit from the Zoning Administrator, and if necessary under the provisions of Section 50.301(2), shall apply for and obtain Site Plan approval from the Harbor Springs Planning Commission.

(b) An applicant for a zoning permit shall file with the application a set of plans and written specifications sufficient to clearly and fully indicate the nature of the contemplated work, including the following:

(i) A statement and depiction of any proposed topographic changes to the lot, including excavation or addition of fill or dirt.

(ii) A depiction of the boundary lines of the lot and the location of any proposed improvements to be made to the lot, with distances from the proposed improvements to the lot lines specified.

(iii) A depiction of the height, length and width of any proposed structure or building, with the height of the building or structure being measured from the average elevation of the natural, undisturbed terrain of the lot at the proposed Building Front Line, as provided in Section 50.201(23). The drawing shall include the sea level height of the natural undisturbed terrain at the proposed Building Front Line, by reference to a benchmark at street level.

(iv) Elevation drawings, depicting the building height at proposed finished grade, and including the vertical distance from finished grade of the lot at the proposed Building Front Line to the first floor of the proposed building.

(v) The kind and quality of materials to be used in the building or structure and an estimate of the cost.

Drawings shall be made to scale not less than one-eighth (1/8) inch equal to one (1) foot, and shall clearly indicate the size of structural members, walls and openings, and such other information as may be necessary to provide for the enforcement of these regulations.

(c) A record of such applications and plans shall be kept in the office of the Zoning Administrator for such period of time as the Zoning Administrator deems necessary.

(d) When the plans submitted have been found to conform to the requirements of this Chapter, the Zoning Administrator shall issue a zoning permit and affix to the plans an official stamp of approval. Any such approval is temporary, pending satisfactory determination of the height and location of the proposed improvements by survey as set out below.

(e) Construction shall be halted at the following stages to allow inspections by the Zoning Administrator:

(i) When the footings for the new construction have been poured and the forms have been set for the foundation walls, or the first course of blocks for the foundation wall has been set, further construction shall be halted. The owner, contractor, or agent of the owner or contractor shall notify the Zoning Administrator that the project is ready for inspection, and shall provide a letter or other instrument prepared by a registered land surveyor certifying that the foundation wall is located at the distance from the setback lines as depicted on the plans approved by the Zoning Administrator. The Zoning Administrator shall inspect the site, and if satisfied that the building conforms to the plans approved under subparagraph (d) of this Section 50.301 and conforms to all setback requirements, shall issue a permit to proceed.

The survey requirement is subject to the following exceptions:

1) If, based on information available to the Zoning Administrator, the proposed location of the improvement is more than three (3) feet from any required zoning setback lines, the Zoning Administrator may waive the survey requirement. Any waiver of the survey requirement by the Zoning Administrator shall be in writing.

2) For Accessory Buildings which are less than one hundred fifty (150) square feet in size, the survey requirement may be waived, if, based on information available to the Zoning Administrator, the proposed location of the improvement is more than three (3) feet from any required zoning setback lines. Any waiver of the survey requirement by the Zoning Administrator shall be in writing.

(ii) When the building has been framed, further construction shall be halted. The owner, contractor, or his agent shall notify the Zoning Administrator that the project is ready for inspection and shall provide a letter or other instrument prepared by a registered land surveyor certifying that the height of the building measured from the original undisturbed terrain at the Building Front Line conforms to the plans as approved by the Zoning Administrator under subparagraph (d) of this Section. The Zoning Administrator shall inspect the site, and if satisfied that the building height conforms to the plans approved under subparagraph (d) of this Section, the Zoning Administrator shall issue a permit to proceed. The Zoning Administrator may waive the height survey requirement if in the judgment of the Zoning Administrator based on the information available, the height of the proposed building is at least three (3) feet less than the maximum height permitted in the applicable zoning district. Any waiver of the survey requirement by the Zoning Administrator shall be in writing.

(iii) After completion of construction, but prior to occupancy of the building, the owner, contractor, or his agent shall notify the Zoning Administrator that the

project is ready for final inspection. If such building or alterations comply with the statements in the application, plans, working drawings, and specifications, and with all provisions and restrictions of this Code, a certificate of occupancy shall be issued as hereinafter provided in Section 50.301(3).

(f) [Penalties.

(i) Each person who violates any provision of this Section 50.301(1), or authorizes its violation, and/or is the owner or occupant of property where such violation occurs, is responsible for a municipal civil infraction, punishable by a civil fine of a minimum of \$500, and a maximum of \$2,500, plus costs and all other remedies as provided by law.

(ii) Each subsequent occurrence of a violation of this Section 50.301(1) by the same person shall constitute a separate offense, punishable by a civil fine of \$3,500, plus costs and all other remedies as provided by law.

(iii) Violations of this Section are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations shall be subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.]

(g) Zoning permits for structures on which work has not started within nine (9) months following the date of issue, and permits for structures upon which work has been abandoned for a period of nine (9) months, shall lapse and cease to be in effect.]]<sup>86,109</sup>

**(2) Site Plan Requirement.** Whenever a zoning permit is applied for, or there is an intensification of use on a site, unless exempted under the following provisions, an applicant shall also submit a Site Plan to the Planning Commission. If a Site Plan is required, a zoning permit shall not be issued until the Site Plan has been approved by the Planning Commission. In addition, whenever a parking or storage area is to be used or constructed, a Site Plan shall be required and approved before construction may be begun, or, if no construction is to be undertaken, used for such purpose. The

following improvements shall be exempt from the Site Plan requirement:

(a) The erection or alteration of a single-family building, or a two- (2) family building, on one (1) lot.

(b) The erection or alteration of accessory buildings (and required motor vehicle parking and storage areas) for single and two- (2) family buildings.

(c) Non-structural alterations which: do not expand the useable floor space of a building; do not allow for a higher intensity of use; and, do not allow for a change in use, which may be made of a building. All three conditions must be satisfied in order to be exempt from the Site Plan requirement.

(d) [Structural alterations which: do not expand the usable floor space of the building; and, do not allow for a higher intensity of use, which may be made of the building. Both conditions must be satisfied in order to be exempt from the Site Plan requirement. In such cases, however, building floor plans, including elevations, drawn to scale, and any proposed changes to the site, must be first provided and approved by the Planning Commission for conformity with the Zoning Code, prior to zoning approval being granted.

(e) Improvements where a Site Plan would normally be required, but where the City Manager, the Chairman of the Planning Commission and the City Attorney unanimously agree that the effect of the proposed improvement on the site is so minimal that a Site Plan would serve no useful purpose under this Chapter. ]<sup>13</sup>

The specific requirements for a Site Plan are set forth in Article 20 of this Chapter.

### **(3) Certificate of Occupancy and Compliance - Requirement.**

(a) No vacant land shall be occupied or used and no building hereafter erected or altered shall be occupied, used or changed in use until a certificate of occupancy and compliance shall be issued by the Zoning Administrator, stating that the building or proposed use of the building or premises

complies with all of the building and health laws and Ordinances, including the provisions of this Chapter.

(b) Certificates of occupancy and compliance shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the construction or alteration of such buildings shall have been substantially completed in conformity with the provisions of these regulations and final inspection has been made as required by Section 50.301(1)(e). A record of all certificates shall be kept on file in the office of the Zoning Administrator and copies shall be issued on request to any person having a proprietary or tenancy interest in the building affected.

(c) No zoning permit shall be issued before application has been made for a certificate of occupancy and compliance.

**(4) Off-Street Parking Requirements.** [It shall be the duty of both the owner and occupant of any premises to provide off-street parking space as required in this Section. Whenever off-street parking spaces are required, the off-street parking spaces shall be laid out, approved, constructed and maintained in accordance with the standards and regulations specified in this Section and in Article 18 of this Chapter.

(a) [Except as provided in subparagraphs (b) and (c) and (d) below, whenever a use or an activity requiring off-street parking is created through new construction, increased floor area, intensity of activity or number of boat berthing slips, or by structural alteration, or by adding to the cubic content of a building or increasing the intensity of activity in some other manner, off-street parking spaces shall be provided and maintained as required in Article 18 for such new construction or change.

(b) [Except as provided in subparagraph (c) below, existing buildings, as defined in Section 50.201(21), may be utilized to their capacity through structural alteration or rebuilding (excluding basements and additions) for the permitted uses occupying such building on the effective date of the Ordinance adopting the Harbor Springs Zoning Code of 1990 (the

“Effective Date”), and shall be exempt from providing off-street parking spaces. Uses requiring an equal or lesser number of parking spaces may be substituted for the principal use of record on the Effective Date, without providing off-street parking spaces. When the basements thereof are converted to uses requiring parking spaces, or when uses requiring more spaces than the use of record on the Effective Date are substituted, then off-street parking spaces for the addition or the change difference shall be provided and irrevocably reserved and recorded in accordance with the standards of Article 18 of this Chapter.]]<sup>11, 95, 127</sup>

(c) In the CBD (Central Business District) only, off-street parking shall not be required for commercial uses in existing buildings. For new construction, or, additions to buildings in excess of ten percent (10%) of the building’s floor area, the off-street parking requirement for commercial uses shall be seventy-five percent (75%) of the requirement specified in Article 18 of this Chapter for the specific use proposed.

(d) For residential uses in the CBD (Central Business District), the number of off-street parking spaces shall be provided on-site in accordance with the requirements for single family residential dwelling units provided in Article 18 of this Chapter, provided for residential dwelling units containing less than 900 square feet, only one (1) parking space need be provided.]<sup>149</sup>

(e) [With the approval of the Planning Commission, the location of off-street parking spaces required under this Chapter may be varied off-site of an owner’s premises if the off-site location, in the determination of the Planning Commission:

(i) Is within sufficient proximity of the property owner’s premises, such that the property owner, the property owner’s employees, customers, clients or members, will normally utilize the off-site parking spaces rather than public parking spaces or facilities.

--or--

(ii) Is made available for parking to the public at large and is within

sufficient proximity of the property owner’s premises that parking congestion within the vicinity of the property owner’s premises should be reduced.

No off-site parking space shall be approved under this Section 50.301(4)(c) if the space or spaces proposed for use are already committed to off-street parking for the owner of such spaces or are committed or dedicated to another off-site property use under this section. If the off-site location is not irrevocably committed or dedicated to the property owner’s benefit, or to the public at large, as the case may be, the property owner must:

(i) reserve sufficient space on the property owner’s property (to be indicated on the property owner’s Site Plan) to meet the off-street parking requirement should the right to use the off-site location terminate. If the right to use the off-site location is terminated, the property owner shall forthwith provide the required off-street parking spaces in conformity with this Chapter; or,

(ii) in the case of a full line restaurant in the CBD that has received special land use approval under Section 50.1202 (3) of the Zoning Code, the property owner must sign an agreement with the City of Harbor Springs that will be prepared by the City Attorney that shall provide that if the right to use the off-site location is terminated, the property owner shall immediately terminate any restaurant service except as expressly permitted under Section 50.1202(3)(c) of the Zoning Code; and that the property owner shall pay all costs of enforcement of such agreement and this Section of the Code, including the City’s attorney fees; and that if such fees are not paid by the property owner within 30 days after billing, all such fees shall be assessed against the property on the next City tax roll, pursuant to City Charter Section 2.2(s).

A violation of these requirements shall be deemed a violation of this Code.]<sup>126</sup>

(f) Nothing in this Section shall be construed to prevent collective provisions of off street parking facilities for two (2) or more buildings or uses, provided that collectively, the parking spaces provided by such facilities shall

not be less than the sum of the requirements for the various individual uses computed separately. Any such provisions or agreements for collective parking for two (2) or more buildings, shall be set forth in a recordable instrument and recorded in the Office of the Register of Deeds, describing the lands affected by this agreement or easement.

(g) Parking plans shall be submitted to the Planning Commission for review and approval of layout and points of access as provided in Article 18 of this Chapter.

(h) The amount of required off street parking space for new uses of buildings, additions thereto and additions to existing buildings as specified above shall be determined in accordance with the requirements of Article 18 of this Chapter and the space so required shall be stated in the application for a building permit and shown on the Site Plan and shall be irrevocably reserved for such use.

(i) In-lieu of Parking Fee.

(i) An optional alternative method available to an applicant to satisfy the off-street parking requirement for a non-residential use in the Central Business District (CBD) shall be to pay a fee in-lieu of parking to the City, subject to the terms and conditions of this sub-paragraph. If an applicant desires to satisfy all or any part of the off-street parking requirement for a project requiring zoning approval by paying a fee instead of otherwise providing off-street parking under this Chapter, such applicant may submit a written application to pay a fee-in lieu on a form provided by the Zoning Administrator. The City Council, upon recommendation of the Planning Commission, may approve the payment of a fee in lieu of parking, after review of an applicant's proposal and consideration of the characteristics of the proposed use and the development site, based on the criteria set forth in subparagraph (ii) below. The amount of the fee shall be established annually by resolution of the City Council with the advice of the City's Public Works Director and City Manager and shall be established to be the equivalent of the current price for purchase of land and construction of an off-street parking space within the CBD. If the City Council

approves the payment of a fee-in-lieu, the applicant shall pay the fee in full before a zoning permit is issued.

(ii) The criteria to be considered by the Planning Commission for its recommendation to the City Council, and the criteria to be considered by the City Council in making its decision shall include the following:

1) The number of parking spaces required for the project at the site;

2) The type of use proposed and the parking demand during peak hours in the vicinity of the site, with the objective of limiting use of the fee in lieu to those businesses that do not substantially increase parking demand during peak parking demand times at the site;

3) Availability of parking;

4) The mix of uses in the vicinity of the site, with the objective of limiting the use of the fee-in lieu to businesses different from those in current operation in the vicinity of the site;

5) The amount of municipal parking or other facilities available in the CBD, with the objective of allowing use of the fee-in-lieu when there is ample municipal or other facilities available in the CBD.

(j) Municipal Parking Fund. A Municipal Parking fund is hereby created to be used for the costs of acquiring land for municipal parking areas and/or parking improvements to municipal off-street or on-street parking areas and/or other municipal programs that will lessen the demand for additional parking downtown. All fees received for in-lieu of parking under subsection (g) shall be deposited into the Municipal Parking Fund.]<sup>125</sup>

#### **(5) Lot Requirements.**

(a) All Buildings Must be Located on a Lot. Every building hereafter erected, or structurally altered, shall be located on a lot.

(b) No Non Conforming Lots to be Created. No lot upon which a building has been erected shall be so reduced or diminished in area

that the setback requirements, or minimum area requirements of this Chapter, will be violated, or that yards or open spaces shall be smaller than those prescribed by this Chapter.

(c) Street Frontage. No building shall be erected or altered unless located on a lot which fronts upon a public street. Modification of this requirement may be permitted by the Planning Commission in approved Planned Developments, or in cases where unusual topographic or geographic conditions exist.

(d) Minimum Lot Frontage. No front line shall measure less than fifty (50) feet.

(e) Lot Size Averaging Permitted. Whenever a subdivider or developer wishes to vary lot sizes and lot widths so as to average the minimum size per dwelling unit as required in each respective district, the following conditions must be met:

(i) In meeting the average minimum lot size, the subdivision shall be so designed as not to create individual lots having an area or width more than ten percent (10%) below that area or width required in each respective district and shall not create an attendant increase in the number of lots.

(ii) The technique of averaging minimum lot size shall be acceptable only in those instances where in the entire preliminary plat, which has received City Council approval, is carried through a final plat and is then recorded in its totality. Recording of portions of a preliminary plat shall not be acceptable under this provision.

(iii) All computations showing lot area and the average resulting through this technique shall be as indicated on the print of the preliminary plat.

(f) Lot Limitations. In one (1) and two (2) family residential zoning districts, only one (1) principal building shall be placed on a lot.

**(6) Setback General Requirement.** [No building or structure, except approved fences and permitted signs, shall be located within any required setback, PROVIDED, the following shall be exempt from this requirement:

(a) The eaves of a roof, projecting not more than two (2) feet from a building face;

(b) Uncovered steps and railings extending from a first floor doorway into a front or corner side yard setback, together with an uncovered stoop of no more than sixteen (16) square feet.

(c) A fireplace extending no more than two (2) feet from a building face.

(d) [Bay windows, except in required side yard setbacks, projecting not more than two (2) feet from a building face, provided that no additional foundation is required for the installation of the bay window and that no additional floor space is added to the building.]<sup>34</sup>

(e) [Handicap ramps constructed to American with Disabilities (ADA) and building code specifications provided:

(i) The ramp is required by a current resident of the dwelling and documented by a licensed medical physician in writing.

(ii) The front yard setback for the ramp is no less than fifteen (15) and a side yard of no less than five (5) feet.

(iii) The ramp shall be designed to minimize the impact on the yard setback requirements of the district.

(iv) The applicant shall provide a rendering of the ramp and house to demonstrate how the proposed ramp will blend to the greatest extent possible with the dwelling and surrounding neighborhood.

(v) The proposed ramp may be approved by the Zoning Administrator but in the event there is reasonable doubt regarding compliance with the above standards, the Zoning Administrator may defer the decision to the Planning Commission.

(vi) The ramp shall be removed within thirty (30) days after the ramp is no longer needed by the resident of the dwelling]<sup>153</sup>

On a through or corner lot, a building shall be set back from each street line at least that distance that is required for a front setback as provided in this Chapter for the district in which said lot is located.”]<sup>24</sup>

**(7) Building Grades Surface Water Flow.** Any building located in a district that has a setback requirement shall be located at such an elevation that a gradual sloping grade shall be maintained to cause the flow of surface water to run away from the walls of the building. A sloping grade, beginning at the sidewalk level (or right of way level if there are no sidewalks), shall be maintained and established from the front lot line to the finished grade at the front of the building, provided the change in slope shall not increase the water run off. However, this shall not prevent the grading of a yard space to provide a sunken or terraced area, if proper means are provided and maintained to prevent the runoff of surface water from flowing onto adjacent properties or into the sanitary sewer system.

When a new building is constructed on a vacant lot between two (2) existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building. The yard around the new building shall be graded in such a manner as to meet existing grades and not to permit runoff of surface water to flow onto the adjacent property.

Final grades shall be approved by the Zoning Administrator. If he deems necessary a "Certificate of Grading and Location of Building" shall be duly completed and certified by a registered engineer or land surveyor before final grades are approved.

**(8) Driveway Requirements.**

(a) In R 1 and R 2 Districts. The location of all driveways, entrances and exits shall be subject to approval by the Zoning Administrator after considering the effects on surrounding property, pedestrian and vehicular traffic and the movement of emergency vehicles.

(b) Other Zoning Districts. The location of all driveways, entrances and exits in all other zoning districts shall be included within the Site Plan presented for approval to the

Planning Commission and shall not be constructed without Site Plan approval.

**(9) Sidewalk Requirements.**

(a) In R 1 and R 2 Districts. There is no sidewalk requirement pertaining to a single family dwelling, or a two family dwelling, on one lot.

(b) Other Zoning Districts. In all other zoning districts, it shall be the duty of both the owner and occupant of any premises within the City to provide a concrete sidewalk along the full length of every existing street or highway which either abuts or runs through said premises, said sidewalk to be constructed in accordance with applicable standards and specifications of the City, which shall be maintained by the City Clerk and shall be available for public inspection. Whenever any construction is proposed for which a Site Plan is required by Section 50.301(2), the Site Plan as submitted must include and the completed construction project shall include, the placement and construction of a sidewalk as aforesaid.

**(10) Screening Between Zoning Districts.**

Plans for construction in any use district that abuts any other use district or an existing residentially used lot or parcel shall not be approved unless screening in the form of a greenbelt with fence, a protective wall or an earth berm has been properly indicated, and meets Planning Commission requirements. This requirement does not apply to construction where a single- or two- (2) family residential district abuts on another single- or two- (2) family residential district, nor does it apply to the abutting property lines between lots or parcels used for single- or two- (2) family dwelling regardless of the use district in which they are located. The requirements for screening are specified in Article 19 of this Chapter.

**(11) Trash; Removal, Enclosure and Screening Requirements.**

(a) Duty to Maintain Property. The owners or occupants of all lands, structures, and any parts thereof, shall have the duty to maintain the same in a clean and sanitary condition free

from any accumulation of dirt, filth, rubbish, garbage, junk, vermin, and the duty not to act or omit to act so as to create or permit the existence of a nuisance as defined in this Chapter. This duty shall extend to any area of land between the lot line and adjoining streets or curbs.

(b) Receptacles for Garbage, Rubbish and Waste. Stationary or portable receptacles of an appropriate type shall be provided and maintained by the owner or occupant for every site use. Such receptacle shall be screened, as provided in Article 19 of this Chapter, from public view and shall not be located in any front yard or corner side yard. Garbage receptacles shall be of a type and maintained in a manner to be water tight and vermin proof. Such receptacles of a portable type shall be of substantial construction with handles or bails and tight fitting covers.

**(12) [Maximum Density, Residential.]** Maximum density shall be calculated by applying all city regulations to a proposed project area to determine the maximum number of dwelling units permitted by those regulations. When a Planned Unit Development (including a Cluster Zoning Development) or a Condominium Land Subdivision plan is proposed, the applicant shall present a test-drawing depicting the project area as if it were to be developed pursuant to the design standards contained in Article 7 of Chapter 52 of the City's subdivision regulations. The maximum permitted density for the Planned Unit Development or Condominium Land Subdivision shall not exceed the density shown in the test-drawing.<sup>19</sup>

**50.302 General Restrictions.** Unless otherwise expressly modified, the following provisions shall apply to the use of all land and the location and use of all buildings and other structures within the City of Harbor Springs:

**(1) Accessory Buildings.** No accessory buildings shall be located in the front yard or corner side yard of any lot (except in the case of a through lot in which case Section 50.301(6) shall apply); provided, an accessory building

may be built in a front yard or corner side yard when authorized by the Planning Commission after consideration of the standards as set forth in Article 21 and the following:

(a) The proximity of the building to adjoining properties, specifically including proximity to occupied dwellings.

(b) Potential traffic hazards at driveways and street intersections.

(c) Existing or proposed landscaping to screen the building from adjoining properties if necessary.<sup>127</sup>

[The following regulations pertain to all accessory buildings:

(d) An accessory building shall not exceed 1 ½ stories, except as provided in subparagraph (e) below.

(e) A two-story accessory building may be constructed in a residential district, but only after special land use approval.

(f) [The foot print of any accessory building which exceeds 576 square feet in area shall not exceed 75% of the principal building foot print, except as a special land use provided in subparagraph (m) below.]<sup>151</sup>

(g) An accessory building shall not exceed 25 feet in height, and shall not exceed the height of the principal building on the lot.

(h) [[No more than two accessory buildings per lot are permitted, except as a special land use provided in subparagraph (m) below. Guest quarters are permitted in no more than one accessory building per lot. If there is more than one accessory building on a lot, the total footprint of all accessory buildings on the lot shall not exceed 75% of the footprint of the principal building, except as a special land use provided in subparagraph (m) below.]]<sup>94,151</sup>

(i) Separate utility service for an accessory building shall not be permitted unless a single service would be impractical under the circumstances, as determined by the City Manager.

(j) No space in an accessory building shall be rented for any purpose, and an accessory building shall not be used or occupied as a permanent residence, and shall not be used as a rooming or boarding house.



(k) Guest quarters for purposes of this section shall mean a room (or rooms connected together) in an accessory building which is/are potentially habitable. Guest quarters in an accessory building are permitted only in the R1A, R1B, R1C, R1E, R2, TR and AR Residential Districts. Guest quarters shall not be rented. The following rules are specific to the specific zoning districts referred to:

(i) In the R1B, R1C, R2, TR and AR Residential Districts, guest quarters are permitted in accessory buildings only after special land use approval.

(ii) Special land use approval for guest quarters in accessory buildings is not required in the R1A and R1E Residential Districts.

(iii) [In the R1B, R1C, TR and AR Residential Districts, guest quarters can be occupied only by friends or relatives of the owner of the principal building on the lot, and such occupancy shall not exceed twenty-one consecutive days; and, any such person, upon terminating occupancy of guest quarters, shall not be permitted to re-occupy the guest quarters for a period of one (1) month.]<sup>90</sup>

(iv) In the R1A and R1E Residential Districts, guest quarters can be occupied by friends or relatives of the owner of the principal building on the lot, or by domestic employees.

(v) An accessory building shall not be approved for guest quarters in the R2 or TR district if a two family unit (duplex) is constructed.

(vi) Any violation of the provisions of this section shall terminate special land use approval for use of the accessory buildings as guest quarters in the R1B, R1C, R2, TR and AR Residential Districts.

(l) Any accessory building which exceeds one story, and any accessory building containing guest quarters, shall have similar architectural details to the principal building, such as finish, color and quality of building materials. Windows in such accessory buildings shall be of the same quality and appearance of those in the principal building.”<sup>89</sup>

(m) [A property owner may have more than two (2) accessory buildings that exceed the maximum size of 75% of the principal building when authorized as a special land use by the Planning Commission subject to affirmative findings as to the standards as set forth in Article 21, and subject to the following conditions:

(i) The subject parcel size shall be one (1) acre or larger.

(ii) The Planning Commission shall consider the standards for accessory buildings outlined in 50.302(1) (a-l) above.

(iii) The Planning Commission shall consider future lot splits that might be proposed for the property that could create non-conforming buildings, and shall, as a condition of special land use approval, adopt restrictions upon the property to prevent such a result.]<sup>51</sup>

(2) **Awnings and Canopies.** No awning or canopy that emits any measurable illumination shall be approved in any district, and reflective material shall not be used on any awning or canopy in any Zoning District. An awning or canopy shall not be used as a sign; however, letters three (3) inches or less in height may be displayed on an approved awning or canopy, PROVIDED, such lettering shall be uniformly located only along the lower edge of the awning or canopy in a single line, and FURTHER PROVIDED, such lettering shall have been approved by the Planning Commission. Awnings or canopies are prohibited in the CBD and adjacent districts unless approved by the Planning Commission after review of a Site Plan depicting the location, appearance and composition of the proposed awning or canopy, and a finding by the Planning Commission that the proposed awning will not adversely impact on neighboring buildings or uses in terms of size, color, design, or obstruction of view.

(3) **Basement Dwellings - Prohibited.** No building consisting of a basement only shall be erected or occupied in any Zoning District.

**(4) Bed and Breakfast Establishments.**

Bed and breakfast establishments shall be permitted in AR, R-1, R-2 and TR Districts, but only as a special land uses, and then only after proper notice has been given as required by State law and after review by and approval of the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

**(5) [Bluff Building Restrictions:****(a) Definitions:**

(i) Bluff Area. The natural geologic feature in the City of Harbor Springs consisting of the steep land bank, commonly referred to as the "Bluff", which lies generally south of Bluff Drive west of Hoyt Street, and generally south of Main Street east of Hoyt Street, and legally described as follows: that property bounded by a line beginning at the intersection of West Bluff Drive and Fourth Street in the City of Harbor Springs; thence easterly along West Bluff Drive to East Bluff Drive; thence easterly along East Bluff Drive to the end; thence continuing easterly along the line of East Bluff Drive if East Bluff Drive were extended to the Westerly boundary of Shay Park; thence northerly to Pine Street; thence easterly along the centerline of Pine Street to the intersection of Hoyt Street; thence southerly along the centerline of Hoyt Street to the intersection of East Main Street; thence easterly along East Main Street to the City limits; thence southerly along the City limits to Pennsylvania Avenue; thence westerly along the centerline of Pennsylvania Avenue to the intersection of Zoll Street; thence northerly along Zoll Street to the intersection of East Main Street; thence westerly along East Main Street to the intersection of Nelson Street; thence northerly along the centerline of Nelson Street to the intersection of Third Street; thence westerly along Third Street to a point which would be the southerly extension of Ann Street if Ann Street were extended southerly; thence North along the southerly extension of Ann Street to Fourth Street; thence westerly along Fourth Street to the point of beginning. The line above described

shall be the centerline of the said streets or extensions of streets.

**(ii) Restricted Bluff Zone:**

The Restricted Bluff Zone is the area between the Toe of the Restricted Bluff and Top of the Restricted Bluff, as defined below.

1) Toe (or bottom) of Restricted Bluff: A line which is 3 feet north of and parallel to the line formed by the series of points in the Bluff Area where the slope of the land bank closest to Lake Michigan first exceeds 18.5 degrees. If there is a retaining wall (including a building foundation) near the southernmost portion of the Bluff Area, which was in existence as of January 20, 2005, and which appears to have been constructed within the Restricted Bluff Zone, the Toe of the Restricted Bluff shall be at the Bluff side of the retaining wall.

2) Top of the Restricted Bluff: The line formed by the series of points in the Bluff Area where the natural slope of the land bank farthest from Lake Michigan first decreases permanently below 18.5 degrees. If there is an existing retaining wall near the northernmost portion of the Bluff Area, the Top of the Restricted Bluff shall be defined as the series of points where the average slope of the Bluff below the retaining wall, if extended north beyond the retaining wall, would meet the existing ground.

**(b) Restrictions and Regulations:**

(i) Any construction or excavation proposed within twenty feet south of the Toe of the Restricted Bluff, or within twenty feet north of the Top of the Restricted Bluff, (the "Regulated Areas") must be first approved by the City Manager or Planning Commission, pursuant to the following procedure. The City Manager shall review the proposed activity, and if, in the opinion of the City Manager, such activity will have little or no effect on the integrity of the Bluff, or is necessary for safety considerations, the City Manager may approve such activity. By way of example only, repairs to existing retaining walls may be approved by the City Manager in the exercise of his discretion under this Section. If the City Manager is concerned that the proposed activity

may impair the integrity of the Bluff, or has other concerns, the City Manager shall refer the proposed activity to the Planning Commission for review as a matter requiring Site Plan Approval under Article 20, and the applicant shall submit a Site Plan for such activity to the Planning Commission for review, together with the following additional data:

1) A topographic drawing depicting the Top or Toe of the Bluff, as applicable, and existing and proposed ground contours of the area at 2 foot intervals, between the proposed improvement and the Toe or Top of the Bluff;

2) A cross sectional drawing, prepared by the City Engineer, depicting the proposed activity, and the extent of incursion into the Bluff necessitated by the proposed activity.

3) An opinion of a licensed professional engineer certifying to the City of Harbor Springs that the activity proposed will not cause damage, or the potential of damage, to the Bluff or adjacent properties.

The Planning Commission shall review and decide whether such activity shall be permitted, pursuant to the standards provided in Article 20. Unless approved by the Planning Commission after review and consideration of the Site Plan and the supplemental materials required by this section, no such activity shall be commenced by the applicant.

(ii) Storage of Equipment or Materials Restricted. No equipment or building materials, or any object weighing more than 20 pounds, shall be located, or stockpiled or stored or maintained within the Regulated Area at the Top of the Bluff.

(iii) Exemption for City. The restrictions and regulations of section (b) of this Section 50.302(5) shall not apply to the City of Harbor Springs in the exercise of its governmental activities, including, but not limited to, street construction or maintenance, or to installation or maintenance of other infrastructure.”<sup>91</sup>

(c) [Penalties.

(i) Each person who violates any provision of this Section 50.302(5), or authorizes its violation, and/or is the owner or occupant of property where such violation occurs, is responsible for a municipal civil infraction, punishable by a civil fine of a minimum of \$500, and a maximum of \$2,500, plus costs and all other remedies as provided by law.

(ii) Each subsequent occurrence of a violation of this Section by the same person shall constitute a separate offense, punishable by a civil fine of \$3,500, plus costs and all other remedies as provided by law.

(iii) Violations of this Section are considered to be a nuisance per se with such violations and correction of any conditions resulting from violations shall be subject to abatement by injunctive or other appropriate order by a court of competent jurisdiction.]<sup>110, 111</sup>

**(6) Carnivals, Public Meeting Tents and Circuses.** Carnivals, public meeting tents and circuses may be given temporary permits for varying periods by the City Council, not to exceed fifteen (15) days, providing adequate traffic and parking provisions shall be made for the use proposed, and any other provisions as set forth by the City Council shall be observed. The City Manager shall have the responsibility of determining whether the traffic and parking provisions of the City Code have been complied with and shall make a recommendation to the City Council as to whether or not such a temporary permit shall be issued and as to what restrictions should be imposed upon said use. The Council may, if it wishes, refer the matter to the Planning Commission for further study and recommendations.

**(7) [Condo-Hotels.** In addition to the requirements that otherwise apply to any permitted principal use in a district where a Condo-Hotel is permitted, the following requirements shall apply to Condo-Hotels. For purposes of this Section, “Unit” shall mean a condominium unit as defined in the Michigan Condominium Act, being the enclosed surveyed

space devoted to separate ownership as depicted in the condominium subdivision plan (Exhibit B) of the Master Deed for the Condo-Hotel.

(a) Requirements. A Condo-Hotel shall include the following features: the name "Hotel" shall appear prominently in the name and signage on the building, and in all marketing literature; ingress to and egress from the Units shall be made only through an inside office or lobby supervised at all hours of the day and night by an employee of the owner or operator of the Hotel (there shall be no direct outside access to Units); there shall be electronic card access only to Units (no keys), and the card access codes shall be changed at least weekly; there shall be no assigned parking in the Condo-Hotel parking lot for Units in the Condo-Hotel; there shall be no regular mail service available to Unit owners in the Condo-Hotel; there shall be no direct telephone, cable, or internet service available to Unit owners in the Condo-Hotel; there shall be a standard furniture package in place and in use in all Units in the Condo-Hotel, and unique furniture or unique furniture arrangements in Units shall not be permitted; there shall be daily maid service provided to all Units in the Condo-Hotel; all Units in the Condo-Hotel shall be available for rental to the general public for overnight lodging facilities through the rental pool as required by subsection (c) of this Section whenever the Owner of a Unit in the Condo-Hotel (as defined in subsection (c)) is not occupying the Unit; an owners' association shall be established and shall operate the Condo-Hotel as required by subsection (b) of this Section. If a building approved as a Condo-Hotel is not continuously maintained and operated so that each and every of the foregoing requirements is satisfied, said building shall not be a Condo-Hotel, and the use of such building by each and every of the Unit owners shall be deemed a violation of this Code;

(b) Management and Maintenance of Condo-Hotel. The recorded covenants, conditions and restrictions ("CC&Rs") of the Condo-Hotel shall require the Units to be used and operated in accordance with the requirements of this Section. There shall be an owner's association established to govern,

maintain and operate the Condo-Hotel and its services in accordance with this Section, including but not limited to the rental pool as provided in subsection (c). The CC&Rs, as well as other relevant documents, shall require all portions of the Condo-Hotel including, but not limited to landscaping and open space areas, the lobby, the hallways, the parking lot, the banquet/ballroom facilities, the conference rooms, any restaurant, pool, and spa facilities; and other amenities and improvements (collectively the "amenities"), as well as the individual Condo-Hotel Units, their furniture, fixtures, equipment, to be maintained and operated in good, clean condition at all times. The CC&Rs shall require the owner's association to hire a single qualified professional management entity to maintain and operate the Condo-Hotel.

(c) Rental Pool. For purposes of this Section, all of the legal title holders of each Unit in the Condo-Hotel shall designate no more than two (2) natural persons who shall be deemed the "Owner" of the Unit for purposes of this subsection. A husband and wife shall be deemed to be one (1) natural person for the purposes of this subsection. Such designation shall not be changed until title to the Unit is transferred. At all times that an Owner is not occupying a Unit, said Unit shall be used for transient occupancy purposes, only, and shall be available in a "rental pool" to be operated by the management entity hired by the owners' association, so that all Units are available, on a bona fide basis, to the general public, for overnight lodging, for compensation, when not occupied by the Owner. The rental pool shall not give preference to family or friends or business relations of the Owner of a Unit (or the legal titleholder(s) of a Unit), as compared to the general public, for lodging or other occupancy purposes. The terms and conditions of the rental pool, and its operation, shall be subject to the continuing review of the Planning Commission to assure compliance with this subsection.

(d) Marketing. A Condo-Hotel shall be created, sold, and maintained under documentation, including the condominium master deed, bylaws, sales brochures, and pre-

construction agreements, (in form and content approved by the City) that adequately discloses and ensures that the facility will in all respects be permanently and exclusively operated as a Hotel and will not be occupied as a multi-family dwelling.

(e) Compliance with Law. It shall be the responsibility of the applicant for a Condo-Hotel to comply with all other requirements of this Code as well as all other applicable federal, state and local laws and regulations.

(f) Reporting and Inspection. Each Owner of the individual Condo-Hotel Units, the owner's association and management entity shall allow reasonable access to individual Units, and shall maintain and regularly make available to City such information, books, records, and documentation as the City finds necessary to have or review in order to ensure that the City may determine the Condo-Hotel's compliance with this Section and other applicable City laws, regulations and project conditions. The original and every subsequent management entity shall immediately advise the City of its name, qualifications, address, telephone number and the name of a contact person.]<sup>104</sup>

**(8) Dish Antennas and Satellite Receivers.** Any exterior audio-visual dish antenna or receiver, being three feet or larger in diameter, to be placed upon a lot, parcel or building (a "satellite-dish antenna") shall be deemed an accessory building in the applicable zoning district, and the location thereof shall comply with the regulations applicable thereto in the particular zoning district. Further, such "satellite-dish antennas" shall conform to all building height restrictions in the applicable zoning district and shall be so located to be as remote as possible from public view.

**(9) Earth Removal; Commercial Enterprise.** No earth, soil, sod, sand, gravel, minerals, or similar materials shall be excavated, dug, or removed from any lot or parcel of land for the purpose of sale or resale or for any other commercial purpose whatsoever, until a written

permit is secured from the Planning Commission.

A permit for removal as aforesaid shall set out the exact description of the lot or parcel of land to be used, the length of time said permit shall be valid, and such other conditions as the Planning Commission deems necessary to guarantee that the excavating, digging, removal or relocation of said materials will not constitute or tend to create a public nuisance or health hazard. The Planning Commission is authorized to require a bond or cash deposit for the purpose of guaranteeing that at the expiration date of said permit, the area and adjacent lands will be left in a suitable condition for such land uses as are permitted in the district where such lot or parcel of land is located, according to the Master Plan and a site plan approved by the Planning Commission.

**(10) Fence and Wall Restrictions.**

(a) [For all single and two-family uses, fences shall be permitted, but only as accessory uses to a building, and subject to the following restrictions;

(i) Within the area between the lot line and the building line facing the side yard of the lot, no fence or wall, other than a retaining wall, shall be higher than four (4) feet unless any part above such height is uniformly distributed so that at least fifty percent (50%) of the additional height is open and unobstructed, provided the maximum height shall not exceed five (5) feet. See Figure 17.2.

(ii) Within the area between the lot line and the building line facing the rear yard of the lot, no fence or wall, other than a retaining wall, shall be higher than six (6) feet. See Figure 17.2.

(iii) Within the area between the lot line and the building line facing the front yard of the lot, no fence or wall, other than a retaining wall, shall be higher than four (4) feet. See Figure 17.2.

(iv) Within the area between the lot line and the building line facing any corner side yard lot line, no fence or wall, other than a retaining wall, shall be higher than four

(4) feet, except that in the area formed by the lot corner, and the two points twenty feet each way along the street line from said corner, no fence or wall, except a retaining wall, shall exceed three (3) feet in height. See Figure 17.2.

(v) No fence or wall other than a retaining wall shall be constructed or maintained in the area between the lot line and the building line facing the rear yard of any lot whose rear lot line constitutes the side lot line of another lot that exceeds the height of any fence or wall permitted to be constructed in the area between the other lot's lot line and the side lot building line. See Figure 17.2.

(b) For other than single- and two-family uses, the size and location of fences shall be included within a Site Plan presented for approval to the Planning Commission, and no fence shall be constructed without Site Plan approval.<sup>41, 159</sup>

**(11) Flood Plain Restriction.** No building shall be erected or land used within a designated flood hazard and plain area unless constructed to suitably protect such building from future flood damage.

**(12) Historic Building Restriction.** No existing building listed in the Michigan Historic Preservation Plan, dated August 22, 1975, as amended, etc., shall be structurally altered on its exterior or demolished until the impact of the proposed action has been examined by the Planning Commission and a report from the State of Michigan is obtained detailing the building's historic significance. If the Planning Commission deems it necessary, a preservation plan may be required from the owner before a permit to alter the building is granted. The purpose of this provision is to protect and guard as part of the cultural inheritance of the City of Harbor Springs, those unique historic buildings which have been designated by the State of Michigan; to preserve the cultural, historic, and tourist attractive nature of the City of Harbor Springs, so as to benefit the City by promoting the tourist industry and the economic health and welfare of the City, as well as preserving places of historic interest.

**(13) [Home Occupation.]** A home occupation which is not required to be licensed under Section 70.101 of the City Code is permitted in all residential zoning districts. If a home occupation has members of the public coming to the residence for purposes of transacting business; or, has signage on the residence indicating that a business is operated from the residence; or, involves the delivery or shipment of goods for sale or transfer beyond that customary for a residence, then such home occupation shall meet the following standards, and is permitted only where specifically allowed within a zoning district:

(a) The occupation or profession must be carried on wholly within the principal building.

(b) No person other than a family member shall be employed.

(c) No exterior sign shall be visible from the street except one (1) non-illuminated name plate attached to the building which shall not exceed two (2) square feet in area.

(d) No more than twenty-five percent (25%) of the total floor area of any one floor of the principal building shall be used for the home occupation.

(e) No home occupation shall prove offensive by reason of noise, odor, dust, fumes, smoke, glare or comparable nuisances.

(f) No commodity sales shall be permitted on the premises except those clearly accessory to the permitted home occupation.<sup>93</sup>

**(14) Lighting, Exterior.** All exterior lighting including lighting for parking areas or for the external illumination of buildings or grounds, or for the illumination of signs and other uses shall be directed away from and shall be shielded from residential districts and shall also be so arranged and directed as to not adversely affect driver visibility on adjacent streets.

**(15) Motor Vehicles, Boats, Machinery, Building Materials and Recreational Vehicles- Outside Storage Restricted.**

(a) No motor vehicle shall be kept, parked or stored in any district unless it shall be in operating condition and properly licensed, or kept inside a building. No motor vehicle shall be parked in any front yard or corner side yard except upon a paved driveway.

(b) No old, rusty and unsightly machinery, or parts thereof, or, machines or parts of machines not suited for use upon the premises; or, quantities of old or used building materials; shall be kept or stored outside a building.

(c) The open parking and/or storage of a boat or recreational vehicle not owned by a resident or property owner of the City, for periods exceeding twenty-four (24) hours on lands not approved for said parking or storage shall be expressly prohibited, except that the Building Inspector may extend temporary permits allowing the parking of a recreation vehicle in a rear yard on private property not to exceed a period of two (2) weeks. All boats and recreational vehicles owned by residents or property owners of real estate within the City and stored on their individual lots shall not be stored within any front yard or any side yard and the regulations applicable to accessory buildings in Article 3 of this Chapter shall apply to said recreation vehicles, insofar as distances from principal structures, lot lines, and easements are concerned. Except within approved mobile home parks (or upon temporary approval of the Building Inspector as aforesaid), no recreational vehicle shall be connected to sanitary facilities and no recreational vehicle shall be occupied.

(d) No motor vehicle or recreational vehicle shall be stored or parked on any residential lot on which there is no dwelling, nor shall more than one (1) motor vehicle for each one thousand (1,000) square feet of side and rear yard area be stored or parked on any lot on which a dwelling is located. The maximum number of motor vehicles that may be stored or parked on any residentially-used lot is four (4).

**(16) Raw Materials - Storage and Dumping Prohibited.** No lot or parcel of land shall be used for the dumping or storage of soil, sand, gravel, broken concrete or similar

materials until a written permit is secured from the Planning Commission. The said permit shall set out the specific area to be used for dumping or storage of said materials, the length of time the permit shall be valid, and such other conditions as the Planning Commission deems necessary to guarantee that the dumping or storage of said materials will not constitute or tend to create a public nuisance or health hazard, and to assure the City that at the expiration date of said permit, the said area and adjacent lands will be left in a suitable condition for such land uses as are permitted in the district where the dumping or storage of said materials is permitted according to a plan approved by the Planning Commission.

**(17) [Tarpaper Exteriors - Prohibited.]** All buildings which face upon a street or Little Traverse Bay, including buildings located on a corner lot and having frontage on a side street are prohibited from having a street side and/or lake side exterior surface consisting of any kind of paper materials, including tar paper, or other materials which are known to deteriorate rapidly in appearance, strength, weatherproofing, or impermeability.

**(18) Yards - Restrictions.** No structure, other than an approved fence, or a permitted sign, shall be located in the front yard or corner side yard of any lot.<sup>156</sup>

**50.303 Signs and Billboards.** The display, use, construction and maintenance of signs and billboards on any building or parcel of land within the City of Harbor Springs shall be subject to the following requirements and restrictions, which shall be in addition to other and further restrictions on signs and billboards which may be contained in the provisions regulating particular Zoning Districts created hereinafter in this Chapter.

**(1) No Billboards.** Billboards are prohibited within the City of Harbor Springs.

**(2) No Intrusion into Public Rights-of-Way.** Signs are expressly prohibited

from extending over any public rights-of-way or dedicated public easements except in the Central Business District, and there, only as specifically permitted by the sign provisions pertaining to that District.

(3) **Maintenance of Signs.** All signs shall be constructed so as to withstand normal wind forces encountered in the area. All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements.

(4) **No Obstruction of Drivers' Vision.** No sign shall be located on any street corner which would obscure the vision of drivers using said streets, or conflict with traffic control signals at the intersection of any street.

(5) **[Illumination of Signs.** Signs, if illuminated, shall be indirectly lit, and such lighting shall be directed or shaded so as not to interfere with the vision of persons on adjacent streets or to interfere with the enjoyment of their property by adjacent property owners. Sign illumination shall not be of the flashing, moving or intermittent type. No bare bulb or internal lighting of signs is permitted, except as specifically permitted in this Code.]<sup>123</sup>

(6) **Computation of Sign Area.** In computing the sign area for purposes of determining a sign's compliance with this Chapter, the following rule prevails: sign area means that area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports and uprights on which such sign is placed; provided, however, any open space contained within the outer limits of the display face of a sign or between any component, panel, strip, or figure of any kind composing the display face shall be included in the computation of the area of the sign, whether such open space be enclosed or not by a frame

or border. For double-faced signs, each display face shall be measured or counted in computing sign area. All lettering and other sign elements printed or mounted upon a wall of a building without any distinguishing border, panel or background and pertaining to the same enterprise shall be treated as a single sign for purposes of area computation, and each letter shall be enclosed tightly with a rectangular imaginary line to define the area for computation.

(7) **[No Moving, Flashing or Portable Signs.** Expressly prohibited in the City of Harbor Springs are roof signs, portable signs, flashing, oscillating or intermittent types of illumination, balloons, mechanically moving signs or components, streamers, windblown devices, spinners, pennants or flags other than the United States flag or the flag of the State of Michigan, or other flags specifically approved by the City Council.]<sup>123</sup>

(8) **Limitation on Number of Signs.** Unless otherwise specifically permitted within a zoning district, only one principal sign is permitted per establishment.

(9) **Limitation on Signage, per building.** [The total square footage (area) of principal signs on a building in the B-1, B-2, CBD, WF or M-1 District shall not exceed .75 square feet per lineal foot of building frontage, measured along the street side of the building; provided, for buildings located on corner lots, the building frontage shall be measured on the street where the principal entrance to the building is located. The frontage of any structure located between a building and a street shall be deducted, for purposes of the foregoing computation. For in the WF District that have frontage on Little Traverse Bay, one (1) additional identification sign shall be permitted on the waterfront side of such a building, not to exceed .35 feet per lineal foot of the waterfront building face of such a building.]<sup>128</sup>

(10) **Exemptions.**



(a) Official Signs Exempt. All directional or official notice signs required for the purpose of orientation, or information when established by the City, County, or State governments shall be permitted in all use districts.

(b) Project Signs Exempt. A sign advertising the erection or construction of a building may be erected provided said sign does not exceed six (6) square feet in any residential district or nine (9) square feet in any other district; Provided, further, said sign shall not be located nearer than twenty (20) feet to a street line unless affixed to a building. Said sign shall be removed upon building occupancy.

(c) Address and Directional Signs. Address and directional wall signs with lettering not exceeding three (3) inches in height are exempt from the square footage requirements of this Chapter.

(d) Temporary Civic Signs. The Zoning Administrator may permit civic or philanthropic organizations to display temporary signs for not more than thirty (30) days for the cause, function or activity that they are sponsoring.

(e) Temporary For Sale Signs. A temporary unlighted sign which does not exceed four (4) square feet in area (single or two-sided), and not exceeding five (5) feet in height, and which relates to the sale of the premises on which said sign is located, is exempt from the provisions of this Chapter. Said sign shall not be located in a public right-of-way without the express permission of the City Manager. Said signs shall be removed from the premises within five (5) days of the closing of the sale of said property.

(f) [[Temporary For Lease or Rental Signs. Signs advertising that a property is for Lease or Rental shall be exempted as follows:

(i) General Rental Signs. A temporary, one-sided, unlighted sign attached flat against a building, and not exceeding four (4) square feet in area in commercial districts and two (2) square feet in residential districts, and which relates to the lease or rental of the premises on which said sign is located, is exempt from the provisions of this Chapter.

(ii) Long-Term Rental Signs. If the owner of a premises in a residential district containing a single family building desires to lease the entire single family building for a period of six (6) months or more, such owner may apply to the Zoning Administrator for a permit to locate in the front yard of such premises one (1) temporary unlighted sign that does not exceed four (4) square feet in area (single or two-sided), and not exceeding five (5) feet in height, and that relates to the rental of the premises on which said sign is located. If the Zoning Administrator determines that the owner is in good faith pursuing a long term rental as defined in this Section and that any prior sign on the premises has been in compliance with the Zoning Code, a permit may be granted for a long-term rental sign, and such sign shall be exempt from the provisions of this Chapter, subject to the following additional conditions:

(1) Said sign shall not be located in a public right-of way without the express permission of the City Manager; and,

(2) Said sign shall be removed within five (5) days of the closing on the rental of the premises; and,

(3) Said sign shall not be replaced on the premises more than 30 days prior to the expiration of the lease agreement, provided, in such case, the owner shall notify the Zoning Administrator of such replacement, and upon request of the Zoning Administrator, the owner shall reapply for a permit under this Section. In the event a permit is denied by the Zoning Administrator under this sub-section (ii) only a general rental sign complying with sub-section (i) of this subsection (f) shall be exempted from the provisions of this Chapter.]]<sup>60,120</sup>

#### **(11) Free-Standing Sign Restrictions.**

(a) Permit Required for Free-standing Signs. No free-standing sign shall be erected or structurally altered unless specifically permitted within the Zoning District where located, and then only if said sign is approved by the Planning Commission and a permit is issued by the Zoning Administrator.

(b) Size Limits on Free-Standing Signs. No free-standing sign shall exceed a maximum height of ten (10) feet. Additional size limitations on signs are specified in the Article pertaining to each particular Zoning District in the City.

(c) Special Restrictions for Off-Premises Signs.

(i) Free-Standing Off-Premises Signs Prohibited. No free-standing off-premises sign is permitted in any Zoning District.

(ii) Other Off-Premises Signs Limited to Certain Districts. Other off-premises signs are permitted only in the CBD, Central Business District; B-1, Convenience Business District; B-2, General Business District; WF, Waterfront District; and M-1, Manufacturing Industrial District, subject to such conditions as are provided in each District's regulations.

(iii) Permit Required. A temporary permit for a period of not more than two (2) months shall be obtained for each off-premises sign from the Zoning Administrator and may be renewed for additional periods if deemed appropriate by the Zoning Administrator. An inspection fee to be set from time to time by resolution of the City Council shall be paid to the Zoning Administrator for each sign at the time of the original permit and at each renewal thereof.

(iv) Bond Required. For all off-premises signs, a cash bond shall be filed with the Building Inspector by the applicant to guarantee the proper maintenance of the sign over the period for which the permit is issued and for removal of the sign after the expiration date of the permit. Such cash bond shall be in the amount established by resolution of the City Council. In the event that the applicant fails to maintain or remove any sign as set forth, such bond shall be forfeited and the City shall remove the sign.

(v) No Alteration of Approved Sign without Additional Permit. No off-premises sign for which a temporary permit has been obtained shall be thereafter moved or

altered in any way without the approval of the Zoning Administrator.

**(12) [Open House Sign Restrictions.]**

(a) An open house sign shall be no larger than four (4) square feet in area or taller than five (5) feet in height.

(b) An open house sign shall not be displayed more than three (3) times per month for: (i) any one-family building; or, (ii) any duplex or multiple family building, notwithstanding that there may be more than one unit for sale within such duplex or multiple family buildings; or, (iii) any commercial building, notwithstanding that there may be more than one unit for sale within such commercial building; and, (iv) undeveloped lots or units within any platted subdivision or site condominium, notwithstanding that there may be more than one undeveloped lot or unit for sale within such platted subdivision or site condominium.

(c) The person responsible for the open house shall notify the City of the open house and submit information regarding the location of the signs, the day(s) of the open house and hours of the open house.

(d) Open house signs may only be located in the City for up to a maximum of 4 hours during the day of the open house.

(e) Only two (2) open house signs may be used to direct a person to the subject property and only one open house sign may be placed on the subject property. The directional open house sign may be placed in the public right-of-way with the written approval of the adjacent property owner, provided no traffic safety issue as determined by the City is created by the placement of the sign.

(f) No open house signs are permitted in the City for an open house outside the City limits.]<sup>124</sup>

**50.304 [Deck or Patio Usage.]** The following provisions are intended to regulate deck or patio usage to reduce safety concerns, noise and other nuisances, and visual impact on neighboring properties and on the community generally.

(1) **Residential Usage.** Use of decks or patios for residential uses such as sunning, lounging, and small social gatherings is permitted in all residential districts and in the CBD, WF, B and TR Districts. Use of decks (including roof top decks) or patios for residential purposes in these districts is subject to the following restrictions:

(a) A zoning and building permit for any deck must be first obtained from the City and Emmet County Building Department and is subject to construction of and maintenance of guardrails and other protective features as required by the Emmet County Building Code.

(b) Amplified musical instruments are prohibited. Any other music or sound that would violate the City's noise ordinances and restrictions, or would exceed seventy (70) decibels measured at the property line of the property where the deck or patio is located, is prohibited.

(c) Lighting shall be shielded and pointed downward and shall not be a nuisance to adjacent properties.

(d) Any structure on a deck or patio must be permitted under the Zoning Code.

(2) **Roof Top Deck Commercial Usage.** Use of a roof top deck for commercial purposes may be permitted in the CBD, B, WF and TR Districts but only as a special land use and only as accessory to the principal use permitted for the building, and subject to the following restrictions:

(a) Planning Commission approval of the roof top deck usage as a special land use must be first obtained.

(b) Any structure on a roof top deck must be permitted under the Zoning Code.

(c) The Planning Commission may limit the number of persons using such roof top deck as determined necessary or advisable by the Planning Commission to prevent the City's noise ordinances from being violated.

(d) A building permit for any roof top deck activity must be obtained from the Emmet County Building Department and such usage is subject to construction of and maintenance of guardrails and other protective

features as required by the Emmet County Building Code.

(e) Such usage must be screened from view of adjacent properties and the area proposed for such usage shall not exceed fifty (50%) percent of the total square footage of the roof area.

(f) Structures for such usage shall be set back at least five (5) feet from the edge of any roof not fronting on a public street or right of way, and at least fifteen (15) feet from the edge of any roof that fronts on a public street or right of way. Mechanical, heating, or cooling equipment or structures that are required by the Building Code as a health or life-safety feature shall not be subject to this set back requirement.

(g) The dimensional area of all structures (other than a mechanical, heating, or cooling element or one that is required by the Building Code as a health or life-safety feature) shall not exceed fifteen (15%) percent of the square footage of the total top roof area.

(h) Amplified musical instruments are prohibited. Any other music or sound that would violate the City's noise ordinances and restrictions, or would exceed seventy (70) decibels measured at the property line of the property where the deck or patio is located, is prohibited.

(i) Roof top deck usage is permitted only between the hours of 7:00 a.m. and 11:00 p.m., except for special events approved by the City Council.

(j) Lighting shall be shielded and pointed downward and shall not be a nuisance to adjacent properties.]<sup>136</sup>

**50.305 [Wireless Communications Antennas and Towers.]** The provisions of this Section are intended to minimize adverse aesthetic impacts in all districts on the scenic views of Little Traverse Bay and the Harbor of the City of Harbor Springs, associated with wireless communications facilities, and on other properties located in proximity to such facilities, and to comply with all Federal Communications Commission rules, regulations and standards. All wireless communications antennas and towers shall be subject to the following

requirements and restrictions, which shall be in addition to other and further restrictions which are contained in the provisions regulating particular Zoning Districts in Article 4 of this Code.

**(1) Antennae for Receiving Video Programming Signals.** A ground or building mounted receive-only radio or television antenna which does not exceed 39.37 inches in diameter, which serves only the business or resident occupying the parcel on which the satellite dish is located, and which receives only signals from direct broadcast satellites, multichannel multipoint distribution (wireless cable) or television broadcast stations, shall be permitted in any zoning district, provided, the height of the antenna does not exceed the height of the primary structure on said parcel and the antenna is located as unobtrusively as possible from public view, and conforms to the color and material specifications contained in Section 50.304(6)(c) of this Code.

**(2) Non-Video Programming Satellite Earth Station Antennae.** A ground or building mounted antenna which receives signals other than video programming as described in Section 50.304(1), which does not exceed 78.74 inches in diameter shall be permitted in the Central Business District, the General Business District, the Convenience Business District, the Manufacturing District and the Community District, subject to the location, color, screening and material requirements contained in Sections 50.304(6)(b) and 50.304(6)(c) of this Code.

**(3) Citizen's Band Radio Antennae.** A ground or building-mounted citizens band radio antenna including any mast, is permitted in any zoning district, provided the height of the antenna, including the tower, support structure, or post does not exceed the height of the primary structure on said parcel and the antenna is located as unobtrusively as possible from public view, and conforms to the color and material specifications contained in Section 50.304(6)(c) of this Code.

**(4) Amateur Radio Antennae.** A ground, building or tower-mounted antenna operated by a Federally licensed amateur radio operator as part of the Amateur Radio Service is permitted in any zoning district, provided, the height of the antenna does not exceed the height of the primary structure on said parcel and the antenna is located as unobtrusively as possible from public view, and conforms to the color and material specifications contained in Section 50.304(6)(c) of this Code.

**(5) Hand Held Devices.** Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices shall be permitted in any zoning district.

**(6) Other Telecommunications Facilities.**

(a) General Development Standards.

(i) Except as provided above, telecommunications facilities shall be permitted only:

1) on publicly owned land only (including the Harbor Springs Public Schools property) in the Community District, but in no case on the property south of East Bluff Drive or West Bluff Drive; and,

2) in the Manufacturing (M-1) District.

A special land use permit shall also be required, pursuant to Section 50.2100, et. seq., of this Code. Telecommunications facilities shall be subject to all other zoning restrictions of said districts, excepting only height restrictions as are modified by Section 50.304(6)(a)(ii) below.

(ii) The maximum height of any telecommunications wireless facility or apparatus shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant, up to a maximum of fifty (50) feet, provided, no such facility or apparatus shall be so located that the height of the facility exceeds the distance from the base of the facility to the lot line of the parcel on which said facility is located, or to the street right of way line, whichever is less.

(iii) Telecommunications facilities shall be discouraged in open space areas in the aforesaid M-1 and Community Districts, and in areas of observable scenic quality, as determined by the Planning Commission.

(iv) All above ground telecommunications facilities shall be subject to design review and approval by the Planning Commission to insure that the proposed facilities are as unobtrusive as possible and are constructed of a color and material to blend as much as possible into the natural landscape of the City.

(v) All applicants for a special land use approval for telecommunications facilities shall include sufficient information to make clear:

1) The service area to be covered by the local system facilities, and the relationship of such facility to the local telecommunications system, and the regional system. This shall include the method of linkage (wireless transmission, land line) and the location of other established primary links in the regional system.

2) Alternatives to the proposed antennae site including opportunities for co-location.

3) The visual impacts of the proposed local system and each local alternative site.

4) Baseline radio field strength conditions at the frequency range of the proposed wireless communication facilities as found throughout the City prior to establishment of the proposed system.

(vi) All power lines and wire-based communication lines to and from a telecommunications facility shall be underground.

(b) Site Location.

(i) Site location and development of telecommunications facilities shall preserve the visual character and aesthetics of the community. Facilities shall be integrated to the maximum extent feasible into the existing characteristics of the site and surrounding area.

(ii) Co-location is encouraged when it will decrease visual impact.

(iii) Telecommunications facilities, to every extent possible, should not be sited to create visual clutter or negatively affect important public or private views as determined by the Planning Commission. Telecommunications facilities are prohibited in the public right-of-way.

(iv) Telecommunications facilities shall be screened from any public viewing areas to the maximum extent feasible.

(v) Telecommunications facilities shall not be located in any required setback area of the zoning district in which it is located; all setbacks shall be measured from the base of the tower or antenna structure closest to the applicable setback line.

(c) Design Review. All telecommunications facilities shall be subject to design review approval by the Planning Commission. The following criteria shall be used in evaluating proposed installations:

(i) Opportunities for installations which preclude public view of antennae and support facilities shall be studied by the applicant as part of each application. The Planning Commission shall encourage installations which use:

1) Antennae and support equipment attached directly to existing buildings in an architectural manner that causes the equipment to be visually indistinguishable from the underlying architecture.

2) Antennae and/or equipment located behind parapet walls or on roof areas not visible to the public from adjacent areas.

3) Associated equipment (vaults, equipment rooms, utilities and equipment enclosures) that are located inside existing buildings or located underground.

(ii) All antennae, support facilities, ancillary buildings, towers, poles and other components of a wireless telecommunication installation that remain visible to the public shall be of a color approved by the Planning Commission. If the commission determines that the facility requires paint, it shall

be initially painted with a paint color sample that is authorized for trial use at the site by the commission.

(iii) All ground mounted equipment, antennas, poles or towers shall be screened or camouflaged by existing development, topography or vegetation to the extent feasible. Additional new vegetation or other screening may be required.

(iv) Towers and monopoles shall be constructed of metal or other nonflammable material, unless specifically conditioned by the Planning Commission to be otherwise. Antenna and support structures shall be maintained to the satisfaction of the Public Works Department.

(v) Support facilities (i.e., vaults, equipment rooms, utilities, and equipment enclosures) shall be constructed out of nonflammable, nonreflective materials. Support facilities that cannot be located within existing buildings or underground shall either be located out of public view or shall be enclosed in an architecturally compatible structure on private property.

(d) Definitions.

(i) Telecommunications Facility. A facility that transmits and/or receives electromagnetic signals. It includes antennas for cellular, enhanced specialized mobile radio (ESMR), personal communications services (PCS), microwave dishes, earth stations for satellite-based communications and similar facilities, and includes all associated apparatus.

(ii) Building mounted telecommunications facility. A facility constructed in two general forms: (1) roof mounted: antenna is placed on or above the roof, and (2) facade mounted: antenna is mounted on the side of a building. Building mounted facilities can be located on or inside various structures such as building roof/eave trim, church steeples, or other creative locations.

(iii) Telecommunications Facility, Co-Located. A facility comprised of a single telecommunications tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

(iv) Monopole. A facility which consists of a single pole structure, erected on the ground to support wireless communication antennas and connecting appurtenances.]<sup>69</sup>

**ARTICLE 4  
GENERAL USE DISTRICT  
REGULATIONS**

**50.400 Continuation of Zoning Districts.** In order to regulate and restrict the use of land and the location and use of buildings or other structures, the City of Harbor Springs is divided in "Zoning Districts" as follows:

AR	Agricultural-Residential District
R-I-A	Single Family District
R-I-B	Single Family District
R-I-C	Single Family District
R-I-E	Single Family Residential Estate District
R-2	Two Family District
MHP	Mobile Home Park District
RM	Multiple Residential District
C	Community District
O-1	General Office
TR	Transitional Residential District
CBD	Central Business District
B-1	Convenience Business District
B-2	General Business District
WF	Waterfront District
WF-I	Waterfront-Resort District
M-I	Manufacturing District

**50.401 District Boundaries Designated.** The boundaries of such districts are shown upon the Zoning Map attached hereto and made a part of this Chapter, being designated as the "Zoning District Map" of the City of Harbor Springs, Michigan, 1976, as the same has been amended through the date of adoption of the Harbor Springs Zoning Code of 1990, and the said map and all notations, references, and other things shown thereon shall be as much a part of this Chapter as if the matter and things set forth on said map were all fully described herein; Provided, however, that said map may be amended in any manner, from time to time, by ordinance, in which case such changes described shall be equally as effective as though incorporated in the map aforesaid.

(1) [The following area shall be rezoned from B-2 (General Business District) to TR (Transitional Residential District): "All of the land now zoned B-2 on the South side of Second Street between Third Street and Traverse Street, commonly known as Ottawa Lumber Company."

(2) The following area shall be rezoned from B-2 (General Business District) to TR (Transitional Residential District): "All of the land now zoned B-2 on the North side of Hankey Street between Bay Street and Traverse Street, now used as a parking lot for the Little Harbor Club."]<sup>5</sup>

(3) [The following area shall be rezoned from RM (Multiple-Residential District) to TR (Transitional-Residential District): "Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Commencing at a concrete monument on the westline of Lot 14, J. C. Glenn's Plat, Section 13, Township 35 North, Range 6 West, Emmet County, Michigan; thence along the westline of said Lot 14 North 00 degrees 46' 00" East 34.89 feet; thence along the northline of Bay Street South 84 degrees 27' 30" East 96.34 feet to the PLACE OF BEGINNING; thence North 00 degrees 55' 12" East 223.36 feet; thence along a centerline equidistant between the northline of the G. R. & I. Railroad (northline of Bay Street) and the southline of Main Street as monumented North 83 degrees 45' 32" East 50.39 feet; thence South 00 degrees 56' 40" West 233.67 feet; thence along the northline of Bay Street North 84 degrees 27' 30" West 50.06 feet to the Place of Beginning."]<sup>6</sup>

(4) [The following area shall be rezoned from R-2 (Two-Family District) to B-1 (Convenience Business District): "Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Part of Lot 7, J. C. Glenn's Survey in Section 13, Township 35 North, Range 6 West, and part of Lots 3 and 4, Isaac Whicher's Plat, described as: Commencing 1067.2 feet North of West 1/4 corner of Section 13; thence East 1703.5 feet to

Point of Beginning; thence along Northeasterly line of State Street North 12°53'14" West 51 feet and North 74°22'48" West 28.28 feet; thence North 13°37'48" West 34.57 feet; thence North 21.45 feet; thence South 81°5'47" East 172.13 feet; thence along Easterly line of Lot 3, Block 3, and Northerly extension thereof, South 12°53'14" East 65.29 feet; thence South 80°5' West 139.9 feet to Point of Beginning.""]<sup>7</sup>

(5) [The following area shall be rezoned from A-R (Agricultural-Residential District) to R-1-B (Single-Family District): "Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Section 12, Township 35 North, Range 6 West; Commencing 190 feet West and 528 feet North of Southeast corner of Southwest 1/4 of Southeast 1/4; thence North 174 feet, more or less; West 132 feet; South 174 feet, more or less; East 132 feet to Point of Beginning.""]<sup>8</sup>

(6) The following area shall be rezoned from Transitional Residential District (TR) to Single Family District (R-1-C): "Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Commencing at the West 1/4 corner of Section 13, Township 35 North, Range 6 West, Emmet County, Michigan; thence along the West line of said Section 13 and the West line of Lot 19 of J. C. Glenn's Plat of said Section 13, City of Harbor Springs, North 00°05'29" East 194.13 feet to the Place of Beginning; thence continuing along said West line North 00°05'29" East 102.17 feet; thence along the South line of Second Street South 89°52'39" East 726.01 feet; thence along a line parallel with and 66.00 feet East of the East line of said Lot 19 South 00°04'36" West 96.22 feet; thence along the South line of Lot 32 of said Glenn's Plat North 89°43'45" West 66.00 feet; thence along the East line of said Lot 19 South 00°04'36" West 6.60 feet; thence along the North line of the Parcel described in a survey recorded in Liber 283 on Page 210 of the Emmet County Records, North 89°50'09" West 660.04 feet to the Place of Beginning, being subject to any easements, restrictions, reservations, exceptions or

conditions of record and containing 1.70 acres more or less.""]<sup>14</sup>

(7) [The following area shall be rezoned from R-1-C (Single Family Residence) to B-1 (Convenience business): "Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Part of Lot 2, Block 4, Isaac Whicher's Plat, City of Harbor Springs, Emmet County, Michigan, described as: Commencing at the Southeast corner of Lot 2, Block 4, Isaac Whicher's Plat, as recorded in Liber 5 of Plats on Page 4 of the Emmet County, Michigan, records; thence along the Eastline of said Lot 2 North 14°00'00 West 16.50 feet to the Northline of Third Street as now surveyed and used; thence along the Northline of Third Street South 73°01'00" West 40.00 feet, to the PLACE OF BEGINNING; thence continuing along the Northline of Third Street South 73°01'00" West 43.22 feet; thence along the Westline of said Lot 2 North 14°00'00" West 78.00 feet; thence North 73°01'00" East 43.22 feet; thence South 14°00'00" East 78.00 feet to the Place of Beginning, being subject to any easements, restrictions, reservations, exceptions or conditions of record and containing 3,367 square feet more or less.""]<sup>15</sup>

(8) [The following area shall be rezoned from B-2 (General Business District) to O-1 (General Office District): "That area from the centerline of Ottawa Street to the centerline of Hoyt Street, and being approximately 198 feet in depth from the center line of Lake Street; previously zoned as B-2 on the District Map of 1976, as amended.""]<sup>1</sup>

(9) [All that portion of the following described property which is not currently zoned as ROS (Residential/Office/Service) shall be rezoned from its current classification as MHP (Mobile Home Park) to ROS (Residential/Office/Service): "Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Part of Section 12, Township 35 North, Range 6 West; Commencing 60 Rods and 10 feet West of the Southeast corner of Section; thence North 300



feet; West 155 feet; South 300 feet; East 155 feet to beginning; Section 12, Township 35 North, Range 6 West, City of Harbor Springs.”

(10) All that portion of the following described property which is not currently zoned as ROS (Residential/Office/Service) shall be rezoned from its current classification as MHP (Mobile Home Park) to ROS (Residential/Office/Service): “Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Part of Section 12, Township 35 North, Range 6 West; Commencing 754 feet West of Southeast corner of the Southeast One-Quarter of the Southeast One-Quarter of Section 12 for Point of Beginning; thence North 300 feet; West 71 feet; South 300 feet; East 71 feet to Point of Beginning.”

(11) All that portion of the following described property which is not currently zoned as ROS (Residential/Office/Service) shall be rezoned from its current classification as MHP (Mobile Home Park) to ROS (Residential/Office/Service): “Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Part of Section 12, Township 35 North, Range 6 West; Commencing 660 feet West of Southeast corner of Section 12; thence North 300 feet; West 94 feet; South 300 feet; East 94 feet to Point of Beginning.”<sup>18</sup>

(12) [The following described property shall be rezoned from its current classification as R-1-C (Single Family Residential) to B-2 (General Business): “Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Lots 5, 6, 7, 8 and the West 9.9 feet of Vacated Alley, Block 1, LEIGHTON PARK SUBDIVISION.”]<sup>23</sup>

(13) [The following described property shall be rezoned from its current classification as R-1-C (Single Family Residential) to B-2 (General Business): “Property situated in the City of Harbor Springs, County of Emmet, State of Michigan, described as: Lots 1 and 2, and the

northerly portion of Lot 3, Block 1, LEIGHTON PARK SUBDIVISION.”]<sup>25</sup>

(14) [The following described property shall be rezoned from its current classification as R-1-C (Single Family Residential) to AR (Agricultural Residential): “Property situated in the City of Harbor Springs, County of Emmet, and State of Michigan, described as: Commencing on the East line of Lot 1, J. C. GLENN'S SURVEY OF LANDS on Section 13, Township 35 North, Range 6 West, at a point which is South 176.3 feet from the Northeast corner of said Lot 1; thence North 89°45' West a distance of 146.7 feet to the Point of Commencing of this description; thence South 153.5 feet to the South line of the Northeast 1/4 of said Lot 1; thence North 89°45' West along the South line of the Northeast 1/4 of said Lot 1, to the Southwest corner of the Northeast 1/4 of said Lot 1; thence North along said West line of the Northeast 1/4 of said Lot 1, 153.5 feet; thence South 89°45' East, to the Point of Commencing.”]<sup>28</sup>

(15) [The following described property shall be rezoned from its current classification as R-2 (Two Family Residential) to B-1 (Convenience Business District): “Property situated in the City of Harbor Springs, County of Emmet, and State of Michigan, described as: Lot 4, Block 2, ISAAC WHICHER'S SURVEY AND PLAT OF THE VILLAGE OF LITTLE TRAVERSE (now City of Harbor Springs) according to the Plat thereof as recorded in the Office of the Register of Deeds, Emmet County, Michigan.”]<sup>31</sup>

(16) [The following described properties shall be rezoned from their current classification as C (Community) to R-1-C (Single-Family District): “Property situated in the City of Harbor Springs, County of Emmet, and State of Michigan, described as: Commencing 26 Rods North and 2 Rods East of the Southwest corner of the Southeast 1/4 of the Southwest 1/4; thence East 8 Rods; North 4 Rods; West 8 Rods; South 4 Rods to the POINT OF BEGINNING; and, Commencing 30 Rods North and 2 Rods East of the Southwest corner of the Southeast 1/4 of the

Southwest 1/4; thence running East 8 Rods; North 4 Rods; West 8 Rods; South 4 Rods to Commencing, in the City of Harbor Springs.”<sup>32</sup>

(17) [The following described property shall be rezoned from its current classification as WF-Waterfront to CBD-Central Business District: “Part of Lot 2, Block 14, Isaac Whicher's Plat, and part of Lot 41, J.C. Glenn's Survey, Section 13, Township 35 North, Range 6 West, City of Harbor Springs, Michigan, described as: Commencing at the Northeast corner of Lot 1, Block 14, Whicher's Plat, Section 13, Township 35 North, Range 6 West, City of Harbor Springs, thence along the East line of said Lot 1 South 15°40'00” East 231.85 feet; thence South 77°04'00” West 85.00 feet; thence along the West line of said Lot 1 South 15°40'00” West 12.01 feet; thence South 77°04'00” West 15.35 feet to the point of beginning; thence South 11°48'53” East 32.83 feet; thence South 56°27'50” West 34.36 feet; thence South 17°44'11” East 20.00 feet; thence South 79°04'38” West 54.00 feet; thence North 16°54'00” West 63.10 feet; thence North 77°04'00” East 89.46 feet to the point of beginning containing 4,754 square feet, more or less.”]<sup>33</sup>

(18) [The following parcels of property shall be rezoned from R-2 (Two-Family Residence) to B-1 (Convenience Business):

(a) Commencing at the point of intersection of the North line of Third Street, as said street is now located, established and traveled, with the East line of Lot 1, Block 3 of ISAAC WHICHER'S SURVEY AND PLAT OF THE VILLAGE OF LITTLE TRAVERSE (now Harbor Springs), Emmet County, Michigan; thence from said point of intersection running Northerly on the East line of said Lot 1, 64 and 1/3 feet; thence Westerly parallel with the North line of Third Street to a point equidistant between the East and West boundary lines of said Lot 1; thence Southerly parallel with the East line of said Lot 1 to the North line of Third Street, Easterly along said street to the Place of Beginning, AND ALSO commencing at the point of intersection of the North line of Third

Street, as said street is now located, established and traveled, with the East line of Lot 1, Block 3, of ISAAC WHICHER'S SURVEY AND PLAT OF THE VILLAGE OF LITTLE TRAVERSE (now Harbor Springs), Emmet County, Michigan; thence from said point of intersection running Northerly on the East line of said Lot 1, 64 and 1/3 feet to the Point of Beginning; thence Westerly parallel with the north line of Third Street to a point equidistant between the East and West boundary lines of said Lot 1; thence Northerly parallel with the East line of said Lot 1; thence Southerly to the Point of Beginning. ALSO DESCRIBED AS Unit 1, SPRING STREET SQUARE, a condominium according to the Master Deed thereof recorded in Liber 415, Pages 431 through 461, inclusive, Emmet County Records, and designated as Emmet County Condominium Subdivision Plan No. 75, with rights in general common elements and limited common elements as set forth in said Master Deed pursuant to Act 59 of the Public Acts of Michigan of 1978, as amended. (24-15-13-171-101); and, Unit 2, SPRING STREET SQUARE, a condominium according to the Master Deed thereof recorded in Liber 415, Pages 431 through 461 inclusive, Emmet County Records, and designated as Emmet County Condominium Subdivision Plan No. 75, with rights in general common elements and limited common elements as set forth in said Master Deed and pursuant to Act 59 of the Public Acts of Michigan of 1978, as amended.” (24-15-13-172-102).

(b) Isaac Whicher's Survey, Block 2, Lot 6, Except South 95 feet thereof (24-15-13-176-012)

(c) Isaac Whicher's Survey, Block 3, that part of Lot 1 lying North of a line 70 feet North of and parallel with North line of Third Street (24-15-13-176-013)

(d) Isaac Whicher's Survey, Block 2, South 95 feet of Lot 6 (24-15-13-176-024)

(e) Isaac Whicher's Survey, Block 3, West 1/2 of that part of Lot 1 lying South of a line 70 feet North of and Parallel with North Line of Third Street. (24-15-13-176-030)]<sup>46</sup>

(19) [The following parcel of property shall be rezoned from R-1-B (Single-Family District) to C (Community District): Property No. 24-15-12-300-003, Lake Street.

(20) The following parcels of property shall be rezoned from AR (Agricultural-Residential District) to C (Community District): Property No. 24-15-12-400-035, 421 East Lake Street; Property No. 24-15-12-400-059, 421 East Lake Street; Property No. 24-15-12-400-011 Arbor Street; and Property no. 24-15-12-400-001, Arbor Street.]<sup>47</sup>

(21) [The following parcel of property shall be rezoned from B-2 (General Business District) to B-1 (Convenience Business District): "Property located in the City of Harbor Springs, Emmet County, Michigan, described as: The South 88.5 feet of Lot 3, Block 3, ISAAC WHICHER'S SURVEY (24-51-15-13-176-028).]"<sup>48</sup>

(22) [The following parcels of property shall be rezoned from AR (Agricultural Residential) to R-1-C (Single-Family Residential): Property located in the City of Harbor Springs, Emmet County, Michigan, described as: 535 East Lake Street (51-15-12-400-044); 545 East Lake Street (51-15-12-400-045); 555 East Lake Street (51-15-12-400-046); 593 East Lake Street (51-15-12-400-055)]<sup>49</sup>

(23) [The following parcel of property shall be rezoned from R-1-C (Single-Family Residential) to R-1-A (Single-Family Residential): Part of Lot 1, J.C. Glenn's Plat of land in Section 13, Township 35 North, Range 6 West, City of Harbor Springs, described as: "Commencing at the Northwest corner of Lot 1, J.C. Glenn's Plat of land in Section 13, Township 35 North, Range 6 West, City of Harbor Springs, Michigan; thence along the west line of said Lot 1 South 0°03'56" West 180.00 feet to the PLACE OF BEGINNING; thence South 89°56'07" East 243.76 feet; thence South 0°12'07" West 15.13 feet; thence South 89°58'38" East 93.77 feet; thence along the East line of the West 1/2 of said Lot 1 South 0°20'19"

West 301.06 feet; thence South 89°58'25" West 99.00 feet; thence South 0°19'09" West 139.28 feet; thence along the North line of Pine Street South 89°57'33" West 60.00 feet; thence North 0°19'09" East 148.00 feet; thence North 29°41'04" West 47.06 feet; thence South 84°55'37" West 75.07 feet; thence South 89°58'38" West 79.00 feet; thence along the west line of said Lot 1 of N 0°03'56" East 273.66 feet to the PLACE OF BEGINNING, being subject to any easements, restrictions, reservations, exceptions or conditions of record, containing 2.43 acres more or less.]"<sup>83</sup>

(24) [The following property shall be rezoned from the R-1-C (Single Family District) Zoning District to the TR (Transitional Residential District) Zoning District: Commencing 18 rods West and 6 rods South of the Northeast corner of the Northwest one-quarter (NW ¼) of the Northwest one-quarter (NW ¼) of Section 13, Township 35 North, Range 6 West; thence West 10 rods; thence South 4 rods; thence East 10 rods; thence North 4 rods to the Place of Beginning.]"<sup>92</sup>

(25) [The following property shall be rezoned from the R-2 (Two-Family Residential District) Zoning District to the B-1 (Convenience Business District) Zoning District: Situated in the City of Harbor Springs, County of Emmet, State of Michigan. Lot 1 and the East 16.5 feet of Lot 2, ISAAC WHICHER'S SURVEY AND PLAT OF THE VILLAGE OF LITTLE TRAVERSE, according to the Plat thereof recorded in Book 5 of Deeds, Page 4, Emmet County Records.]"<sup>100</sup>

(26) [[[The property located in the City of Harbor Springs and being legally described as commencing at the West ¼ corner of Section 13, Township 35 North, Range 6 West; thence along the Westline of said Section 13, North 0°05'30" E 801.46 feet; thence South 89°54'30" East 2522.91 feet to the intersection of the Eastline of Block 12, Isaac Whicher's Plat as recorded in Liber 5 of Plats, Page 4, Emmet County Records with the Southline of Main Street; thence along the Southline of Main Street South 72°25'45"

West 118.12 feet; thence South 12°54'45" West 10.00 feet; thence South 12°54'55" East 108.31 feet; thence along the Northline of Bay Street North 71°28'40" East 114.23 feet; thence along the Westline of Gardner Street North 12°38'30" West 94.80 feet; thence South 76°50'35" West 104.17 feet; thence North 12°54'55" West 3.60 feet to the Place of Beginning, being former Parcel 24-51-15-13-176-123 (the "Subject Property") shall be rezoned from TR (Transitional Residential) District to the CBD (Central Business District) District, provided that the use of the Subject Property shall be constructed, located and used on the Subject Property only in accordance with the Plans, and supplements submitted by the Applicant and applicable provisions of the City Zoning Code]]] 108,113,138

(27) [The following property shall be rezoned from West Traverse Township Zoning District R-2 to the City of Harbor Springs C (Community District) Zoning District: "the West Ninety (90) feet of the following described parcel of land: The East One-half (E 1/2) of the Northwest One-quarter (NW 1/4) of the Southeast One-quarter (SE 1/4) of Section 12, Township 35 North, Range 6 West, excepting the South 417.4 feet thereof."}]<sup>116</sup>

(28) [The following properties shall be rezoned from RM (Multiple Residential District) to R-2 (Two-Family Residential District): 420 E. Main St., Tax Parcel (51-15-13-226-029), 451 Bay St., Tax Parcel (51-15-13-226-037), 481 E Bay St., Tax Parcel (51-15-13-226-039), 463 E Bay St., Tax Parcel (51-15-13-226-040), 467 E Bay St., Tax Parcel (51-15-13-226-068), 469 E Bay St., Tax Parcel (51-15-13-253-101) and 471 E Bay St., Tax Parcel (51-15-13-253-102)]<sup>148</sup>

[The following property shall be rezoned from the RM district (multiple residential district) to the R-2 district (two-family residential district): land situated in the City of Harbor Springs, County of Emmet, State of Michigan: commencing on the West line of Zoll Street, 165.00 feet South of the North line of Lot 14, J.C. Glenn's Survey & Plat of Lands, according

to the plat thereof as recorded in Liber A of Deeds, Page 86, Emmet County Records; thence West, 297.00 feet; thence South, 75.00 feet; thence East to the West line of said Zoll Street; thence North, 75.0 feet to the point of beginning; being a part of said Lot 14, said J.C. Glenn's Survey & Plat of Lands. Commonly Known as: 153 Zoll Street, and Tax Parcel ID: 24-51-15-13-250-015]<sup>160</sup>

#### **50.402 Boundaries of Districts - Delineation.**

If uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made a part of this Chapter, the following rules shall apply:

(1) The district boundaries are either streets or alleys unless otherwise shown and when the designation on the map accompanying and made a part of this Chapter indicating the various districts are approximately bounded by a street or alley line, the center of said street or alley shall be construed to be the boundary of such districts.

(2) Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be lot lines, where the designation on the map accompanying and made a part of this Chapter indicating the various districts are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of such district unless said boundaries are otherwise indicated on the map.

(3) In unsubdivided property, the district boundary lines on the map accompanying and made a part of this Chapter shall be determined by the use of the scale contained on such map.

**ARTICLE 5  
AR - AGRICULTURAL-RESIDENTIAL  
DISTRICT**

**50.500 Uses Permitted.** In addition to the general regulations to which all buildings and uses are subject as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the AR, Agricultural-Residential District, except for the following uses:

**50.501 Permitted Principal Uses and Buildings.**

(1) Nurseries and allied uses, general farming, orchards, greenhouses and truck farming.

(2) [[Single family buildings, subject to the front yard, rear yard, side yard and corner side yard requirements, and the height, stories and lot coverage restrictions of the R-1-A Single Family Residential zoning district contained in Article 6 of this Chapter. Lot coverage restrictions apply only to the single family buildings within the AR District]]<sup>51,117</sup>

(3) Cemeteries.

(4) Public parks.

**50.502 Permitted Accessory Uses and Buildings.**

(1) [Accessory Uses. The following uses only are permitted as accessory uses in this District, subject to the general restrictions set forth in Section 50.302 of this Chapter.

(a) Accessory Agricultural Sales as defined in Section 50.201(2).

(b) Other similar uses to a permitted principal use when located on the same lot as the permitted principal use.

(2) Accessory Buildings. The following buildings only are permitted as accessory

buildings, subject to the general restrictions set forth in Section 50.302 of this Chapter.

(a) Private garages; the capacity of a private garage shall not exceed one (1) automobile for each twenty (20) feet of lot frontage with a maximum capacity of three (3) automobiles.

(b) Farm buildings.”<sup>89</sup>

**50.503 Special Land Uses.** The following special land uses and similar uses shall be permitted in this Zoning District only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

(1) **Schools.**

(2) [**Churches.** Church steeples need not be limited by the thirty-five foot maximum building height otherwise provided in this Article, provided church steeples shall be so located on their own property that if they fall, they would land on their own property.

(3) Home occupation as defined in Section 50.204(2) and regulated in Section 50.302(12).

(4) Roadside stands for the sale of farm produce grown on the premises.

(5) [Retail florist shop and other related retail sales, when accessory to a greenhouse on the premises. The area of the retail florist shop and related retail sales will not exceed ten percent (10%) of the square footage of buildings on the premises, or one thousand (1,000) square feet, whichever is less. Retail sales items must be directly related to the greenhouse operation, and must be generally described as part of the special land use application.]<sup>45,52</sup>

(6) [Guest quarters (as regulated in Section 50.302(1)) in a permitted accessory building.”<sup>89</sup>

**50.504 Building Height, Area and Yard Requirements.****(1) Principal Uses and Buildings.**

(a) Minimum lot area: One- (1) family dwellings; twelve thousand (12,000) feet.

(b) Minimum lot width shall be one hundred (100) feet.

(c) Minimum front yard setback shall be thirty (30) feet.

(d) Minimum rear yard setback shall be thirty (30) feet.

(e) Minimum side yard setback shall be equal to ten percent (10%) of the total lot width; provided that no side yard shall be less than twenty (20) feet. The minimum side yard setback on a corner lot shall be thirty (30) feet measured from the side street lot line.

(f) [Maximum building height shall be thirty-five (35) feet and two (2) stories.]<sup>53</sup>

(g) [Minimum dwelling unit size shall be one thousand (1,000) square feet.]<sup>10</sup>

**(2) Accessory Buildings.**

(a) Farm buildings. Maximum height of farm buildings shall be thirty (30) feet. No farm building shall be located within one hundred (100) feet of any public road and no closer than fifty (50) feet to any property line.

(b) [Other accessory buildings. Maximum height shall be twenty-five (25) feet and shall not exceed two (2) stories. An accessory building to be used as a garage which is located in a rear yard may have a minimum setback of five (5) feet from the rear lot line; if located in a side yard may have a minimum setback of five (5) feet from the side lot line.]<sup>54</sup>

(c) Separation. No accessory building shall be located closer than ten (10) feet to the principal building, or to any other permitted accessory building.

**50.505 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of this Chapter, the following signs (and the following signs only) are permitted within this District.

(1) One (1) sign, free-standing or other, erected in connection with uses permitted in the

Agricultural-Residential District which does not exceed sixteen (16) square feet in area; such sign shall not be located within thirty (30) feet of a front lot line or within thirty (30) feet of a side lot line.

(2) In connection with a permitted home occupation, one wall sign not exceeding two (2) square feet in area is permitted provided that the sign is placed flat against the main building.

**ARTICLE 6**  
**R-1 AND R-2 - SINGLE- AND**  
**TWO-FAMILY RESIDENTIAL DISTRICT**

**50.600 Uses Permitted.** In addition to the general regulations to which all buildings and uses are subject, as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the R-1 and R-2, Single- and Two-Family Residential District, except for the following uses:

	R-1-A	R-1-B	R-1-C	R-1-E	R-2
<b>(1) Principal Uses and Buildings.</b>					
(a) Single family buildings	X	X	X	X	X
(b) Public parks	X	X	X	X	X
(c) Two-family buildings					X
<b>(2) Minimum Requirements.</b>					
(a) Lot area (sq.ft.)	10,000	8,000	6,500	43,560	[10,000] <sup>2</sup>
(b) Lot width	100	[80] <sup>2</sup>	65	150	[100] <sup>2</sup>
(c) Front yard setback	25	25	20	40	25
(d) Rear yard setback	35	35	30	40	35
(e) [Side yard setback					
R-1-A R-1-B R-1-C R-1-E R-2	15	10	8	20	12
(each side, or 12% of the total lot width, whichever is greater)] <sup>118</sup>					
(f) Corner side yard setback	25	25	[20] <sup>10</sup>	40	25
		25	25	[20] <sup>10</sup>	40
(g) Dwelling unit size (sq. ft.)	[1,200] <sup>2</sup>	[1,000] <sup>2</sup>	864	1,200	864
(h) Off-street parking space (per dwelling unit)	2	2	2	2	2
<b>(3) Maximum Allowables.</b>					
(a) Building height in feet					

35	35	35	35	35
(b)	[Building	height	in	stories
]]]] <sup>2,55,59</sup>				
2 1/2	2	2	2 1/2	2
(c)	[Lot coverage	(all buildings):		
R-1-A	R-1-	R-1-C	R-1-E	R-2
	B			
Lot coverage for lots equal to or greater than the minimum lot area by district:				
35%	35%	40%	25%	35%
Lot coverage for lots less than the minimum area by district:				
40%	40%	40%	25%	40%] <sup>119</sup>
(d)	[Building proportion: Three (3)			
to One (1) as measured at the narrowest point of the principal structure for the lower number and the longest dimension of the principal structure for the greater number.] <sup>87</sup>				

**50.601 [Accessory Uses and Buildings.**

Accessory buildings and uses are permitted in this District, subject to the general restrictions set forth in Article 3 of this Chapter and subject to the following specific regulations:

	R-1-A	R-1-B	R-1-C	R-1-E	R-2
<b>(1) Minimum Requirements.</b>					
(a) Side Yard Setback (feet)	10	8	5	10	10
(b) Rear Yard Setback (feet)	10	8	5	10	10
<b>(2) Maximum Allowable.</b>					
(a) [Building Height in Feet: 25					
(b) Building Height in Stories: 2] <sup>56</sup>					
<b>(3)</b>					
Accessory buildings shall not occupy more than twenty-five percent (25%) of any rear yard.					
<b>(4)</b>					
[No accessory building shall be located closer than five (5) feet to any principal building, or any other permitted accessory building.] <sup>42</sup>					
<b>(5)</b>					
No accessory building shall be used as a dwelling, or for any business, profession, trade or occupation, unless special land use approval					

is obtained in those districts where such uses are permitted, as provided in the following section.

(6) [Guest quarters (as regulated in Section 50.302(1)) for use by friends or relatives or domestic employees, but not to be rented out as a separate living unit, are permitted in the R-1-A and R-1-E districts.”.]<sup>2,26,89</sup>

**50.602 Special Land Use Approval in Single and Two-Family Residential Districts.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

(1) Rooming and boarding houses in R-1-C and R-2 zoning districts only.

(2) Home occupations in R-1-C and R-2 zoning districts only.

(3) [Schools in R-1-B, R-1-C and R-2 districts only.

(4) Churches in R-1-C and R-2 districts only.

(5) Cluster development in all R-1 districts and R-2 districts, subject to the conditions set forth in Article 22 of this Chapter.

(6) Mobile homes in the R-1-B, R-1-C and R-2 districts only. Plans and structures for all such units shall meet the requirements set forth below. Each application shall be reviewed individually in accordance with procedures specified below.<sup>2</sup>

(a) Applicants to place mobile homes outside of mobile home parks shall obtain all required permits and meet minimum requirements of all Codes and Ordinances of the City applicable to such structures.

(b) All mobile homes must be permanently fastened to a minimum six- (6) inch wide masonry foundation which is continuous

around the perimeter of the unit to a depth of at least forty-two (42) inches, with anchors placed every six (6) feet. In no instance will concrete piers, cement blocks without a footing, or other type of foundation be permitted.

(c) All mobile homes must meet the minimum floor area and proportional requirements of this Chapter. Any addition to such units must be designed and constructed by the original manufacturer or an architectural plan for a compatible addition may be submitted to the Planning Commission for approval.

(d) All mobile homes shall be compatible with nearby housing and not tend to adversely affect property values, by demonstrating a similarity to existing and permitted housing in the following features: Total square footage; Length to depth proportion; Value and quality of construction; Use of exterior materials; Architectural style and design; Roofline and overhangs (eaves).

(e) In all instances, wheels, towing apparatus and exposed chassis shall be removed before occupancy of any mobile home is permitted.

(f) Minimum lot size, yard spaces, setbacks, parking and all other site requirements of the applicable zoning district shall remain the same for approved mobile homes.

(g) Mobile home applicants shall demonstrate that sufficient storage is provided either in an attic, basement, separate closet area or garage exclusive of the area used for motor vehicle storage. For the purpose of this Chapter, such storage space shall equal at least fifteen percent (15%) of the structure's total floor area.

(h) Whenever a question arises concerning the quality of construction or regarding other standards of this Section, the Building Inspector shall make an inspection of the proposed unit and report his findings to the City Planning Commission for use in making a determination whether or not a special land use approval should be granted. The City and the applicant may also use such other specialists and experts as determined necessary for the proper presentation and review of the special land use application.



(7) Planned Unit Developments in the R-1-E district only, subject to the conditions set forth in Article 23 of this Chapter.

(8) [Guest quarters (as regulated in Section 50.302(1)) in accessory buildings in the R-1-B and R-1-C Districts.

(9) Guest quarters (as regulated in Section 50.302(1)) in accessory buildings in the R2 District, provided, guest quarters in accessory buildings are not permitted if a two-family unit is located or constructed on a lot in the R2 District.”<sup>89</sup>

**50.603 Signs.** Subject to the general restrictions on signs contained in 50.303 of this Chapter, the following signs (and the following signs only) are permitted within this District:

(1) One (1) lighted name plate which does not exceed one (1) square foot in area is permitted, provided that the source of light is not visible.

(2) One (1) free standing bulletin board or sign which does not exceed thirty-six (36) square feet in area may be erected by a church, school or charitable institution, provided said board or sign is not located within ten (10) feet of any side or rear lot line or within twenty (20) feet of any street line.

**ARTICLE 7****MHP - MOBILE HOME PARK DISTRICT**

**50.700 Uses Permitted.** In the MHP District, no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise specifically provided for in this Chapter, except for the following uses:

**(1) Principal Uses and Buildings.**

(a) One- (1) family detached dwellings, subject to the area, height, bulk, and placement regulations of the R-1 district.

(b) Mobile home parks, and mobile home dwellings, subject to the requirements of Act 243 of the Public Acts of 1959, M.S.A. 5.278, as amended, and the requirements of this Chapter.

(c) Public park.

**(2) Accessory Uses and Buildings.**

(a) Private carports.

(b) Swimming pools.

(c) Storage cabinets or central storage building.

(d) Customary accessory buildings, such as maintenance and management building, recreation building, laundry, etc.

**50.701 Building Height, Area and Yard Requirements.**

**(1) Principal Uses and Buildings.**

(a) Minimum land area shall be ten (10) acres.

(b) Minimum lot width shall be two hundred (200) feet.

(c) Minimum front yard setback shall be fifty (50) feet.

(d) Minimum rear yard setback shall be fifty (50) feet.

(e) Minimum perimeter side yard setback shall be equal to ten percent (10%) of the total parcel width, provided that no individual or perimeter side yard setback shall be less than fifteen (15) feet. The minimum side yard setback on a corner lot shall be twenty-five (25) feet measured from the side street lot line.

**(f) Yards for each mobile home.**

The non-entry side of the mobile home site shall be not less than five (5) feet in width and the entry side shall be not less than twenty (20) feet in width, except that where the site's entry side does not face and contact another mobile home site, such entry side yard may be reduced to not less than fifteen (15) feet. Canopies or awnings may be located only on the entry side, but not closer than ten (10) feet to any lot line of the mobile home site. Any such canopy or awning area shall not be used as bedroom or sleeping quarters, and shall not be enclosed except by screens and storm windows on the three (3) exposed sides. Front yard shall be at least twenty (20) feet and rear yard shall be a minimum of ten (10) feet per site.

(g) Each mobile home site shall have a minimum lot area of four thousand (4,000) square feet, minimum average lot width of forty (40) feet. The street rights-of-way shall not be counted as part of the required mobile home sites.

(h) Appurtenances and utilities, such as sewer, water, and electricity hookups, shall be placed on the space so that the mobile home when located on the space shall not occupy the rear fifteen (15) feet of each site.

(i) Each mobile home site shall be provided with an apron not less than fourteen (14) feet by sixty-five (65) feet, or two (2) concrete strips thirty (30) inches wide running the full length of the site to within ten (10) feet of the rear property line with three- (3) inch pebble stones covering the total area under the skirted mobile home. However, in no case shall the pad be less than four (4) inches greater than the outside dimensions of the mobile home. Every mobile home shall be placed on and tied down to such apron or strips.

(j) Skirting of each mobile home shall be required.

(k) Hard surface walkways of not less than thirty (30) inches in width shall be provided from each mobile home entrance to roadway sidewalks.

(l) All mobile home sites shall be furnished with public water and public sanitary sewer connections. Fire hydrants shall be placed

at least every five hundred (500) feet along all roadways. Electrical and telephone distribution lines shall be placed underground.

(m) Each mobile home park shall have a master underground television antenna system. Exterior television antennas shall not be permitted on individual mobile homes.

(n) All fuel tanks shall be underground.

(o) The mobile home park shall provide a system of garbage and rubbish storage, collection, and disposal subject to the approval of the City.

(p) All roadways in the mobile homes park shall be hard surfaced, and shall meet all road construction standards of the City of Harbor Springs. Entranceway drives shall have a minimum pavement width of forty-six (46) feet of which the outer three (3) feet on each side shall be constructed as a sidewalk for pedestrian circulation. Entranceway pavements separated by an island or planting area shall have a minimum pavement width of twenty (20) feet in each direction. All local roadways within the mobile home park shall have a minimum pavement width of twenty-two (22) feet and have a three- (3) foot sidewalk on each side of the roadway constructed for pedestrian circulation. The local roadway system shall be so designed as to prevent the use of any such roadway for through traffic. No parking shall be permitted on any roadway, except as specifically provided for in the approved Site Plan. All mobile home lots shall abut a roadway or paved maneuvering land. All streets shall be lighted.

(q) There shall be provided for recreational purposes within the mobile home park an area of not less than five hundred (500) square feet for each mobile home site in the park. Such land area shall be generally central and accessible to the units intended thereby to be served and shall be well drained, usable, and maintained for recreational purposes.

(r) All screening and landscape plans shall be submitted to the Planning Commission for approval, prior to the issuance of a building permit. All screening shall be in accord with the provisions of Article 19 and shall be reviewed with relation to the suitability

of materials to be used and arrangements thereof.

(s) All lighting for external illumination of the parking area, buildings or grounds, shall be directed away from and shall be shielded from adjacent residential districts.

(t) No sign in this district shall be larger than twelve (12) square feet in area. Such sign shall observe the setback line; have no internal illumination and shall not project higher than one (1) story or twelve (12) feet above ground level.

## **(2) Accessory Buildings and Uses.**

(a) Private carports - Maximum height shall be fifteen (15) feet. All carports shall be unattached and may be located in a required front yard and shall be not less than fifteen (15) feet from the rear lot line or ten (10) feet from the side lot line.

(b) Each mobile home shall be furnished with a storage cabinet of between three hundred (300) and four hundred (400) cubic feet storage space, or in lieu thereof, central storage buildings within one hundred fifty (150) feet of each mobile home.

(c) Swimming pools subject to the following requirements--

(i) Application. The application for a building permit to contract or erect a swimming pool shall include the name of the owner, a plot plan and location of adjacent buildings, fencing, gates, public utilities, specification and plans to scale of pool walls, slope bottom, walkway, and diving boards, and other detailed information affecting construction and safety features deemed necessary by the Building Inspector.

(ii) Pool location. The swimming pool shall be located on the interior of any mobile home project at least eighty (80) feet from any adjacent residential district. No pool shall be located closer than ten (10) feet to any accessory buildings and no pool or enclosure shall be closer than fifty (50) feet to any mobile home.

(d) Other accessory buildings - Maximum height shall be fifteen (15) feet. Accessory buildings shall be located not

less than thirty (30) feet from the side or rear lot line, nor nearer than twenty (20) feet to any mobile home.

(3) **Site Plan Review.** All development in this district shall require Site Plan approval by the Planning Commission prior to issuance of a building permit. Approval will be based upon the provisions of this Chapter.

**50.702 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of this Chapter, the following signs (and the following signs only) are permitted within this District.

(1) One (1) lighted name plate which does not exceed one (1) square foot in area is permitted, provided that the source of light is not visible.

(2) One (1) free-standing bulletin board or sign which does not exceed thirty-six (36) square feet in area may be erected by a church, school or charitable institution, provided said board or sign is not located within ten (10) feet of any side or rear lot line or within twenty (20) feet of any street line.

(3) One (1) free-standing or other sign erected in connection with uses permitted in the Mobile Home Park District which does not exceed sixteen (16) square feet in area; such sign shall not be located within thirty (30) feet of any street line or within thirty (30) feet of a side or rear lot line.

**ARTICLE 8  
RM - MULTIPLE RESIDENTIAL  
DISTRICT**

**50.800 Uses Permitted.** In addition to the general regulations to which all buildings and uses are subject as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the RM, Residential District, except for the following uses:

**50.801 Permitted Principal Uses and Buildings.**

- (1) All principal uses permitted and as regulated in the R-I-B district.
- (2) Apartment buildings.
- (3) Townhouse buildings.
- (4) Multi-family buildings.
- (5) Two- (2) family buildings.
- (6) A rooming house; or, a boarding house.
- (7) Public park.

**50.802 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter:

- (1) General hospitals and convalescent homes.
- (2) Housing for the elderly or senior citizens housing. All proposals for housing for the elderly shall be reviewed against the standards for such housing published by the Michigan State Housing Development Authority. The MSHDA standards shall be used

only as a general guide for the review to assure minimum adequacy and shall not limit the requirements placed on the use by the City by this Chapter.

(3) A small motel, not exceeding thirty (30) units with coffee shop, lobby display, and other ancillary uses only of a scale to service motel customers.

(4) [A single-family detached condominium development subject to review and approval by the Planning Commission in consideration of the following standards:

(a) The minimum lot area for the development shall be no less than one acre or forty three thousand five hundred and sixty (43,560) square feet in area.

(b) A minimum of thirty two hundred (3,200) square feet of land area shall be required for each dwelling unit.

(c) The building height shall be staggered throughout the development with no height to exceed twenty-eight (28) feet.

(d) No more than twenty-five (25) percent of the roof area shall have a slope of less than 4:12 and the remainder of the roof area shall have a slope of greater than 4:12.

(e) Fifty (50) percent of the dwelling units shall not exceed six hundred and fifty (650) square feet in area on the main floor and the remaining units shall not exceed eight hundred and twenty five (825) square feet on the main floor. Every dwelling unit shall be designed to create architectural harmony in the development and with the surrounding area.

(f) The total floor area of each dwelling shall not exceed 1.5 times the area of the main floor or 1,200 square feet, whichever is less.

(g) Common open space area(s) shall be provided for use by all residents of the development. The size of the common open space area(s) shall be based on a minimum of one hundred (100) square feet per dwelling unit in the development.

(h) The number of parking spaces shall be provided at a rate of 2.0 spaces per dwelling. Parking areas shall be screened and/or

located to provide only a filtered view from adjacent property or from a public street. Parking spaces may be open or covered. If covered, the structure or building shall be designed to create architectural harmony in the development and with the surrounding area.

(i) The storage of recreation vehicles including boats and trailers shall be prohibited on the property or in the parking area unless a separate area is dedicated for such storage, screened and does not impact the required parking spaces.

(j) The average front, side and rear yard setback shall be ten (10) feet based on the width of each building facing the property line. In no event shall a setback be less than five (5) feet. An open or closed porch area shall be considered part of the building and shall comply with the setback requirements. The average setback for each property line shall be calculated by totaling the setback dimension for each building and dividing by the number of buildings adjacent to that property line. When a building has multiple setbacks from the property line, an average of the setbacks for that building can be applied to the total average. The setback requirement for a proposed building adjacent to an existing dwelling unit shall be fifteen (15) feet. A garage or accessory building may be setback a minimum of five (5) feet from a property line provided an accessory building or garage exists on the adjacent property, otherwise the above average setback standard shall apply.

(k) A landscape plan shall be submitted illustrating a design consistent with the architecture and scale of the buildings proposed.

(l) The management of storm water shall be consistent with City standards.

(m) All utilities shall be located underground.

(n) A dumpster shall be provided in a location sensitive to adjacent land uses and screened from view.

(o) A common accessory building may be permitted, provided it meets the setback requirements of a principal building, contains only one (1) story, designed to create architectural harmony in the development and

the surrounding area, and contains no more than seven hundred fifty (750) square feet in area.

(p) The arrangement of the single-family homes on the site shall be staggered and/or angled when adjacent to a property line to create diversity and avoid a monotonous appearance from adjacent property.

(q) The Planning Commission shall seek the advice of the Fire and Police Chief regarding potential public safety issues.]<sup>88</sup>

### **50.803 Building Height, Area and Yard Requirements.**

#### **(1) Principal Uses and Buildings.**

(a) Minimum lot area shall be ten thousand (10,000) square feet.

(b) Minimum lot width shall be one hundred (100) feet.

(c) Minimum front yard setback shall be twenty-five (25) feet.

(d) Minimum rear yard setback shall be fifty (50) feet.

(e) Minimum side yard setback on the side perimeter of the lot shall be equal to ten percent (10%) of the total lot width provided that no individual or perimeter side yard setback shall be less than fifteen (15) feet. The minimum side yard setback on a corner lot shall be twenty-five (25) feet measured from the side street lot line. The side yard setback shall be increased by one (1) foot for each ten (10) feet or part thereof by which length the multiple structure exceeds forty (40) feet in overall dimension along any adjoining lot line.

(f) The minimum perimeter or individual yard setback requirements may be reduced by up to ten (10) feet upon approval of the Planning Commission for architectural or site purposes provided where the setback on one (1) side of the building is reduced, the setback requirement on the opposite side of the building shall be increased by the same amount (for example, if a front yard setback is reduced by ten [10] feet, then the rear yard setback shall be increased by ten [10] feet).

(g) For the purpose of front, side and rear yard setback, each building shall be considered as occupying one (1) lot.

(h) The front and rear of a multiple-family building shall be considered to be the faces along the longest dimension of said building, measured from corner to corner; and the side of the multiple-family building shall be considered to be the face along the narrowest dimension of said building.

(i) [Maximum building height shall be two (2) stories and shall not exceed thirty-five (35) feet.]<sup>57</sup>

(j) Lot coverage of all buildings on a lot shall not exceed thirty percent (30%) of the total lot area.

(k) All lots used for two- (2) family or multi-family buildings in this district shall be provided with both a municipal water and municipal sewage system, and every main building hereafter erected or structurally altered and used as a two- (2) family or multi-family building shall provide the following land area for each dwelling unit by type:

	Multiplexes	Townhouses	Apartments
Efficiency Apt. or 1 BR	4500 sq.ft.	4000 sq.ft.	3200 sq.ft.
2 BR	5000 sq.ft.	4400 sq.ft.	3600 sq.ft.
3 BR	5500 sq.ft.	4800 sq.ft.	4000 sq.ft.

Plus an added five hundred (500) square feet for each additional bedroom over three (3).

(l) Plans presented which include a den, library, or extra room shall have such extra room counted as a bedroom for purposes of this Chapter.

(m) No multi-family building shall exceed one hundred twenty (120) feet in length along any one (1) face of the building, measured from building corner to building corner. Any court shall have a width equal to not less than fifty (50) feet for the front yard and sixty (60) feet for the rear yard. The depth of any court shall not be greater than three (3) times the width.

(n) Service drives shall be paved and have a width of at least twenty-two (22) feet and shall not be located in any required yard space.

(o) For apartment developments, parking may be permitted within the required side or rear yard setback, provided there shall be at least twenty (20) feet of yard space between said parking area and the apartment building. Parking will not be permitted in any of the required yard space for townhouse development or multiplexes unless enclosed in a carport or garage.

(p) Recreation areas and facilities, such as parks, playgrounds, swimming pools, and community building, shall be provided to the extent necessary to meet the anticipated needs of the residents of the development. Provision of separate adult and youth recreation areas is encouraged. Recreation facilities generally should be provided in a central location.

(q) All screening and landscape plans shall be submitted to the Planning Commission for approval, prior to the issuance of a building permit. All screening shall be in accord with the provisions of Article 19 of this Chapter and shall be reviewed with relation to the suitability of materials to be used and arrangements thereof.

(r) All lighting for external illumination of the parking area, buildings or grounds, shall be directed away from and shall be shielded from roadways and adjacent properties.

**50.804 Permitted Accessory Uses and Buildings.** The following uses and buildings are permitted as accessory uses and buildings in this district, subject to the general restrictions set forth in Section 50.302 of this Chapter.

**(1) Private Garage or Carport.** Maximum height shall be fifteen (15) feet. An accessory building to be used as a garage, or a car port, may be located on an interior rear lot line or an interior side lot line, but no closer than twenty-five (25) feet to a street line.

**(2) Swimming pools.**

(a) Application. The application for a building permit to contract or erect a swimming pool shall include the name of the

owner, a plot plan and location of adjacent buildings, fencing, gates, public utilities, specifications and plans to scale of pool walls, slope, bottom walkway, and diving boards, and other detailed information affecting construction and safety features required by applicable building codes.

(b) Pool location. The swimming pool shall be located on the interior of any RM project at least eighty (80) feet any other structure.

**(3) Other Accessory Buildings.** Other such accessory uses and buildings when located on the same lot as a permissible use; provided, that such accessory use or building shall not be used or occupied for any business, occupation, profession or trade. Maximum height shall be fifteen (15) feet. Other accessory buildings shall be located in a rear yard only and shall have a minimum setback of thirty (30) feet from any side and rear lot lines and shall not be located closer than twenty (20) feet to the primary building.

**50.805 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of this Chapter, the following signs (and the following signs only) are permitted within this District.

**(1)** One (1) lighted name plate which does not exceed one (1) square foot in area is permitted, provided that the source of light is not visible.

**(2)** One (1) free-standing sign or other sign, provided such sign does not exceed twelve (12) square feet in area, further provided such sign shall not be located in any required setback.



**ARTICLE 9**  
**C - COMMUNITY DISTRICT**

**50.900 Uses Permitted.** In addition to the general regulations to which all buildings and uses are subject as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the C, Community District, except for the following uses:

**50.901 Permitted Principal Uses and Buildings.**

- (1) Municipally-owned park.
- (2) Municipally-owned and/or occupied building.
- (3) Municipally-owned cemetery.
- (4) Municipally-owned parking lot.

**50.902 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter:

- (1) Schools.
- (2) Public golf course.
- (3) Public hospital.
- (4) Church.
- (5) Privately-owned nature preserve developed for pedestrian or vehicular access.

**50.903 Building Height, Area, and Yard Requirements.**

- (1) Minimum front yard setback shall be twenty (20) feet.

- (2) Minimum rear yard setback shall be twenty (20) feet.

- (3) Minimum side yard setback shall be five (5) feet, except that the minimum side yard setback for both side lot lines shall not be less than fifteen (15) feet. Minimum side yard setback on a corner lot shall be twenty (20) feet measured from the side street lot line.

- (4) Minimum front, side and rear yard setback requirements of any building in excess of two and one half (2½) stories or thirty-five (35) feet in height shall be increased by a distance equal to twenty percent (20%) of such excess height.

- (5) Maximum building height shall be three (3) stories and shall not exceed forty (40) feet.

**50.904 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of this Chapter, the following signs (and the following signs only) are permitted within this District.

- (1) One (1) free-standing or other sign erected in connection with uses permitted in the Community District which does not exceed sixteen (16) square feet in area; such sign shall not be located within thirty (30) feet of the front lot line or within thirty (30) feet of a side lot line.

**ARTICLE 10****R/O/S - RESIDENTIAL, OFFICE, SERVICE**

**50.1000 [Uses Permitted.]** In the R/O/S - Residential/ Office/Service District, no building or premises shall be used and no building shall be hereafter erected or altered unless otherwise specifically provided for in this Chapter, except for the following uses:

- (1) Office buildings for the following service professions: doctors of medicine, dentistry, optometry, osteopathy, physicians and surgeons, outpatient health center or clinics and similar professional occupations.
- (2) Office buildings for the following professions: attorneys at law, professional engineers, land surveyors, interior designers, community planners, architects, landscape architects, building contractors and similar service occupations requiring no outside storage of vehicles or equipment on the premises.
- (3) Office buildings for public utilities, real estate, public accounting, clerical, drafting, executive, administrative, insurance, financial planning, stockbroker and similar occupations requiring no outside storage of vehicles or equipment on the premises.
- (4) Office buildings for newspapers and periodical publications, printing and copy shops, travel agencies, photography studio, dance studio, day care center, and similar service occupations requiring no outside storage of vehicles or equipment on the premises.
- (5) Barber and beauty shops.
- (6) Funeral homes.
- (7) Churches.
- (8) Residential dwelling units when connected to another principal use permitted in this district, and subject to the on-site, off-site parking requirements for multiple residential

dwelling units specified in Article 18 of this Chapter.

(9) Accessory uses customary and incidental to a principal use shall be permitted provided such accessory uses are within a building. Accessory buildings shall be permitted, subject to the requirements specified in this Chapter.

(10) Single-family buildings or two-family buildings, subject to the requirements of the R-2 Two-family Residential zoning district contained in Article 6 of this Chapter, provided on-site, off-street parking for residential uses shall be provided pursuant to the requirements for multiple residential dwellings contained in Article 18 of this Chapter.

(11) [Retail Florist Shop.]<sup>45</sup>

All uses, including the storage of commodities, except for off-street parking or loading, shall be conducted within a completely enclosed building. The indoor storage of goods or materials, beyond that normally incident to the above permitted uses, shall be prohibited.

**50.1001 Building Height, Area and Yard Requirements.**

- (1) Minimum lot width shall be one hundred (100) feet.
- (2) Minimum front yard setback shall be twenty (20) feet. The front yard shall be landscaped with no off-street parking lot permitted within the required setback, in the front yard.
- (3) Minimum rear yard setback shall be twenty (20) feet.
- (4) Minimum side yard setback shall be fifteen (15) feet. Minimum corner yard setback shall be twenty (20) feet.

(5) The maximum percentage of lot coverage shall be determined by the confluence of yard requirements, by actual use and by the provision of required off-street parking and loading facilities.

(6) Maximum building height shall be two (2) stories and not exceed thirty (30) feet.

(7) The architecture and exterior finish of any building, including accessory buildings, shall be residential in character, and shall be such as to present a complementary uniform style and finish on all sides of its exterior.

(8) Landscaping: All open areas, setbacks, and all other portions of the site not used for parking, driveways, and buildings shall be improved according to a landscape plan approved by the Planning Commission.

(9) Lighting: During office hours after sunset, the parking areas shall be adequately lighted for safety of users and comfort of adjacent property owners. Lighting of parking areas shall be in a manner so as to prevent rays and illumination therefrom from being cast upon neighboring residences and to prevent glare therefrom into other nearby buildings. Illumination shall not exceed ½ foot-candle, measured at the property line.

(10) Accessory buildings are permitted in the rear yard only; minimum rear and side yard setbacks shall be ten (10) feet; maximum rear lot coverage shall be forty (40) percent; maximum height shall be limited to twenty (20) feet and one and one-half stories.

#### **50.1002 Signs.**

(1) One (1) principal sign shall be permitted per establishment in this District.

(2) The maximum sign area of principal signs per building in this District shall not exceed that determined under Section 50.303(9).

(3) All signs in this District must be wall signs, provided one free-standing sign, with a sign area not exceeding sixteen (16) square feet if one-sided, and thirty-two (32) square feet if two-sided, may be permitted per lot, provided the area of any free-standing sign shall reduce the permitted sign area per building determined as aforesaid.

(4) Any free-standing sign in this District shall be set back at least five (5) feet from the front lot line and shall not exceed six (6) feet in height.”]<sup>17</sup>

(5) [Neon and internally illuminated signs are permitted subject to the restrictions of subsection (2) above, provided no more than two (2) such signs are permitted per establishment and all such signs shall be located inside the exterior building face and the size of the neon or internally illuminated sign shall meet the following requirements:

(a) If such a sign is attached to or within fifteen (15) feet from the front window, the sign shall not exceed two (2) square feet in area.

(b) If such a sign is beyond fifteen (15) feet but less than thirty (30) feet from the front window, the sign shall not exceed four (4) square feet in area.

(c) If such a sign is beyond thirty (30) feet from the front window, the sign shall not exceed six (6) square feet in area.

(d) Any internally illuminated signs including vending machines or similar types of equipment or devices are prohibited outside the exterior of a building. Vending machines or similar equipment or devices located inside a building, containing signage provided by the supplier of the vending machine or equipment, that is related specifically to the product dispensed by the device or equipment, and that only incidentally promotes the interests of the business in which said equipment or device is located, shall be exempt from the provisions of Section 50.301 and 50.303 of this Code.]<sup>123</sup>

**50.1003 [Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

**(1) Two (2) dwelling units on the same lot.**

(a) The minimum lot area shall be fourteen thousand (14,000) square feet

(b) The foot print of the additional dwelling unit which exceeds 576 square feet in area shall not exceed 75% of the primary dwelling foot print.

(c) The height of either dwelling unit shall not exceed 35 feet in height.

(d) Separate utility service for the second dwelling unit is permitted subject to all fees and costs associated with establishing a new connection to a property, as determined by the City Manager and City regulations.

(e) Each dwelling unit may be owner occupied or may be rented for one (1) month or more to any person or family. Short-term rental of either dwelling is prohibited.

(f) A second dwelling unit shall not be approved if a two family unit (duplex) exists on the property or constructed on the property.

(g) The second dwelling unit shall meet all setback requirements of the R2 District.

(h) Guest quarters (as regulated in 50.302(1)) permitted as an accessory use in the R2 District are not permitted on a lot that has established a second dwelling unit.

(i) The second dwelling shall meet the parking standards of Article 18.

(j) (j) A separate address shall be established for the second dwelling unit as required by Section 80.101 the City Code.]<sup>155</sup>

**ARTICLE 11  
TR - TRANSITIONAL-RESIDENTIAL  
DISTRICT**

**50.1100 [Uses Permitted.]** In order to promote a transition from commercial neighborhoods to residential neighborhoods or from residential neighborhoods to commercial neighborhoods, or to allow for limited commercial uses, specifically parking lots, clubs, fraternity lodges and institutions of a philanthropic nature in certain residential neighborhoods, the TR District is created. In addition to the general regulations to which all buildings and uses are subject as provided in Article 3 of this chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the TR-Transitional District except for the following uses:

**50.1101 Permitted Principal Use.** All buildings, uses and accessory buildings and uses as are permitted in the R-2 Residential District as regulated in Article 6, subject to the same restrictions and requirements as are therein contained.

**50.1102 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

(1) The use or uses being made of buildings or properties at the time an area is zoned to TR, subject to the restrictions and requirements (as amended from time to time) of the zoning district containing the area immediately prior to rezoning to TR.

(2) Parking of private passenger motor vehicles, subject to the restrictions and requirements on parking lots contained in Article 14.

(3) Clubs, fraternities, lodges subject to the restrictions and requirements contained in Article 9.

(4) Institutions of a philanthropic or charitable nature subject to the restrictions and requirements contained in Article 9.

(5) [Guest quarters (as regulated in Section 50.302(1)) in accessory buildings.]<sup>89</sup>

**50.1103 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of this Chapter, the following signs (and the following signs only) are permitted within this District:

(1) In connection with a permitted residential use, one (1) lighted name plate which does not exceed one (1) square foot in area is permitted, provided that the source of light is not visible.

(2) [In connection with other permitted uses, one sign not exceeding three square feet in area may be erected.]<sup>4</sup>

**ARTICLE 12****CBD - CENTRAL BUSINESS DISTRICT**

**50.1200 Uses Permitted.** [[In addition to the general regulations to which all buildings and uses are subject as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the CBD, Central Business District, except for one of the uses hereinafter provided. Within the CBD, Central Business District, all uses must be conducted totally "within a building", as defined in Section 50.201(33) of Article 2 of this Chapter, except as provided in Section 50.1202 and Section 50.1205 of this Article 12]]<sup>129, 137</sup> [or in any other ordinance separately adopted by the City of Harbor Springs pertaining to uses not within a building.]<sup>144</sup>

**50.1201 Permitted Principal Uses and Buildings.**

(1) Offices for any of the following occupations: executive, administrative, professional, accounting, writing, clerical, stenographic, photographic, sales organizations, insurance offices, real estate offices and similar uses.

(2) Banks, credit unions, and savings and loan associations.

(3) [Retail business, including Food Markets, Full Line and Food Markets, Specialty, and other retail businesses which sell commodities not to be used or consumed on the premises, including, but not limited to: drugs and sundries, dry goods, clothing, notions and hardware.]<sup>78</sup>

(4) Personal service establishments which perform services on the premises, such as but not limited to: repair shops (watches, radio, television, shoe and the like), tailor shops, beauty parlors, barber shops, and self-service laundries.

(5) [Second and third-story residential dwelling units in buildings in existence as of October 24, 1976, subject to the on-site, off-street parking requirements for single family residential dwelling units provided in Article 18 of this Chapter, provided for residential dwelling units containing less than 900 square feet, only 1 parking space need be provided.]<sup>96</sup>

(6) Museums or art galleries.

(7) Municipally-owned and/or occupied buildings.

(8) [Residential dwelling units on the second story only of new buildings not in existence as of October 24, 1976, subject to the on-site, off-street parking requirements for single family residential dwelling units provided in Article 18 of this Chapter, provided for residential dwelling units containing less than 900 square feet, only 1 parking space need be provided.]<sup>97</sup>

(9) [A public assembly building, similar to a theatre or auditorium.]<sup>133</sup>

**50.1202 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

(1) Vehicular service stations, with or without convenience stores, subject to the same regulations as are provided in Article 13, Section 50.1302(3), with specific evaluation of the following criteria:

- (a) Number of stations already in the CBD.
- (b) Signs.
- (c) Outside displays.
- (d) Number of vehicles to be parked outside.
- (e) Entrance design.

(f) Number of curb cuts and their location.

(g) Landscaping, screening and canopies, if any.

(h) Pump setback.

(i) Accessory uses proposed.

(2) [Hotels and Motels and Condo-Hotels. Subject to special land use approval, a Hotel or Condo-Hotel offering restaurant service to its guests and the public as an accessory use to the Hotel or Condo-Hotel may use a patio or roof top deck for customer seating and service on the property where the Hotel or Condo-Hotel is located without the requirement of providing additional parking.]]<sup>105,137</sup>

(3) **[[Restaurants, Full Line, and Restaurants, Specialty** Off street parking for such Restaurants shall not be required as provided in Article 18 of this Code. A Full Line Restaurant may be approved as a Special Land Use if such Restaurant satisfies the following conditions:

(a) The Full Line Restaurant is located in an existing building. If an addition is constructed for the Restaurant use, additional parking must be provided on a basis of the Full Line Restaurant parking standard.]]<sup>149</sup>

(b) The Full Line Restaurant is located in an existing building. If an addition is constructed for the Restaurant use in excess of ten percent (10%) of the floor area of the existing building, additional parking must be provided on a basis of the Full Line Restaurant parking standard.

(c) The Full Line Restaurant shall serve dinner only on Monday through Saturday, and shall not be open for business before 5:00 p.m. on those days. On Sunday, a brunch is permitted in addition to a dinner service, but the Full Line Restaurant shall not be open for business before 12:00 p.m. on Sunday.]]<sup>75</sup>

(d) [Subject to special land use approval, a Full Line Restaurant or Specialty Restaurant offering restaurant service may use a deck, a roof top deck, a patio or other ground level space for customer seating and service on the property where the Full Line Restaurant or

Specialty Restaurant building is located without the requirement of providing additional parking.]]<sup>137</sup>

(4) Video stores.

(5) Churches and accessory buildings.

(6) [Other similar businesses to those set forth in Section 50.1201.

(7) [A Coffee/Beverage Bar (See definition in Section 50.202(7)), subject to the following special conditions:

(a) The applicant must specify the food types and beverages to be provided to patrons.

(b) An on-site bathroom must be provided for patrons.

(c) No additional parking requirement shall be necessary for the Coffee/Beverage Bar.]]<sup>38</sup>

(8) [A single-family home, provided that:

(a) the building to be occupied as a single-family home shall have originally been built for that purpose; and,

(b) any addition to a building being used as a single-family home shall be subject to B-1 setbacks; and,

(c) if an addition is made to a building which is later converted to commercial use, appropriate parking must be provided for that additional space, subject to Planning Commission approval; and,

(d) [a building which has been converted from a commercial to single-family use may be reconverted to its immediate prior commercial use, and any requirement for off-street parking would not be required.]]<sup>66,79,149</sup>

(9) [A Fitness Center (see definition in Section 50.203), subject to the following special conditions:

(a) The applicant must provide a layout of the interior of the building space proposed for this use, which includes the location of any exercise equipment.

(b) An on-site bathroom and shower must be provided for use by the patrons.

(c) No exercise equipment shall be placed or used within eight (8) feet of any streetside window.

(d) The parking requirement for this use shall be equivalent to the general retail parking standard.

(e) The hours of operation, music and noise levels, and the method of screening the view of the interior from the street and other public ways shall be established and fixed by the Planning Commission to avoid disturbance of neighbors' businesses and the public.<sup>85</sup>

(10) [Adult Oriented Business subject to the provisions of Ordinance No. 339, as adopted by the City of Harbor Springs on August 6, 2001.]<sup>82</sup>

#### **50.1203 Building Height, Area and Yard Requirements.**

(1) Minimum front yard depth: none.

(2) Minimum rear yard depth: none.

(3) Minimum side yard width: none.

(4) Maximum lot coverage shall be equal to the first floor area of the building plus the space required for pedestrian circulation and parking as set forth in Article 18.

(5) Maximum building height shall be two (2) stories and shall not exceed thirty (30) feet.

**50.1204 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of Article 3 of this Chapter, the following signs (and the following signs only) are permitted within this District:

(1) The maximum sign area of principal signs per building in this District shall be determined under Section 50.303(9).

(2) Except as provided in Subsections (3), (4), (5) and (6), only one (1) wall sign shall be permitted per establishment.

(3) A projecting sign may be used in place of the permitted wall sign and may overhang the public right-of-way. Such sign shall not be greater in overall area than ten (10) square feet on each side with the name of the shop or proprietor and a very brief description of the main business activity. Projecting signs shall be hung at a uniform height and project no further than five (5) feet from the building wall.

(4) [A combination of up to four (4) wall/window signs and one (1) projecting sign may be used provided the combined sign area does not exceed the maximum sign area per building determined under Section 50.303(9). Each side of a projecting sign shall be counted in calculating the total allowable area even if not lettered upon. In addition to the sign area determined in Section 50.303(9), a total of two (2) pedestrian level signs are permitted at the entry of the business provided each sign does not exceed one (1) square foot in area; further, one (1) message board is permitted, provided such sign does not exceed six (6) square feet in area.

(5) If an establishment has an entrance to the Merchant's Walkway the establishment shall be permitted one (1) additional wall sign which may be located on a building wall facing the Merchant's Walkway, provided such sign shall not exceed six (6) square feet in area.

(6) If an establishment has an entrance on two (2) streets in the Central Business District, the establishment shall be permitted one (1) additional wall sign which may be located on a building wall facing the non-primary street entrance in the Central Business District (as determined by the applicant), provided such sign shall not exceed six (6) square feet in area.<sup>146</sup>

(7) The lighting of any CBD sign shall only be with white light.



(8) Temporary window signs are permitted so long as they do not exceed more than fifteen percent (15%) of the area of the window in which they are displayed. Temporary window signs may be displayed for no more than thirty (30) days and shall exhibit matter of a truly temporary nature.

(9) Banners and other appropriate displays are permitted only for commercial and institutional activities approved by the City Council.

(10) [One (1) freestanding sign is permitted provided the building housing the principal use is located more than thirty (30) feet from the public street sidewalk. Such sign shall not exceed sixteen (16) square feet in area provided the combined sign area does not exceed the maximum sign per building determined under Section 50.309(9), is no taller than five (5) feet in height, and is located at least five (5) feet from the property line, or is located on a fence or wall at the property line. Said sign shall only be located at the principal entrance side of the building housing the principal use. The Zoning Administrator may require an applicant to apply for special land use approval under Article 21 if there are questions as to the appropriateness of the proposed freestanding sign.]<sup>122</sup>

Neon and internally illuminated signs are permitted subject to the restrictions of subsection (2) above, provided no more than two (2) such signs are permitted per establishment and all such signs shall be located inside the exterior building face and the size of the neon or internally illuminated sign shall meet the following requirements:

(a) If such a sign is attached to or within fifteen (15) feet from the front window, the sign shall not exceed two (2) square feet in area.

(b) If such a sign is beyond fifteen (15) feet but less than thirty (30) feet from the front window, the sign shall not exceed four (4) square feet in area.

(c) If such a sign is beyond thirty (30) feet from the front window, the sign shall not exceed six (6) square feet in area.

(d) Any internally illuminated signs including vending machines or similar types of equipment or devices are prohibited outside the exterior of a building. Vending machines or similar equipment or devices located inside a building, containing signage provided by the supplier of the vending machine or equipment, that is related specifically to the product dispensed by the device or equipment, and that only incidentally promotes the interests of the business in which said equipment or device is located, shall be exempt from the provisions of Section 50.301 and 50.303 of this Code.]<sup>123</sup>

[An establishment is permitted to maintain One (1) small free-standing sandwich-board sign not exceeding three (3) feet in height and two (2) feet in width on the sidewalk within the extended sidelines of the front of the building in which the establishment is located, advertising that the establishment is open, or providing directions for customers, clients or patrons, provided (i) that such sign does not interfere with pedestrian movement; and, (ii) at least six (6) feet of continuous, uninterrupted and unimpeded width of sidewalk is maintained in front of the establishment at all times.]<sup>158</sup>

#### **50.1205 [Permit for Outdoor Display of Goods.**

[An establishment is permitted to have an outdoor display of goods commonly sold by the establishment within the building in which such establishment is located, provided such display (i) is located within the extended sidelines of the front of the building in which the establishment is located, and does not extend in front of a neighboring establishment's space; and (ii) such display does not extend beyond three (3) feet from the front of the building housing such establishment; and (iii) such display does not exceed ten (10) square feet in horizontal area (i.e., the "footprint" of the display does not exceed ten (10) square feet); and, (iv) such display does not interfere with pedestrian movement or present a foreseeable hazard to pedestrians; and, (v) at least six (6)

feet of continuous, uninterrupted and unimpeded width of sidewalk is maintained in front of the establishment at all times.]<sup>158</sup>

(1) Such goods may be displayed outdoors only within the extended sidelines of the building in which the applicant does business.

(2) The outdoor display of such goods must not present any foreseeable hazard to pedestrians, and such goods must be secured to prevent the goods from falling or moving so as to create a hazard.

(3) The outdoor display of goods may not reduce the unobstructed width of pavement for pedestrians to less than 6 feet.

(4) The outdoor display of goods may not be placed within 5 feet of any crosswalk, driveway or entrance/doorway of an adjacent building.

(5) No transactions or sales activities are permitted outside the building.

(6) An application for an outdoor display of goods license must be supported by a written petition signed by the owners or occupants of buildings comprising at least 60% of the street frontage on both sides of the street where the proposed outdoor display of goods is to be located (to the end of the block in both directions). Unless the required petition is obtained by the applicant, a license shall not be issued.

(7) This Section shall not apply to newspaper racks/boxes, which shall be subject to separate rules and regulations to be adopted by the City Council from time to time, nor to organized sidewalk sales separately approved by City Council, nor to displays in recessed entryways within a building, but any such display shall not reduce a path with a minimum of 44 inches of unobstructed width to the entrance/exit.]<sup>129</sup>

**ARTICLE 13  
B-1 - CONVENIENCE BUSINESS  
DISTRICT**

**50.1300 Uses Permitted.** In addition to the general regulations to which all buildings and uses are subject as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the B-1, Convenience Business District, except for the following uses:

**50.1301 Permitted Principal Uses and Buildings.**

(1) All Central Business District permitted principal uses, as regulated by this Article.

(2) [Single or two-family Dwellings.]<sup>67</sup>

**50.1302 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

(1) Restaurants, Full Line, and Restaurants, Specialty. Off street parking for such Restaurants shall be as provided in Article 18 of this Code, provided, a Full Line Restaurant may be approved as a Special Land Use without providing additional off street parking if such Restaurant satisfies the following conditions:

(a) The Full Line Restaurant is located in an existing building. If an addition is constructed for the Restaurant use, additional parking must be provided on a basis of the Full Line Restaurant parking standard.

(b) The Full Line Restaurant must have a minimum 50 seat capacity at tables or booths within the building.

(c) The Full Line Restaurant shall serve dinner only on Monday through Saturday, and shall not be open for business before 5:00

p.m. on those days. On Sunday, a brunch is permitted in addition to a dinner service, but the Full Line Restaurant shall not be open for business before 12:00 p.m. on Sunday.]<sup>76</sup>

(d) [Subject to special land use approval, a Full Line Restaurant or Specialty Restaurant offering restaurant service may use a deck, a roof top deck, a patio or other ground level space for customer seating and service on the property where the Full Line Restaurant or Specialty Restaurant building is located without the requirement of providing additional parking.]<sup>137</sup>

(2) Video stores.

(3) Vehicular service stations, subject to the following:

(a) One hundred fifty (150) feet of street frontage on the lot proposed for the service station shall be provided on the principal street serving the station. The lot shall contain not less than twenty-two thousand five hundred (22,500) square feet of lot area.

(b) All buildings shall be set back not less than forty (40) feet from all street right-of-way lines.

(c) Gasoline pumps, air and water hose stands and other appurtenances shall be set back not less than fifteen (15) feet from all street right-of-way lines.

(d) Driveway widths entering the service station, and curb openings for such driveways, shall be in accordance with specifications as set forth by the City Engineer.

(e) Curb cuts shall be no closer than ten (10) feet to any adjoining non-residential district and shall be no closer than twenty-five (25) feet to any corner of two (2) intersecting street right-of-way lines or abutting residential district.

(f) The angle of intersection of any driveway along the principal street(s) shall not be more than sixty degrees (60°).

(g) Curbs in accord with approved specification shall be constructed on all streets adjacent to the gas and service station site.

(h) Prohibited activities include the following: outdoor storage or parking of

disabled or wrecked vehicles for more than three (3) consecutive calendar days, vehicle body repair, undercoating, painting, tire recapping, engine rebuilding, auto dismantling, upholstery work, auto glass work and such other activities whose external physical effects could adversely extend beyond the property line.

(4) Churches and Accessory Buildings.

(5) Bed and Breakfast Establishments.

(6) [A Coffee/Beverage Bar (See definition in Section 50.202(7)), subject to the following special conditions:

(a) The applicant must specify the food types and beverages to be provided to patrons.

(b) An on-site bathroom must be provided for patrons.

(c) No additional parking requirement shall be necessary for the Coffee/Beverage Bar.]<sup>39</sup>

(7) [Off-street Parking Lot, subject to the following:

(a) Any illumination proposed for the parking lot shall be shielded from adjacent residential uses.

(b) Any lighting fixture shall not exceed fifteen (15) feet in height.

(c) The provisions of Section 50.1802, Construction and Arrangement of Off-Street Parking Spaces and Section 50.1803, Off-street Parking Development Regulations, shall be applicable.]<sup>142</sup>

#### **50.1303 Building Height, Area and Yard Requirements.**

(1) Minimum front yard setback shall be twenty (20) feet.

(2) Minimum rear yard setback shall be twenty (20) feet.

(3) Minimum side yard setback shall be ten (10) feet; minimum side yard setback on a

corner lot shall be twenty (20) feet measured from the side street lot line.

(4) The maximum percentage of lot coverage, along with the percentage of the lot devoted to driveways, parking lots and other paved areas, shall not exceed ninety percent (90%).

(5) Maximum building height shall be two (2) stories and shall not exceed thirty-five (35) feet.

**50.1304 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of this Chapter, the following signs (and the following signs only) are permitted within this District:

(1) One (1) principal sign shall be permitted per establishment.

(2) The maximum sign area of principal signs per building in this District shall not exceed that determined under Section 50.303(9).

(3) All signs in this District must be wall signs provided, one free standing sign with a sign area not exceeding sixteen (16) square feet if one sided, and thirty-two (32) square feet if two sided, may be permitted per lot, provided, the area of any free standing sign shall reduce the permitted sign area per building determined as aforesaid.

(4) A sign if free standing shall be set back at least five (5) feet from any lot line.

**ARTICLE 14****B-2 - GENERAL BUSINESS DISTRICT**

**50.1400 Uses Permitted.** In addition to the general regulations to which all buildings and uses are subject as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the B-2, General Business District, except for the following uses:

- (1) Any use permitted as a principal use in the B-1, Business District, subject to any restrictions on such uses in the B-1 District, excluding any single family dwellings or second story living units.
- (2) Public assembly building, similar to a theater or an auditorium.
- (3) Indoor recreational use, including a bowling alley, billiard or pool parlor.
- (4) Shop for custom work, i.e., shop for making articles or products to be sold at retail on the premises; provided that the conduct of such business is not objectionable as being odorous, unsightly or noisy.
- (5) Motor vehicle sales room.
- (6) [Commercial laundry or dry cleaner.
- (7) Combined retail-wholesale business when conducted entirely within a building, i.e., sale and storage in bulk of clothing, drugs, dry-goods, food, furniture, hardware, machinery, metals, paints, paint supplies, pipe, rubber and shop supplies.
- (8) Dental, medical or clinical laboratory.
- (9) [Shopping Center.]<sup>63,80</sup>
- (10) [Off-street Parking Lot, subject to the requirements of Article 18.]<sup>143</sup>

**50.1401 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

- (1) [Restaurants, Full Line, and Restaurants, Specialty. Off street parking for such Restaurants shall be as provided in Article 18 of this Code.]<sup>81</sup>
- (2) Hotel or motel.
- (3) Auto repair garage or car wash:
  - (a) Before a permit is issued to build, occupy or construct the above-cited uses on any site where eighty percent (80%) of the buildings within a radius of four hundred (400) feet of any part of the proposed site are used exclusively for residential dwelling purposes there shall be on file in the office of the City Manager the written consent of eighty percent (80%) of the property owners according to total frontage on any public street within a radius of four hundred (400) feet of any part of the premises whereon this use is to be occupied or constructed and not separated therefrom by more than one (1) street or one (1) alley, and the location and plans shall have been submitted to and approved by the Planning Commission of Harbor Springs.
  - (b) All wrecked or dismantled vehicles are kept within a building.
- (4) Coin operated amusement device arcade.
- (5) Video Store.
- (6) Similar business uses to those provided in Section 50.1400 above.
- (7) [A Coffee/Beverage Bar (See definition in Section 50.202(7)), subject to the following special conditions:

(a) The applicant must specify the food types and beverages to be provided to patrons.

(b) An on-site bathroom must be provided for patrons.

(c) No additional parking requirement shall be necessary for the Coffee/Beverage Bar.<sup>40</sup>

**50.1402 Building Height, Area and Yard Requirements.**

(1) Minimum front yard setback shall be twenty (20) feet.

(2) Minimum rear yard setback shall be twenty (20) feet.

(3) Minimum side yard setback shall be ten (10) feet; minimum side yard setback on a corner lot shall be twenty (20) feet measured from the side street lot line.

(4) The maximum percentage of lot coverage, along with the percentage of the lot devoted to driveways, parking lots and other paved areas, shall not exceed ninety percent (90%).

(5) Maximum building height shall be two (2) stories and shall not exceed thirty (30) feet.

**50.1403 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of Article 3 of this Chapter, the following signs (and the following signs only) are permitted within this District:

(1) One (1) principal sign shall be permitted per establishment.

(2) The maximum sign area of principal signs per building in this District shall not exceed that determined under Section 50.303(9).

(3) All signs in this District must be wall signs provided, one free standing sign with a sign area not exceeding sixteen (16) square feet

if one sided, and thirty-two (32) square feet if two sided, may be permitted per lot, provided, the area of any free standing sign shall reduce the permitted sign area per building determined as aforesaid.

(4) A sign if free standing shall be set back at least five (5) feet from any front lot line and in the case of a corner lot, from any corner side lot line.

(5) [Neon and internally illuminated signs are permitted subject to the restrictions of subsection (2) above, provided no more than two (2) such signs are permitted per establishment and all such signs shall be located inside the exterior building face and the size of the neon or internally illuminated sign shall meet the following requirements:

(a) If such a sign is attached to or within fifteen (15) feet from the front window, the sign shall not exceed two (2) square feet in area.

(b) If such a sign is beyond fifteen (15) feet but less than thirty (30) feet from the front window, the sign shall not exceed four (4) square feet in area.

(c) If such a sign is beyond thirty (30) feet from the front window, the sign shall not exceed six (6) square feet in area.

(d) Any internally illuminated signs including vending machines or similar types of equipment or devices are prohibited outside the exterior of a building. Vending machines or similar equipment or devices located inside a building, containing signage provided by the supplier of the vending machine or equipment, that is related specifically to the product dispensed by the device or equipment, and that only incidentally promotes the interests of the business in which said equipment or device is located, shall be exempt from the provisions of Section 50.301 and 50.303 of this Code.<sup>123</sup>

**ARTICLE 15  
WF - WATERFRONT DISTRICT**

**50.1500 Purpose of District.** Because the waterfront of the City of Harbor Springs is a community resource, and the only means of access, both visually and physically, to the Harbor Springs harbor, which has been the source of this community's desirability and prosperity, it is the intent of the City to restrict the waterfront from over-development, but to allow limited public, private and commercial uses which cannot be feasibly located elsewhere or which add to public enjoyment of the waterfront and public access to the water. Therefore, in addition to the general regulations to which all buildings and uses are subject, as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereinafter be erected or altered in the WF, Waterfront District, except for the following:

**50.1501 Permitted Principal Uses and Buildings.**

(1) Municipal beaches and municipal recreation areas.

(2) Private, noncommercial buildings, such as dayrooms or boat houses, and other similar buildings housing low intensive uses (excluding residences) subject to the following restrictions:

(a) Minimum lot width shall be one hundred (100) feet. Minimum lot area shall be ten thousand (10,000) square feet.

(b) Minimum front yard setback shall be twenty-five (25) feet.

(c) Minimum rear yard setback and/or minimum setback from the water's edge shall be twenty-five (25) feet. Launching ramps and docks are excepted from the rear yard setback requirement.

(d) Minimum side yard setback shall be five (5) feet.

(e) Maximum width of the buildings on a lot shall not exceed sixty percent (60%) of lot width, as measured at the street right-of-way. If there is more than one building, the total width of the buildings cannot exceed

sixty percent (60%) of the lot's width, when viewed from the street.

(f) Maximum building height shall be one (1) story and shall not exceed sixteen (16) feet.

(g) The maximum percentage of lot coverage for all buildings shall not exceed twenty-five percent (25%) of the total lot area.

(h) All dredging, construction, bulkheading or development shall be subject to the requirements of all codes and ordinances of the City of Harbor Springs and applicable State and Federal laws and rules.

(i) Site plans shall be required and subject to the review of the Planning Commission. The addition or alteration of slips, moorings, or shoreline shall require site plan review the same as other construction or alteration on shore.

(j) All screening and landscape plans shall be submitted to the Planning Commission for approval prior to installation. Fences or hedges shall not exceed three (3) feet in height in front yards, and four (4) feet in height in all other yards. Trees or other landscaping materials shall receive Planning Commission approval prior to installation, and shall be designed with concern for not adversely affecting views.

(k) All lighting for external illumination of the buildings, lot, or waters shall be directed away from and shall be shielded from adjacent residential districts.

(l) For all new construction, off-street parking shall be in accordance with Article 14 of this Chapter.

(m) Public sidewalks shall be required on adjacent streets for any new construction or additions, subject to Planning Commission review.

(3) [Municipal or private facilities for the berthing, launching, handling, servicing (including providing fuel services) and sales of recreational or commercial boats (as defined in this Code).

(4) Up to 3,000 square feet of indoor space may be used for general retail sales as an

accessory use to a facility described in (3) above, provided such facility offers all services described in (3) above, except that fuel service shall not be required.]<sup>68</sup>

- (5) Engine and hull repair shops.
- (6) Boat fuel stations.
- (7) Marine construction and maintenance equipment use and storage.

**50.1502 Permitted Accessory Uses and Buildings.** The following uses and buildings are permitted as accessory uses and buildings in this District, subject to the general restrictions set forth in Article 3 of this Chapter, and the provisions contained in this Article:

- (1) Private launching facilities.
- (2) Indoor storage of boats in a permanent structure. Up to fifty percent (50%) of such indoor storage area may be used for off-street parking from June 15th through August 31st, subject to the requirements of Subsection (3) of this Section.
- (3) Outdoor storage of recreational boats on the paved parking surface required in this Article. No parking lot shall be occupied by stored boats during the months of July and August. All such storage shall be arranged in an orderly manner and at least one-half (1/2) of the parking area shall be conveniently available for customer parking by June 15th.
- (4) Other approved accessory uses and buildings when located on the same lot as a principal use provided that such accessory use or building shall be clearly incidental to the permitted use.
- (5) Temporary buildings and uses for construction purposes not to exceed one (1) year.
- (6) [Outdoor displays of recreational boats being offered for sale by an owner having an indoor sales facility in the Waterfront District may be permitted subject to Zoning Administrator review and approval. If the Zoning Administrator has questions regarding the application of the following regulations, the Planning Commission may be requested to review the plans. The following regulations shall apply to such outdoor display of recreational boats:
  - (a) Such outdoor display of recreational boats shall be permitted only on private property not used as the public sidewalk.
  - (b) Only recreational boats commonly sold within the owner's building may be displayed outside the building.
  - (c) Such recreational boats may be displayed outdoors only on property not designated for parking or for traffic movement.
  - (d) The outdoor display of recreational boats must not present any foreseeable hazard to pedestrians, and such recreational boats must be secured to prevent the recreational boats from moving so as to create a hazard.
  - (e) The outdoor display of recreational boats may not be placed within five (5) feet of any crosswalk, driveway or entrance/doorway of a building.
  - (f) A sales sheet or description sheet of the recreational boat may be attached or placed on a stand adjacent to the recreational boat. The sales sheet or description sheet shall not exceed 8.5x11 inches in size and the stand shall not exceed a size of 11x12 inches. The height of the stand and sign shall not exceed four (4) feet.
  - (g) No more than two (2) outdoor display areas shall be permitted for the display of recreational boats. Each display area shall not occupy more than 360 square feet and may be a grass or hard surface.
  - (h) No item displayed shall exceed a height of fifteen (15) feet, excepting the mast of a sail boat from the calculation of height.
  - (i) Special or additional lighting for the display area shall not be permitted. Lighting integral with the recreational boat may be used



to illuminate the boat but shall be turned off no later than 2:00 AM.

(j) It is prohibited to display recreational boats in the Waterfront District on property other than upon the parcel of property where the indoor sales facility is located.]<sup>152</sup>

**50.1503 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission, subject to the requirements and standards of Article 21 of this Chapter:

(1) Clubs, lounges and restaurants, subject to the requirements of Section 50.1500 and 50.1504 of this Article.

(2) Uses of a similar and no more site intensive nature as permitted under Section 50.1501, subject to the requirements of Section 50.1504 of this Article.

**50.1504 Buildings, Height, Area, Yard and other Requirements.** The following provisions shall apply to the principal permitted uses as outlined in Section 50.1501 (3), (4), (5), (6), (7), and for accessory uses and buildings:

(1) Minimum lot area shall be ten thousand (10,000) square feet.

(2) Minimum lot width shall be one hundred (100) feet.

(3) Minimum front yard setback shall be twenty-five (25) feet.

(4) Minimum rear yard setback and/or minimum setback from the water's edge shall be twenty-five (25) feet. Launching facilities and docks are excepted from the rear yard setback requirements.

(5) Minimum side yard setback shall be five (5) feet.

(6) Maximum width of all buildings on a lot shall not exceed sixty percent (60%) of lot width, as measured at the street right-of-way. If there is more than one building, the total width of the buildings cannot exceed sixty percent (60%) of the lot's width, when viewed from the street.

(7) "Stepping" of roof lines is encouraged for aesthetic considerations. The average height of the building shall not exceed thirty (30) feet, and in no event shall the maximum height of any part of the building exceed thirty-three (33) feet.

(8) All dredging, construction, bulkheading or development shall be subject to the requirements of all codes and ordinances of the City of Harbor Springs and applicable State and Federal laws and rules.

(9) All site plans shall be subject to the review of the Planning Commission. The addition or alteration of slips, moorings, or shoreline shall require site plan review the same as other construction or alteration on shore.

(10) Use of wood, brick or glass on exterior street side building face is encouraged. Use of vertical steel siding on exterior street side building faces is discouraged.

(11) Parking and permitted outside storage of boats and equipment necessary and accessory to the principal use shall be provided under Article 18 and shall comply with the following conditions:

(a) All storage or parking located south of Bay Street shall be located not less than ninety-one (91) feet from the north right-of-way line of Bay Street or twenty-five (25) feet from any known south right-of-way line, whichever is the greater distance, or twenty-five (25) feet from any adjacent residential district.

(b) The most appropriate method of screening boats and equipment from view will be determined by the Planning Commission as provided in Article 19.

(c) Equipment and boat storage areas shall be continuously maintained with a hard, smooth, well-drained dust-proof surface at all times.

(d) All areas not occupied by buildings or parking lots shall be landscaped and maintained in a neat and orderly manner.

(e) Any parking or permitted outside storage of boats and equipment shall not significantly, as determined by the Planning Commission:

(i) Impair the adequate supply of light and air to adjacent property.

(ii) Increase the hazard from fire, flood, and other dangers to the site or adjacent property.

(iii) Diminish the market value of adjacent land and buildings.

(iv) Increase the congestion on the street.

(v) Otherwise impair the public health, safety, comfort and general welfare.

(f) In no event shall the outside storage of boats and equipment occupy more than fifty percent (50%) of the open, non-buildable area.

(12) All screening and landscape plans shall be submitted to the Planning Commission for approval prior to the issuance of a building permit. All screening shall be in accordance with the provisions of Article 19 and shall be reviewed with relation to the suitability of materials to be used and arrangements thereof.

(13) All lighting for external illumination of the parking area, buildings, grounds or waters shall be aesthetically consistent with the character of the waterfront area, and shall be shielded from adjacent properties, and shall not impair navigation.

(14) For all new construction, off-street parking and loading requirements shall be in accordance with Article 18 of this Chapter.

**50.1505 Signs.** Subject to the general restrictions on signs contained in Section 50.303

of this Chapter, the following signs (and the following signs only) are permitted within this District:

(1) The maximum sign area of principal signs per building in this District shall be determined under Section 50.303(9).

(2) [Except as provided in subparagraphs (3) and (4), only wall signs shall be permitted in this District.]<sup>122</sup>

(3) Subject to the overall area limitations determined under Section 50.303(9), one (1) projecting sign shall be permitted per building, with a maximum sign area not to exceed nine (9) square feet, if one-sided, or eighteen (18) square feet, if two-sided.]<sup>3</sup>

(4) [One (1) freestanding sign is permitted provided the building housing the principal use is located more than thirty (30) feet from the public street sidewalk. Such sign shall not exceed sixteen (16) square feet in area provided the combined sign area does not exceed the maximum sign per building determined under Section 50.309(9), is no taller than five (5) feet in height, and is located at least five (5) feet from the property line, or is located on a fence or wall at the property line. Said sign shall only be located at the principal entrance side of the building housing the principal use. The Zoning Administrator may require an applicant to apply for special land use approval under Article 21 if there are questions as to the appropriateness of the proposed freestanding sign.]<sup>122</sup>

(5) [Neon and internally illuminated signs are permitted subject to the restrictions of subsection (2) above, provided no more than two (2) such signs are permitted per establishment and all such signs shall be located inside the exterior building face and the size of the neon or internally illuminated sign shall meet the following requirements:

(a) If such a sign is attached to or within fifteen (15) feet from the front window, the sign shall not exceed two (2) square feet in area.

(b) If such a sign is beyond fifteen (15) feet but less than thirty (30) feet from the front window, the sign shall not exceed four (4) square feet in area.

(c) If such a sign is beyond thirty (30) feet from the front window, the sign shall not exceed six (6) square feet in area.

(d) Any internally illuminated signs including vending machines or similar types of equipment or devices are prohibited outside the exterior of a building. Vending machines or similar equipment or devices located inside a building, containing signage provided by the supplier of the vending machine or equipment, that is related specifically to the product dispensed by the device or equipment, and that only incidentally promotes the interests of the business in which said equipment or device is located, shall be exempt from the provisions of Section 50.301 and 50.303 of this Code.]<sup>123</sup>

**ARTICLE 16  
WF-I - WATERFRONT-RESORT  
DISTRICT**

**50.1600 Uses Permitted.** Because the waterfront of the City of Harbor Springs is a very limited community resource, it is the intent of the Waterfront-Resort District to allow only certain recreational, resort or public uses and those business uses which are related to the waterfront and which therefore cannot be feasibly located elsewhere. In addition to the general regulations to which all buildings and uses are subject, as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereafter be erected or altered in the WF-I Waterfront-Resort District, except for the following uses:

**50.1601 Permitted Principal Uses and Buildings.** Same as in WF, Waterfront District.

**50.1602 Permitted Accessory Uses and Buildings.** Same as in WF, Waterfront District.

**50.1603 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

(1) "Single Family Buildings", subject to the following standards:

(a) Such building shall result from the alteration or replacement of an existing structure.

(b) Such building shall be adjacent to other structures of the same general type.

(c) The proposed building shall result in the upgrading of the area.

(d) Once approved for such use, the property shall not be used in any manner for nonresidential purposes, and boat slips or moorings shall be for the personal use of the owners and on a temporary basis for their guests.

(e) The proposed single family building shall be residential in character and shall not exceed the dimensions of the existing building.

(2) Same as in WF, Waterfront District.

**50.1604 Building, Height, Area, Yard and other Requirements.** Same as in WF, Waterfront District.

**50.1605 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of Article 3 of this Chapter, the sign restrictions in the WF-I, Waterfront-Resort District, shall be the same as in the WF, Waterfront District; if special land use approval for a resort dwelling is granted under Section 50.1603 of this Article, only those signs which are permitted in the R-1 and R-2, Single- and Two-Family Residential District, are permitted.

**ARTICLE 17**  
**M-I - MANUFACTURING INDUSTRIAL**  
**DISTRICT**

**50.1700 Uses Permitted.** In addition to the general regulations to which all buildings and uses are subject, as provided in Article 3 of this Chapter, no building or premises shall be used and no building shall hereinafter be erected or altered in the M-I, Manufacturing Industrial District, except for one (1) or more of the following uses:

**50.1701 Permitted Principal Uses.**

(1) Wholesale warehouse buildings (inside storage only), i.e., storage in bulk, or warehouse for such material as building material, contractors' equipment, clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, ice, machinery, metals, paints, paint supplies, pipe, rubber, shop supplies, tobacco, wood, or similar products.

(2) [Retail-Mini Storage Warehouse Buildings (inside storage only, except that recreational vehicles, boats or trailers may be stored outside, provided such storage is not within any required setback).

(3) Boat Storage Buildings (inside storage only, except that boats, recreational vehicles or trailers may be stored outside, provided such storage is not within any required setback).]<sup>29</sup>

**50.1702 Special Land Uses.** The following special land uses and similar uses shall be permitted in this zoning district only after proper notice has been given as required by State law and after review and approval has been granted by the Planning Commission subject to the requirements and standards of Article 21 of this Chapter.

(1) Painting, varnishing or vulcanizing shop.

(2) Bottling works, including milk bottling or distribution station.

(3) Manufacture of food products.

(4) Auto repair garage or car wash.

(5) Plumbing, heating or electrical supply shop.

(6) Light manufacturing business.

(7) Lumber yard.

(8) Kennels.

(9) Veterinary hospitals or clinics.

(10) Research laboratory.

(11) Radio and television towers.

(12) Marine contractor.

(13) Exterior storage for any permitted or special land use, in this District.

(14) Offices for uses that are permitted in Section 50.1201(1).

(15) Other uses similar to any use which is permitted as a principal or special land use in this District.

**50.1703 Prohibited Uses.** Uses expressly prohibited under this Article include the following:

(1) Outside storage of wrecked motor vehicles or mobile equipment.

(2) Outside storage of used auto parts and used building materials.

(3) Outside storage of loose materials, including soil, stone, sand, gravel, coal, cinders and similar materials.

- (4) Storage of combustible or odoriferous materials.
- (5) Incubation, raising, killing or storage of fish, poultry or livestock.
- (6) Residential uses including dwellings.

**50.1704 Building Height, Area and Yard Requirements.**

- (1) Minimum front yard depth shall be thirty (30) feet (no parking allowed in the required front yard space).
- (2) [Minimum rear yard depth shall be twenty (20) feet. If the zoning of the property adjacent to the rear yard permits residential uses, at least ten (10) feet of the required rear yard depth shall be landscaped and/or screened and no parking shall be permitted within ten (10) feet of the rear lot line.
- (3) Minimum side yard depth shall be twenty (20) feet. If the zoning of the property adjacent to the side yard permits residential uses, at least ten (10) feet of the required side yard depth shall be landscaped and/or screened, and no parking lots or driveways shall be permitted in the required side yard setback (except that shared driveways between two parcels zoned M-1 may be permitted in the required side yard setback).]<sup>29,112</sup>
- (4) The maximum percentage of lot coverage shall be determined by the meeting of yard requirements by the actual use, and by the provision of required off-street parking and loading facilities.
- (5) Maximum building height shall be two (2) stories and shall not exceed thirty-five (35) feet.

**50.1705 Signs.** Subject to the general restrictions on signs contained in Section 50.303 of Article 3 of this Chapter, the following signs

(and the following signs only) are permitted within this District:

(1) One (1) principal sign shall be permitted per establishment.

(2) The maximum sign area of principal signs per building in this District shall not exceed that determined under Section 50.303(9).

(3) All signs in this District must be wall signs provided, one free standing sign with a sign area not exceeding sixteen (16) square feet if one sided, and thirty-two (32) square feet if two sided, may be permitted per lot, provided, the area of any free standing sign shall reduce the permitted sign area per building determined as aforesaid.

(4) A sign, if free standing, shall be set back at least thirty (30) feet from the street line and thirty (30) feet from any side lot line.

(5) [Neon and internally illuminated signs are permitted subject to the restrictions of subsection (2) above, provided no more than two (2) such signs are permitted per establishment and all such signs shall be located inside the exterior building face and the size of the neon or internally illuminated sign shall meet the following requirements:

(a) If such a sign is attached to or within fifteen (15) feet from the front window, the sign shall not exceed two (2) square feet in area.

(b) If such a sign is beyond fifteen (15) feet but less than thirty (30) feet from the front window, the sign shall not exceed four (4) square feet in area.

(c) If such a sign is beyond thirty (30) feet from the front window, the sign shall not exceed six (6) square feet in area.

(d) Any internally illuminated signs including vending machines or similar types of equipment or devices are prohibited outside the exterior of a building. Vending machines or similar equipment or devices located inside a building, containing signage provided by the supplier of the vending machine or equipment, that is related specifically to the product

dispensed by the device or equipment, and that only incidentally promotes the interests of the business in which said equipment or device is located, shall be exempt from the provisions of Section 50.301 and 50.303 of this Code.]<sup>123</sup>

**ARTICLE 18  
OFF-STREET PARKING FACILITIES**

**50.1800 Parking Required.** Whenever the off-street parking requirements specified in Section 50.301(4) of Article 3 of this Chapter require off-street parking space, the number of parking spaces, and the construction and arrangement and use of such off-street parking spaces shall be in accordance with the following standards and regulations:

**50.1801 Number of Off-Street Parking Spaces to be Provided.** The minimum number of off-street parking spaces by type of use for the storage or parking of motor vehicles for the use of owners, occupants, employees, customers, or visitors of buildings or uses shall be irrevocably provided and maintained on the premises occupied by such structure on the basis of the following schedule:

**(1) Residential Uses:**

(a) [Single and Two Family. Except as modified by Sections 50.301(4)(b) and 50.1201(5) and 50.1201(8), facilities for the storage or parking of motor vehicles for the use of the occupants of dwellings shall be provided and maintained on the premises occupied by such dwelling ("on site") on the basis of two (2) parking spaces for each dwelling unit.]<sup>98</sup>

(b) [Multiple Residential. Except as modified by Sections 50.301(4)(b) and 50.1201(5) and 50.1201(8), multiple-family residential dwellings shall have two (2) paved off-street parking spaces facilities for each one (1) bedroom dwelling unit. For each additional bedroom over one (1) unit, one-half (1/2) additional parking space shall be provided. All such required parking shall be provided and maintained on the premises occupied by such dwellings ("on site"), on the foregoing basis.]<sup>99</sup>

(c) Housing for the Elderly. Two (2) for each three (3) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided.

(d) Mobile Home Park. Two (2) for each mobile home plus one (1) for each

employee of the mobile home park. In Multiple Family Residential and Mobile Home Parks, a secured storage area for recreation vehicles shall be provided buffered from adjacent uses. No unlicensed motor vehicles of any type shall be parked within the development at any time except within a covered building or the enclosed storage area. In Motor Home Parks no motorized recreation vehicles or boats shall be parked on individual home sites. All group off-street parking lots shall be adequately lighted during hours of darkness, with one-half (1/2) foot candle of illumination.

**(2) Institutional Uses.**

(a) Churches or Temples. One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.

(b) Hospitals. One (1) for each one (1) bed.

(c) Homes for the Aged and Convalescent Homes. Two (2) for each three (3) beds.

(d) Elementary and Junior High Schools. One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium.

(e) Senior High Schools. One (1) for each one (1) teacher, employee or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium.

(f) Private Clubs or Lodge Halls. One (1) for each three (3) persons allowed within the maximum occupancy load as established by City, County or State fire, building or health codes plus one (1) for each one hundred (100) square feet of interior space exclusive of storerooms.

(g) Private Swimming Clubs, Golf Clubs, Tennis Clubs, or Other Similar Uses. One (1) for each five (5) member families or individuals.

(h) Sailing Clubs. One (1) for each ten (10) member families or individuals.

(i) Stadium, Sports, Arenas, or Similar Place of Outdoor Assembly. One (1) for each three (3) seats or six (6) feet of benches.



(j) Theaters and Auditoriums (Includes Commercial Theaters and Movie Houses). One (1) for each three (3) seats plus one (1) for each two (2) employees.

**(3) Business and Commercial.** Required parking for the uses specified shall be a minimum of two (2) spaces per establishment, or the number determined pursuant to the formulas set out below, whichever is greater.

(a) Shopping Center. [One (1) parking space for each three hundred (300) square feet of gross floor area, provided that this standard shall apply only to the first 2,500 square feet of full-service restaurant space, and the first 1,250 square feet of medical/dental office and/or clinic space; and provided that a theater or auditorium use is not permitted using this calculation. If determined appropriate by the Planning Commission, up to 10% of the required parking may be eliminated if replaced with screening as provided in Article 19 of this Chapter.]<sup>64</sup>

(b) Auto Wash. One (1) for each one (1) employee. In addition, waiting parking spaces equal in number to three (3) times the maximum capacity of the auto wash for automobiles awaiting entrance to the auto wash shall be provided.

(c) Agricultural Sales, Greenhouses and Nurseries. One (1) for each one (1) employee plus one (1) for each one hundred (100) square feet of both temporary and permanent area devoted primarily to retail sales.

(d) [Beauty Parlor or Barber Shop or Spa or Similar Service Establishment]. One (1) for each three hundred (300) square feet of floor space.]<sup>114</sup>

(e) Boat Berthing, In-and-Out Storage, and In-Water Storage. One (1) space for every two (2) boat berths and one (1) off-street parking space for each boat available for rent. Where launching from a boat trailer is permitted, adequate space shall also be provided for the storage of boat trailers as part of any parking plan.

(f) Bowling Alleys. Eight (8) for each one (1) bowling lane.

(g) Dance Halls, Pool or Billiard Parlors, Roller or Ice Skating Rinks, Indoor Tennis Facilities, Exhibition Halls, and Assembly Halls without Fixed Seats. One (1) for each twenty-five (25) square feet of interior space exclusive of storerooms.

(h) [Drive-In Establishments and Drive-In Food Establishments]. One (1) parking space for each two (2) employees, plus one (1) parking space for each two (2) seats intended for patrons within the building, plus one (1) parking space for each twenty (20) square feet of building floor area.

(i) Restaurant - Full Line. One (1) for each one hundred (100) square feet of floor space.

(j) Restaurant - Specialty. One (1) for each three hundred (300) square feet of floor space.

(k) Furniture and Appliance, Household Equipment, Repair Shops, Showroom of a Plumber, Decorator, Electrician, or Similar Trade, Shoe Repair and Other Similar Uses. One (1) for each five hundred (500) square feet of floor area. For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.

(l) Automobile Service Stations. Two (2) for each lubrication stall, rack, or pit; and one (1) for each gasoline pump.

(m) Laundromats and Coin-Operated Dry Cleaners. One (1) for each two (2) washing machines.

(n) Miniature, "Par-3" Golf Courses. Three (3) for each one (1) hole plus one (1) for each one (1) employee.

(o) Mortuary Establishment. One (1) for each fifty (50) square feet of assembly room floor space, parlors and slumber rooms.

(p) [Motel, Hotel, Condo-Hotel or Other Commercial Lodging Establishments]. One (1) for each single bedroom lodging unit, one and one-quarter (1.25) for each two-bedroom lodging unit, and one and one-half (1.5) for each three-bedroom or greater unit.]<sup>106</sup>

(q) Motor Vehicle Sales and Service Establishment. One (1) for each two hundred (200) square feet of floor space of sales

room and one (1) for each one (1) auto service stall in the service room.

(r) Museum or Art Gallery. One (1) for each four hundred (400) square feet of floor space.

(s) Retail Stores, Including Food Market - Full Line, Except as Otherwise Provided Above. One (1) for each three hundred (300) square feet floor space.

(t) Specialty Shops, Including Food Market - Specialty. One (1) for each three hundred (300) square feet of floor space.<sup>77</sup>

(4) **Offices**. Required parking for the uses specified shall be a minimum of two (2) spaces per establishment, or the number determined pursuant to the formulas set out below, whichever is greater.

(5) **Banks**. One (1) for each three hundred (300) square feet of usable floor space.

(6) **Business Offices or Professional Offices - General**. One (1) for each three hundred (300) square feet of floor space.<sup>61</sup>

(7) **[Professional Offices of Doctors, Dentists or Similar Professions]**. One (1) for each three hundred (300) square feet of floor space.<sup>115</sup>

(8) **Industrial or Wholesale Establishments**. Five (5) plus one (1) for every one and one-half (1½) employees in the largest working shift, or one (1) for every five hundred (500) square feet of floor space, whichever is determined to be the greater.

(9) **Waterfront Storage Buildings and Marine Work Areas**. Two (2) plus one (1) for every one (1) employee in the largest working shift, plus one (1) for every fifteen hundred (1500) square feet of storage or work floor space. If there is no concurrent dock or berthing space (with parking as provided in Subsection 3[e] above) roughly equivalent to the number of boats stored, then the excess boat space shall provide parking at the rate of one (1) space for each three hundred (300) square feet of storage

space. Ship's store retailing and office use areas parking shall be tabulated according to the requirements for such uses shown elsewhere in this Section of this Chapter.

(10) **Similar Uses**. In the case of a use not specifically mentioned, the requirement for off-street parking facilities for a use which is so mentioned and which said use is similar as determined by the Planning Commission shall apply.

(11) **Off-Street Waiting Area for Drive-Through Facilities**. On the same premises with every building, structure or part thereof erected and occupied for the purpose of serving customers in their automobiles by means of a service window, washing bay, or similar arrangement, there shall be provided three (3) off-street waiting spaces for each service window or service bay. A waiting space shall be twenty-three (23) feet long by ten (10) feet wide.

(12) **Off-Street Loading Zone**. One (1) off-street loading and unloading space shall be provided on the premises of each building or structure which exceeds two thousand (2000) square feet in gross floor area and which is occupied for manufacturing, storage, warehouse, wholesale or retail purposes or for other uses which involve the receipt or distribution of merchandise: Provided, that the number of off-street loading and unloading spaces provided shall be sufficient to insure that loading and unloading vehicles shall not unduly interfere with the public use of streets and alleys. No such space shall be located closer than fifty (50) feet to any lot in any residence district unless wholly within a completely enclosed building or enclosed on all sides by a wall as specified by the Planning Commission.

(13) **Definition of Floor Area for Parking Space Requirements**. For the purposes of this Chapter, "Floor Area", for residential and commercial types of uses, are as defined in Sections 50.203(10) and 50.203(11).

**(14) Rounding Off of Parking Space Requirements.** When units or measurements determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.

**50.1802 Construction and Arrangement of Off-Street Parking Spaces.**

(1) No land shall be used for off-street parking purposes until approved by the Planning Commission.

(2) Parking Plans shall be submitted in triplicate to the Planning Commission for review and approval of layout, points of access and compliance with this Chapter.

(3) All off-street parking spaces shall be side by side and tandem parking shall be prohibited, provided tandem parking is permitted for one- (1) and two- (2) family dwellings.

(4) All spaces shall be laid out in the dimension of nine by twenty (9 x 20) or one hundred eighty (180) square feet of space.

(5) All spaces shall be provided adequate access by means of maneuvering lanes.

(6) Plans for the layout of the parking lot shall show a total dimension across two (2) tiers of spaces and one (1) aisle (maneuvering lane), of at least the following in the various patterns:

(a) Ninety degree (90°) pattern - Sixty-four (64) feet for two (2) tiers of space and one (1) aisle (maneuvering lane), with the minimum aisle being twenty-four (24) feet in width.

(b) Sixty degree (60°) pattern - Sixty (60) feet for two (2) tiers of spaces and one (1) aisle (maneuvering lane), with the minimum aisle being eighteen (18) feet in width.

(c) Forty-five degree (45°) pattern - Fifty-two feet six inches (52'6") for two (2) tiers of spaces and one (1) aisle (maneuvering lane), with the minimum aisle being thirteen (13) feet in width.

(7) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles and shall meet the standards of the Police Chief and City Engineer and this Chapter.

(8) Entrance to such area shall be only from an adjoining principal use or adjoining alley, or street.

(9) [All parking areas required shall be paved with concrete or bituminous material in accordance with plans approved by the Building Inspector, except as hereinafter provided. Such concrete pavement shall be of a minimum thickness of six (6) inches and any bituminous paving shall be of a minimum thickness of two (2) inches and shall be placed upon a base of cinders or gravel of a minimum thickness of four (4) inches. Alternatively, all parking areas required for detached single-family dwellings and detached two- (2) family dwellings may be paved with gravel or a flat stone of a minimum thickness of four (4) inches. The Planning Commission may approve an alternative to the requirements of this sub-section where a more imaginative paving solution is presented that is more attractive while still providing for orderly parking, proper drainage, adequate load bearing and dust control.]<sup>9</sup>

(10) All parking areas shall be constructed in a manner so as to provide for adequate drainage of surface water from the parking area to some suitable place for storage, run-off or removal. Plans for the development of a parking lot or off-street parking area shall include a plan for drainage which shall be approved by the building inspector prior to construction of said off-street parking area. No drainage system shall permit the run-off of surface water onto adjacent properties or into the sanitary sewer system.

(11) Side yards shall be maintained for a space of not less than ten (10) feet between the side lot lines adjoining residential lots and the parking area. The depth of the front yard or setback line from the street as established for houses on any block in any given residential area shall be continued and made applicable to parking space if located within such residential area and it shall be unlawful to use the space between such setback line and the sidewalk for the parking of motor vehicles; provided, however, that the barrier specified in the next succeeding Section shall be located in the setback line as herein required.

(12) Whenever such parking area adjoins residential property and/or residential street or alley, a protective wall or greenbelt shall be erected and maintained between the required yard space and area to be used for parking. On such other locations where a protective barrier is required, the use of an ornamental masonry wall, cyclone fence, and/or dense shrubbery shall be determined by the Planning Commission. All required walls, fences or other barriers shall be properly maintained, kept free of debris, signs or any advertising whatsoever. Bumper guards (comprising either a curb at least six [6] inches high or steel posts twenty-four [24] to thirty [30] inches high and not more than five [5] feet apart, set three [3] feet in concrete) shall be provided to prevent vehicles striking said wall or shrubbery.

**50.1803 Off-Street Parking Development Regulations.** An approved off-street parking area as permitted under this Section shall be subject to the following regulations:

- (1) No repairs or service to vehicles and no display of vehicles for purpose of sale shall be carried on or permitted upon such premises.
- (2) All advertising signs shall conform to the requirements of this Chapter.
- (3) All land between the lot boundaries of the lot on which is located a parking area and the

barriers hereinafter referred to, as well as the surface of the parking area, shall be kept free from tall grass, weeds, rubbish, refuse and debris, and shall be landscaped to conform with the general character of the district.

(4) When lighting facilities are used, reflectors shall be installed to reflect the light away from residential areas and uses.

(5) Off-street parking lots shall not be used for the parking or storage of wrecks, junk cars or junk vehicles.

(6) Whenever the lot does not meet the specifications set forth in this Chapter, the Zoning Administrator shall give notice to the property owner to repair the same within a specified time, and if such repairs are not made in accordance with such notice, he shall order the lot closed forthwith; and such land or lot shall not be used for parking until repairs have been made and approved by the Building Inspector.

**ARTICLE 19**  
**SCREENING REQUIREMENTS**

**50.1900 Screening, Generally.** The following provisions shall apply to all screening required to be maintained by the provisions of this Chapter:

(1) **Screening, Generally.** Required screening shall be located on the lot line except where underground utilities, topography, existing mature trees or drainage requirements interfere and except in instances where this Chapter requires conformance with front yard setback lines in abutting residential districts. Required walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential district that abuts a residential district when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration in reviewing such request.

(a) Such walls or other screening barriers shall only have openings for vehicular traffic, service or pedestrian purposes. Where permitted, the openings shall be so spaced as to maintain the obscuring character required, and shall not reduce the minimum height requirement.

(b) Screening walls must rest on a concrete foundation which stands at least forty-two (42) inches in depth below the finished grade of the land.

(c) Such walls shall be of a reasonable width and height including a stone or concrete coping which may project not more than one (1) inch beyond each side of the wall.

(d) No such wall shall be constructed of exposed concrete block or cinder block nor shall it be painted.

(2) **Screening Walls Required.** Whenever a masonry wall is required, approval of the Planning Commission for the proposed screening wall shall be obtained prior to the issuance of a zoning permit. If the height of said wall is not specifically set forth in this Chapter, then the wall shall be not less than four (4) nor

more than six (6) feet in height. It shall be constructed of face brick or poured concrete decorative material and shall, as much as possible, harmonize with the general character of the neighborhood. The color of the brick or facing shall be compatible with other similar material used in the immediate vicinity within five hundred (500) feet of the proposed use and in the same district. When, to enhance the value of the property, or for the general welfare, health and safety of the residents of the City, and in harmony with the general plan to develop the property, the Planning Commission, upon request of the person seeking a building permit, may determine that a green-belt buffer strip of trees and shrubs, of not less than eight (8) feet in width, together with a four- (4) to six- (6) foot chain link fence, with or without obscuring pickets, may be used in place of the masonry wall. The Commission may also, under the same circumstances, permit a fully landscaped earth mound, known as an earth berm, to be substituted for the wall or greenbelt. Snow plowing and snow removal on the site shall be considered in granting any such permit.

(3) **Greenbelt Required.**

(a) If a greenbelt is required, it shall be at least eight (8) feet wide and shall be constructed to the following standards:

(i) Plant materials shall not be placed closer than four (4) feet from the fence line or property line.

(ii) Plant materials shall be planted in two (2) or more staggered rows.

(iii) Evergreen trees shall be planted not more than five (5) feet on centers.

(iv) Narrow evergreen shall be planted not more than three (3) feet on centers.

(v) Deciduous trees shall be planted not more than thirty (30) feet on centers.

(vi) Tree-like shrubs shall be planted no more than ten (10) feet on centers.

(vii) Large deciduous shrubs shall be planted not more than four (4) feet on centers.

(b) All plant material shall be approved by the Planning Commission as to its suitability.

(4) Unless otherwise expressly directed by the provisions of this Chapter, all screening shall be provided when required along and immediately joining the zoning district boundary line or property line and shall be installed so as to lie wholly on the land of the proposed development.

(5) All screening required by this Chapter shall be completely installed prior to the issuance of an occupancy permit for the use of the premises, except as provided hereinafter.

(6) In any case where the development of the land or buildings has been fully completed and an occupancy permit would otherwise issue, and the complete installation of the screening required is prevented by inclement weather or acts of nature beyond the control of the owner, then, in that event the owner may obtain a temporary occupancy permit for a period not exceeding six (6) months from the Zoning Administrator upon written request therefor, provided said owner may:

(a) Deposit security with the City Treasurer in the form of cash or a corporate surety bond in an amount equal to the cost of the complete installation of the prescribed screening plus an additional ten percent (10%) thereof as determined by the enforcing officer. The additional sum of ten percent (10%) is hereby determined to be the reasonable additional expense incurred by the City in causing the complete installation of the screening as may be required and as provided in Subsection (c) below, and

(b) Complete the installation of the required screening in the time required by the terms of the temporary occupancy permit. Upon complete installation in that event, the security deposit required hereunder shall be cancelled and returned to the depositor upon demand. Upon failure to completely install the screening as required herein, the security deposit required above shall be forfeited as liquidated damages,

the same hereby being declared to be reasonable in view of the difficulty of more exact ascertainment of the damage incurred as a result of such failure.

(c) If the security deposit is forfeited as provided in Subparagraph (b) above:

(i) The Zoning Administrator after specific authorization by the City Council shall expend such amount as has been authorized by the Council not exceeding the total amount of the security deposit to cause the required screening installation to be made.

(ii) The enforcing officer shall not issue a regular occupancy permit until the screening required is completely installed, and

(iii) Use or occupancy of the premises after the expiration of the temporary occupancy permit and before the issuance of a regular occupancy permit shall be unlawful and a violation of this Chapter.

(7) The Planning Commission may waive or modify any of the foregoing requirements where cause can be shown that no good purpose would be served. The Planning Commission may modify the fence or wall requirement if the developer submits a more suitable landscape plan.

**ARTICLE 20**  
**SITE PLAN REVIEW AND APPROVAL**

**50.2000 Site Plan Review, Generally.** The following provisions shall apply to all site plans required under the provisions of this Chapter.

**50.2001 Review Criteria.**

(1) **Review Criteria.** The Planning Commission shall review each Site Plan and shall not approve same unless it shall find, in its collective judgment, that the Site Plan, as supplemented by factual data provided by the Applicant, shows:

(a) That any proposed service roads, driveways, sidewalks, crosswalks and parking areas are so related to each other within the site, and so related to the local streets bordering the site that pedestrian and vehicular traffic is not endangered and that the likelihood of accidents and congestion is minimized.

(b) [That all the development features, including the principal building or buildings and any accessory buildings, or uses, open space, and any service roads, driveways, sidewalks, crosswalks and parking areas shall be so located and related as not to create a nuisance to adjacent property owners, and to minimize the adverse effects upon adjacent property, such as, but not limited to the lack of adequate screening or buffering of parking or service areas, the accumulation of litter, production of noise, light, smoke, fumes, or the piling of plowed snow. That the exterior architectural design of all proposed structures to be built or modified shall be in aesthetic harmony with the overall appearance and development of the City of Harbor Springs, as exemplified by existing structures within the zoning district where the proposed structure is to be located, so that the unique architectural character of Harbor Springs is thereby protected, maintained or enhanced. Building groupings and circulation routes of traffic shall be located so as not to interfere with police or fire equipment access. Public streets, sidewalks and crosswalks adjacent to or through the proposed development shall be required when it is essential to promoting and protecting

the public health, safety and general welfare and to provide continuity to the public road system.]<sup>20</sup>

(c) If the Planning Commission find that the Site Plan as submitted contains the required information set forth in Subsection (2), and meets the requirements of Subsections (a) and (b) of this Subsection (1), and conforms to the other requirements of this Chapter of the Harbor Springs City Code, the Site Plan shall be approved.

(2) **Site Plan Submittal Requirements.** A required Site Plan shall consist of the following:

(a) A Site Plan Review Application, which shall be furnished in the number of copies required by the Zoning Administrator together with the same number of Site Plan drawings.

(b) A Site Plan drawing which shall be prepared by and carry the seal of the registered architect, landscape architect, community planner, land surveyor, or professional engineer who prepared it. In the case of minor structural changes, such as moving a partition inside a building or converting an unused room into a store area or storage space, or similar uses, in which the services of a professional architect or engineer are not required, no seal of any of the above named professionals shall be required on the plan, unless it is required by the Building Code.

(c) The Site Plan drawing shall contain the legal description, proposed address, and zoning of the particular site and all adjacent properties.

(d) The Site Plan drawing shall be drawn to a minimum scale of one inch equals 50 feet (1" = 50') for less than five (5) acres and one inch equals one hundred feet (1" = 100') for five (5) acres or more, and shall contain scale, date, revisions, north point and size in acres. A general location map at a scale of four inches equals one mile (4" = 1 mi.) giving site location is also required on the Site Plan.

(e) Existing and proposed topography drawn to at least two (2) foot contour intervals [five (5) foot intervals in the vicinity of the Bluff] shall be shown on the Site Plan drawing. Benchmarks for the elevations

shown on the drawing shall be properly indicated.

(f) Indications of trees and shrubs shall only be used on the Site Plan drawing where trees and shrubs exist or where such vegetation will be planted prior to occupancy. All such trees and shrubs shall be labeled as to size and whether existing or proposed. Whenever a tree or group of trees of three- (3) inch caliper or greater is to be removed as part of the planned improvements, its or their location shall be shown on the Site Plan drawing in dotted outlines and noted "to be removed".

(g) For multiple-family and mobile home residential uses, the following additional information shall be required (all dimensioned):

- (i) Density calculations.
- (ii) Gross and net acreage figures.
- (iii) Existing buildings, or improvements on the site and all land adjacent to the site within one hundred (100) feet shall be shown.
- (iv) Designation of units by type of buildings.
- (v) Interior sidewalks, and sidewalks within right-of-way.
- (vi) Typical floor plans.
- (vii) Building elevations (front, side and rear views) including [color,]<sup>20</sup> type of surface material and design for all exterior surfaces.
- (viii) Hydrant locations.
- (ix) Exterior lighting locations and methods of shielding.
- (x) Carport locations and details.
- (xi) Trash receptacle location and method of screening.
- (xii) Front, side and rear yard dimensions.
- (xiii) Building length and width dimensions.
- (xiv) Parking spaces.
- (xv) Greenbelt, wall or berm locations, and cross sections.
- (xvi) Landscape plan.

(xvii) Dedicated road or service drive right-of-way and pavement widths and lengths.

(xviii) Drive or street approaches including acceleration, deceleration and passing lanes.

(xix) Community buildings details and method of fencing swimming pool, if applicable.

(xx) All utility lines serving the area located on the site.

(xxi) Soil borings, locations and summary report data shall be shown where soil quality may be in question.

(xxii) Surface drainage and a drainage plan, as approved by seal of a registered engineer to be obtained at the applicant's expense, and approved by the City Engineer.

(xxiii) Transformer pad location and method of screening.

(h) In the case of non-residential uses (i.e., commercial, industrial, special purpose, and waterfront district development) the following information shall be required in addition to the applicable data requested in Subsection (g) above:

- (i) (Loading and unloading zones.
- (ii) Total floor area.
- (iii) Designation of fire lanes.
- (iv) Where large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimension, and other data of all such equipment or machinery shall be indicated.
- (i) Separate drawings of proposed sign(s) to be erected on the site may be submitted at the time of Site Plan review or at a later date. The location of all signs shall be shown on the Site Plan but the following detailed information may be deferred until later:
  - (i) Height of the sign above the ground.
  - (ii) Surface of the sign (material and dimension).
  - (iii) Area of sign surface.



(iv) Lettering of sign drawn as it will appear on the erected sign need not be in the style of the finished sign but must be neatly printed in the size and of a weight approximating that of the final constructed sign.

(v) Method of illumination, if any.

**(3) Procedures.**

(a) A Site Plan, together with the required fees, shall be submitted to the Zoning Administrator who shall check the submission for completeness and date. If the Site Plan appears to include the necessary information, the Zoning Administrator shall next submit the Site Plan to the Planning Commission for review.

(b) Where Site Plan review is required by the Planning Commission under the terms of the Chapter, a Site Plan fee may be required to cover the cost of such reviews including planners, engineers and other such professional services in accordance with a schedule of fees as determined by the City Council.

(c) The Site Plan shall be reviewed by the Planning Commission with reference to the specific requirements of this Chapter, including those items listed in Subsections (1)(a) and (1)(b) above. The Commission may request review and comment from the City Engineer or Planner. If not approved, the reasons shall be stated in writing and a copy promptly supplied to the applicant.

(d) The Planning Commission may impose such conditions or limitations in granting approval as may be permitted by State law or this Chapter which it deems necessary to fulfill the spirit and purpose of this Chapter. The conditions may include: conditions 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.

Conditions imposed shall do all the following:

(i) Be designed to protect natural resources, the health, safety, and welfare, as well as 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.

(ii) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(iii) Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Chapter for the land use or activity under consideration; and be necessary to insure compliance with those standards.

(iv) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain a record of changes granted in conditions.

(e) A Site Plan approval shall be valid for not more than one (1) year after the date the site plan is approved. If work pursuant to an approved Site Plan has not begun, or premises are not used under the terms of that approval within said one (1) year, or within nine (9) months of the date of obtaining a zoning permit, whichever first occurs, or if such use or work has been abandoned for a period of nine (9) months, the approval shall lapse, and the approval becomes null and void unless renewed or extended by specific Planning Commission action. If approval is not extended before its expiration, then a new application and a new approval shall be required before a building permit may be issued.

The Planning Commission may require a suitable performance bond to the City to assure the satisfactory completion of the site development.

(f) No more than one site plan shall be in effect for any one property. Any subsequent approvals of a site plan shall be

deemed an amendment to or revocation of a previously-approved plan, as appropriate.

(g) An applicant for a Site Plan approval may appeal the decision of the Planning Commission to the Zoning Board of Appeals under Article 24 of this Chapter.

**ARTICLE 21  
SPECIAL LAND USE APPROVAL**

**50.2100 [Special Land Use Approval Requirements.]** For all special land uses, a Site Plan shall be submitted to the Planning Commission and conform to the requirements of procedures for Site Plan review as described in Section 50.2000. If the plans meet the required standards of this Chapter, Article and applicable Section and indicate no adverse effects which in the opinion of the Planning Commission could cause injury to the residents, users or adjoining property, or the City as a whole, the Planning Commission shall approve the use. The Planning Commission shall have sole power to approve or disapprove all special land uses. In consideration of all applications for special approval use, the Planning Commission shall review each case individually as to its applicability and must review each of the following standards of the proposed special land use if it is to be approved. Such uses shall be subject to conditions, restrictions and safeguards deemed necessary within the scope of the law as set forth above.

(1) The proposed special land use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

(2) The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous or congested than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicular interfacing in residential districts.

(3) The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to

eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke or lights.

(4) The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

(5) The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the City.

(6) The proposed use shall be so designated, located, planned and be operated that the public health, safety and welfare will be protected.

(7) The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

**50.2101 [Cluster Zoning Option.]** The primary objective of the cluster zoning option is to preserve open space or specific geologic features for the common use and enjoyment of property owners by the clustering or grouping together of housing units. This option shall not increase the number of dwelling units otherwise permitted on a parcel of property. (See Section 50.301(12), Maximum Density, Residential.)

If an applicant requests special land use approval of a cluster zoning option, the Planning Commission shall consider the following, in addition to the review criteria found in Section 50.2100 above:

After notice and hearing as required by MCLA 125.584(b); MSA 5.29(2), as amended, the Planning Commission may approve cluster zoning for a development project in those districts where cluster developments are permitted, subject to the conditions hereinafter set forth.

The cluster option is only available to innovative developments, or those substantially affected by unique geographic, topographic, or natural or manmade features that may otherwise be lost in a normal development process. No increase in density of use of a site is permitted. The development must justify permitting the alteration of use, area, height, bulk or placement requirements. It must be determined that the cluster development is compatible with the overall character of the district in which it is proposed and will not be injurious to adjoining property. Cluster approval is limited to single family, duplex and multiplex buildings on a minimum lot size of one (1) acre. The Planning Commission shall review any application for cluster development and determine whether or not the proposed development best serves the intent of this ordinance, and the public health, safety and welfare.

In reviewing an application for a cluster zoning option, the following must be considered:

- Location
  - Density
  - Adequacy of Schools, Parks and Other Public Facilities
  - Traffic Volume and Circulation
    - Pedestrian Circulation
  - Compatibility with Existing Area Development
    - Adequate Provision for Light and Air
    - Accessibility for Fire and Police Protection
- Before a vote on whether to approve cluster zoning, the Planning Commission must consider each of the following standards:

- (1) Is the proposed plan innovative, or is it a plan substantially affected by unique

geographic, topographic or natural or manmade features?

- (2) Is the public health, safety and welfare better served by this proposal than other legal alternatives?

- (3) Is the proposal compatible with objectives of the Master Plan?

- (4) Have adequate provisions been made for streets/driveways and parks/open space?

- (5) If applicable, are exceptions from district regulations within reason to this Chapter?"<sup>30</sup>

**50.2102 Decision by Commission.** After the Planning Commission has reviewed all seven (7) standards in Section 50.2100, and all five (5) standards in Section 50.2101 when applicable, it may then give final consideration to the proposed special land use. Approval of the proposed special land use, or approval with conditions will require a minimum of six (6) affirmative votes of the Planning Commission. In the event six (6) affirmative votes on a motion to approve a proposal are not received, the proposal will be deemed to have been denied.

Approval or denial of special land uses shall be governed by the following:

- (1) **[Approval.** If the Planning Commission determines that the particular special land use(s) should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in writing thereon the particular use(s) which has been allowed. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special approval use so approved. In all cases where a particular special land has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the City not later than one (1) year thereafter, or such approval shall automatically be revoked; provided, however, the Planning Commission

may grant an extension thereof for good cause shown under such terms and conditions and for such period of time not to exceed six (6) months as it shall determine to be necessary and appropriate.]]<sup>147</sup>

(2) **Denial.** If the Planning Commission shall determine that the particular special land use(s) requested does not meet the standards of this Chapter or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the City, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial.

(3) **Record.** The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed. The Planning Commission may impose such conditions or limitations in granting approval as may be permitted by State law or this Chapter which it deems necessary to fulfill the spirit and purpose of this Chapter. The conditions may include: conditions 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.

Conditions imposed shall do all the following:

(a) Be designated to protect natural resources, the health, safety and welfare, as well as 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 the zoning regulations; be related to the standards established in this Chapter for the land use or activity under consideration; and be necessary to insure compliance with those standards.

(d) The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action and shall remain unchanged except upon the mutual consent of the approving authority and the landowner. The Planning Commission shall maintain a record of changes granted in conditions.

**50.2103 Appeal.** A proposal which has been denied by the Planning Commission under this Article may not be appealed to the Zoning Board of Appeals.”]]<sup>16,21</sup>

[ARTICLE 22 DELETED]]<sup>16,20</sup>

**ARTICLE 23  
PLANNED UNIT DEVELOPMENT**

**50.2300 Planned Development.** The provisions of this Article shall apply only to those districts where planned developments are permitted.

(1) **Intent.** It is the intent of this Special Use to provide a more desirable living environment by retaining the natural character of the City through the preservation of open spaces, woodlands, streams, ponds, waterfrontage, hills, and similar natural assets. It is further intended that this permitted use encourage a more creative approach to residential development through the planned reduction or grouping of lots while maintaining the overall density of the zoning district.

(2) **General Provisions.**

(a) Minimum site shall be ten (10) acres.

(b) Ownership shall be under one proprietor and shall be developed and administered as an integral unit. ("Proprietor to be defined as a person, firm, association, partnership, corporation or combination of any of them, which may hold any interest of ownership in the Planned Development.")

(c) Average residential density shall not exceed one (1) dwelling unit per acre.

(d) For all area gained through the reduction or grouping of lots, an equal area shall be set aside for the common use of the lot owners or residents within the development. This area shall be under legal procedure which shall grant a covenant or deeded interest therein so that it shall be assured of remaining undeveloped.

(3) **Permitted Uses and Structures.** Within any Planned Development, no structure shall hereafter be used, erected, converted or altered externally in whole or in part if said use is not in accordance with the intent as stated in this Section except as otherwise provided in this Ordinance, for any other than one or more of the following-permitted uses:

(a) Principal Uses and Structures.

(i) Single family residences.

(ii) Recreational areas for the private use of the Planned Development lot owners including, but not limited to, golf courses, tennis courts, swimming pools and skiing trails.

(iii) Open spaces including, but not limited to, fields, wooded areas, streams, ponds, waterfront parks and scenic hills.

(iv) General farming.

(b) Accessory Uses and Structures.

(i) Carports and garages.

(ii) Clubhouses and structures incidental to permitted recreational uses.

(iii) Barns and structures associated with general farming, provided that they are located on the designated individual lot.

(4) **Area, Height and Placement Regulations.** Within any Planned Development, no structure shall hereafter be used, erected, converted or altered externally in whole or in part if said use is not in compliance with the following regulations:

(a) Maximum height: 35

(b) Minimum lot area:

(i) Single Family Dwelling: 8,000 sq. ft.

(c) Minimum yards:

(i) Front: 25

(ii) Side: 15

(iii) Rear: 40. The Planning Commission may reduce this requirement for individual lots if the rear yard of the lots abuts common land, open space or recreation area as required in Paragraph (4) under General Provisions, above.

(d) **Perimeter Setbacks:** There shall be a required yard along all exterior boundary lines of the Planned Development site which shall not be less than the minimum yard requirements for the R-1 Single Family Residential Estate zoning district.

(5) **General Site and Development Requirements.**

(a) **Access Drive.** There shall be hard-surfaced access drives which shall provide unrestricted access to a public road or highway from the Planned Development site. There shall be a distance of no less than 600 feet between access drives along public roadways.

(b) **Parking.** There shall be hard-surfaced, well-drained, off-street parking areas within the Planned Development at the following ratios:

(i) Residences: 2 spaces per dwelling.

(ii) Mixed or combined uses in the same lot; sum of requirements for the individual uses computed separately.

**(6) Application Requirements.** The Application for a Special Use Permit for the Planned Development will be accompanied by all necessary plans, drawings, specifications and reports indicating all proposed structures and facilities in the Planned Development. For unsubdivided land, all of the Site Plan requirements of Article 20 shall be met. For subdivided land, all the requirements for the submission of a tentative preliminary plan shall be met. Concept sketches and preliminary drawings may be submitted prior to the final official submission (one-half the applicable fee will be charged for concept submission with balance due at the time of full submission).

**50.2301 [Planned Development – Central Business District (CBD) Overlay.** The provisions of this Section shall apply only to that portion of the Central Business District lying west of Gardner Street, south of Main Street, east of Spring Street, and north of Bay Street in the City of Harbor Springs. This area of the CBD shall be hereinafter referred to as the “CBD PD District.” The regulations of this Section 50.2301 shall be referred to as the “CBD District PD Overlay,” and are available at the option of an applicant for zoning approval of a proposed project (a “Planned Development”) within the CBD PD District.

**(1) Intent.** It is the intent of this Special Use to accomplish the objectives of the Zoning

Code through a land development review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the Central Business District by encouraging innovation in land use, design, layout and type of structure constructed; to achieve economy and efficiency in the use of land, natural resources, energy and to provide better employment and economic development and shopping opportunities particularly suited to the needs of the community and the Central Business District.

**(2) General Provisions.**

(a) The minimum lot size for any Planned Development in the CBD PD District shall be .5 acre (21,780 square feet). Unless a site has such a minimum area, it shall not qualify for Planned Development under this Section.

(b) Ownership shall be under one Proprietor and the Planned Development shall be developed and administered as an integral unit (“Proprietor” is defined as one person, partnership, corporation or limited liability company owning the site).

**(3) [Permitted Uses and Structures.** Within any Planned Development in the CBD PD District, no structure shall hereafter be used, erected, converted or altered externally in whole or in part unless such structure could be permitted as a principal or special land use within the underlying zoning district where the structure is to be located.]<sup>150</sup>

**(4) Height and Density Regulations.** Within any Planned Development in the CBD PD District, the height and story limitations of Section 50.1203 shall not be modified, unless the applicant shall show by good and sufficient evidence, and City Council, upon recommendation of the Planning Commission, shall find, in its discretion, as follows:

(a) that facilities benefiting the public at large, or the general Downtown District are to be provided within the Planned Development, such that a variation from a strict

application of the height and story limitations is appropriate under the circumstances; or,

(b) there are dedications of open space within the proposed project that make a better site development than if the strict application of the height and story limitations were adhered to; or,

(c) that the project as a whole promotes desirable economic development in the Central Business District to such an extent, and the economics of the project are such, that a variation from a strict application of the height and story limitations is appropriate under the circumstances; and,

(d) that the project as a whole promotes the health, safety and welfare of the City of Harbor Springs; and,

(e) that the project will not cause the interests of adjacent property owners to be damaged or injured.

Upon the Council's finding in the affirmative as to one or more of items (a), (b) and (c) above, and both of (d) and (e), a variation of the height restriction of the CBD regulations may be granted, but not to more than 39 feet, and a variation of the story limitation of the CBD regulations may be granted, but not to more than three (3) stories [, provided structures for a commercial use in the CBD PD District may be permitted on a roof top deck of a building to serve the primary principal use of the building or an accessory use, subject to special land use approval by the Planning Commission and the following special restrictions:

(i) No structure shall extend more than forty-nine (49) feet high.

(ii) Any structure other than a restroom or mechanical, heating, or cooling element or one that is required by the Building Code as a health or safety feature, or one that is determined by the Planning Commission to be essential to the proposed roof top deck usage, must be one that provides shade or other protection from inclement weather, and must have at least fifty (50%) percent of the side wall areas open, so that the structure is not enclosed.]<sup>137</sup>

**(5) [Dimensional Regulations.** Within any Planned Development in the CBD PD District, the dimensional regulations of the underlying zoning district shall not be modified, unless the applicant shall show by good and sufficient evidence, and City Council, upon recommendation of the Planning Commission, shall find, in its discretion, as follows;

(a) that modified setbacks are in keeping with other similar uses facing the same street as the proposed project that creates the predominate character of the neighborhood, such that a variation from a strict application of the setback limitations is appropriate under the circumstances; or,

(b) there is open/green space within the proposed project that make a better site development than if the strict application of setback limitations were adhered to; or,

(c) that the project as a whole promotes a desirable development in the Central Business District and surrounding neighborhood to such an extent that a variation from a strict application of the setback limitations is appropriate under the circumstances; and,

(d) that the project as a whole promotes the health, safety and welfare of the City of Harbor Springs; and,

(e) that the project will not cause the interests of adjacent property owners to be damaged or injured; and,

(f) that the modified setback will not cause a safety or fire hazard based on input received from the Police and Fire Chief of the City of Harbor Springs.

Upon the Council's finding in the affirmative as to one or more of items (a), (b) and (c) above, and all of (d), (e) and (f), a variation of the dimensional regulations of the underlying zoning regulations district may be granted, but not more than a 50% reduction, and there shall be green area on the site of at least 40% of the land area dedicated to the area of modification, subject to special land use approval by the Planning Commission and the special restrictions that the modified setback will be sufficient to maintain a clear vision corner when adjacent to two intersecting streets.



**(6) General Site and Development Requirements.** All other provisions, requirements and regulations of the underlying zoning districts shall apply to a Planned Development within the CBD PD District.

**(7) Application Requirements and Procedure.**

(a) The Applicant for a Planned Development in the CBD PD District shall submit a site plan meeting all of the Site Plan requirements of Article 20, and for those uses requiring special land use approval, shall submit such additional information and drawings as are required by Article 21 of this Code. Concept sketches and preliminary drawings may be submitted prior to the final official submission (one half the applicable fee will be charged for concept submission with balance due at the time of full submission), for the purpose of initiating discussion and obtaining input prior to formal application to the Planning Commission.

(b) The Planning Commission shall review the Application for a Planned Development in the CBD PD District, and shall hold a public hearing thereon before making a recommendation to the City Council as provided for in subparagraph (c).

(c) After the public hearing as required by subparagraph (b), the Planning Commission shall prepare a recommendation to the City Council to approve, approve with conditions, or to deny such Planned Development in the CBD PD District. If the proposed Planned Development is a special land use, the Planning Commission in its transmittal of a recommendation for the Planned Development shall include its findings on the specific criteria of approval for special land uses as provided in Article 21.

(d) The City Council shall hold at least one public hearing on the request for a Planned Development in the CBD PD District. The City Council shall deny, approve, or approve with conditions, the request. If the City Council approves the Planned Development, a written agreement shall be entered into between the City and the applicant, specifying the terms and conditions of the approval granted, and the

scope and details of the project, which agreement shall be binding upon the Applicant, and shall be recorded with the Emmet County Register of Deeds, to run with the land in the Planned Development for the benefit of the City of Harbor Springs, and shall bind successors in interest in the Planned Development, in perpetuity.]]<sup>107,150</sup>

## ARTICLE 24 BOARD OF APPEALS

**50.2400 Zoning Board of Appeals.** [An appeals board, to be known as the Harbor Springs Zoning Board of Appeals and to consist of five (5) regular members and two (2) alternates, is hereby created. Each member and alternate of the Zoning Board of Appeals (the "Board") shall be selected by the City Council and each shall be an elector of the City of Harbor Springs. The members selected shall be representative of the population distribution and of the various interests present in the City of Harbor Springs. One member of the Board may be a member of the City Council. Each member and alternate shall hold office for a term of three (3) years, and additionally shall hold office until his or her successor is selected. The Board shall annually select its chairman. The City Clerk (or his or her designate) shall serve as a secretary of the Board. The Board shall adopt its own rules of procedures and bylaws and keep a record of its proceedings, showing the action taken upon each matter considered.

Meetings of the Board shall be held at such times and places as may be designated by the secretary. The secretary is authorized to call such meetings at any time when matters are pending requiring attention by the Board. The secretary shall call each meeting whenever:

- (1) A meeting is to be held as previously determined by the Board;
- (2) The secretary is so instructed by the chairman; or
- (3) The secretary is so instructed in writing by any two (2) members of the Board. Three (3) members of the Board shall constitute a quorum.<sup>130</sup>

**50.2401 Appeals.** Any decision of the Building Inspector may be appealed to the Board of Appeals by any person aggrieved or by any office, department, board, or bureau of the City

affected by any decision of the Building Inspector within such time as shall be prescribed by the Board of general rule. To effect such appeal, the appellant shall file with the Building Inspector and with the Board of Appeals, on blanks to be furnished by such Inspector, a written notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

**50.2402 Stay.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed except by a restraining order which may be granted upon due cause shown, by the Board of Appeals or by the Circuit Court, upon application and following timely notice thereof to the Building Inspector.

### **50.2403 Powers and Duties.**

(1) [[ The Zoning Board of Appeals referred to in this Section as "Board" shall fix a reasonable time for the hearing of an appeal or variance request within thirty (30) days from the date of filing thereof, and give notice of a public hearing as provided in this subsection (1).

(a) Notice of the public hearing shall be published in a newspaper of general circulation in the City of Harbor Springs not less than fifteen (15) days before the date of the hearing.

(b) Notice of the public hearing shall be given as provided under subsection (c) to the owners of property that is the subject of the request. Notice shall also be given as provided under subsection (c) to all persons to whom real property is assessed within 300 feet of the property that is the subject of the request and to the occupants of all structures within 300 feet of the subject property regardless of whether the property or structure is located in the zoning

jurisdiction. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different persons, one (1) occupant of each unit or spatial area shall be given notice. If a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure.

(c) The notice under subsection (b) is considered to be given when personally delivered or when deposited during normal business hours for delivery with the United States postal service or other public or private delivery service. The notice shall be given not less than 15 days before the date the request will be considered. If the name of the occupant is not known, the term "occupant" may be used for the intended recipient of the notice.

(d) A notice under this section shall do all of the following:

(i) Describe the nature of the request.

(ii) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(iii) State when and where the request will be considered.

(iv) Indicate when and where written comments will be received concerning the request.]]<sup>131,157</sup>

(2) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter, the Board of Appeals shall have power in passing upon appeals to vary or modify any of its rules, regulations or provisions relating to the construction, structural changes in equipment or alterations of buildings or structures, or the use of land, buildings or structures, so that the spirit

of this Chapter shall be observed, public safety secured and substantial justice done.

(3) [If the Board receives a written request seeking an interpretation of the Zoning Code or an appeal of an administrative decision, the Board shall conduct a public hearing on the matter. Notice shall be given as provided in Section 50.2403(1). However, if the request does not involve a specific parcel of property, notice need only be published as provided in Section 50.2403(1)(a) and sent to the person making the request as provided in Section 50.2403(1)(c). At a hearing under this Section, a party may appear personally or by agent or attorney. The Board shall decide the same within a reasonable time. The Board may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit.]<sup>157</sup>

(4) [The concurring vote of a majority of all Board members (i.e., three (3) of the five (5) Board members) shall be necessary to reverse or modify any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the appellant upon any matter upon which it is required to pass, or to effect any variation in this Chapter, provided, the concurring vote of a two-thirds (2/3) majority of all Board members (i.e., four (4) of the five (5) Board members) shall be necessary to grant a use variance.]<sup>132</sup>

#### **50.2404 [Procedures for Variances.]**

(1) Any application for a variance must be signed by the owner(s) of the property which would be affected by the variance, or the agent of the owner(s). If the application is signed by an agent of the owner(s), the agent must specifically state in the application that he or she has full authority to represent the owner(s) of the property. The owner(s) must acknowledge that the owner(s) understands that if a variance is granted, it becomes permanently attached to the land, and may not be transferred by the owner(s) to any other property.

(2) A variance granted by the Zoning Board of Appeals shall expire: (a) if construction of the project described in the application for variance has not begun within one year from the date the variance is granted; or, (b) if the property described in the application for variance is not used under the terms of the variance within said year; or, (c) if construction of the project described in the application for variance is timely begun, but has not been completed within two years from the date of the granting of the variance. If the variance shall expire as aforesaid, the variance approval shall become null and void, unless renewed or extended by specific action of the Zoning Board of Appeals. If the variance is not extended before its expiration, then a new application and a new variance shall be required.

(3) Any variance granted by the Zoning Board of Appeals prior to September 27, 1993, being the date of adoption of this ordinance, shall be considered as if the variance was granted on the said date of adoption of this ordinance, and if work is not commenced or completed as set forth in Section 2 hereof, or use of the property is not begun as described in the application for variance, said variance shall be deemed to have lapsed, as provided in Subsection (2).]<sup>22</sup>

**ARTICLE 25  
AMENDMENTS**

**50.2500 Changes and Amendments.**

(1) When a proposed amendment, supplement, modification or change is initiated by a petition of any party with a legal interest in the property to be affected, it must be accompanied by a fee. The amount of the fee shall be established by resolution of the City Council, and it is to be used to defray the expense of publishing the required notices and other related expenditures.

(2) All amendments, supplements, modifications and changes not arising in the Planning Commission must be referred thereto for a written report and recommendation prior to any action thereon by the City Council.

(3) The Planning Commission shall at one (1) or more of its meetings study and evaluate the proposed amendment, supplement, modification or change. The Planning Commission shall make a tentative report and hold at least one (1) public hearing with proper notice as required by State law before submitting its final report to the legislative body. A summary of the comments submitted at the public hearing shall be transmitted with the report of the Planning Commission to the City Council.

(4) Once the City Council has received and accepted the Planning Commission's report on the proposed amendment, supplement, modification or change, it may hold additional public hearings if it considers it necessary, or as may be required by charter.

(5) Whenever the City Council shall receive a protest against a proposed amendment, signed by the requisite number of land owners as set forth in Section 125.584 of the Compiled Laws of 1970, as amended, then such amendment, supplement, modification or change

shall not be passed except by two-thirds (2/3) vote of the City Council.

(6) For the purpose of considering amendments, supplements, or modifications or changes, the adopted master plan of the City of Harbor Springs shall be considered the plan referred to in Act 207 of the Public Acts of the State of Michigan 1921, as amended. The Zoning Code of Harbor Springs shall only be amended by legislative action of the City Council.

**ARTICLE 26  
VIOLATIONS, PENALTIES AND  
ENFORCEMENT**

**50.2600 Violations, Penalties and Enforcement.**

(1) Buildings erected, altered, razed or converted, or uses carried on in violation of any provision of this Chapter are hereby declared to be a nuisance per se. The Court shall order such nuisance abated, and the owner and/or agent in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se'.

(2) Any building erected, altered, razed or converted, or uses carried on which do not conform with the Site Plan as approved by the Planning Commission are further hereby declared to be a nuisance per se. Further, failure on the part of the owner of said premises or the lessee or tenant thereof, to comply with the conditions for Site Plan approval recited in said Site Plan approval shall constitute said buildings erected, altered, razed or converted, and or the uses carried on to be a nuisance per se, and shall subject the owner, lessee or tenant to the penalties provided in Chapter I of this Code.

(3) Any owner, tenant, lessee, builder or contractor who commences construction of a building without first obtaining a zoning permit from the Zoning Administrator, shall be in violation of this Code and subject to the penalties hereinafter provided.

**(4) [Penalties.]**

(a) For any and every violation of any provisions of this Chapter that is designated as a Municipal civil infraction, the owner, agent, architect, builder, lessee, and/or tenant of the land or building or part thereof where violation has been committed or exists shall, be responsible for a civil infraction, subject to such fines and costs as are expressly provided for violation of such provisions. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) For each and every other violation of any provisions of this Chapter other than those designated as Municipal civil infractions, the owner, agent, architect, builder and/or any person who commits, takes part, or assists in such violation of any of the provisions of this Chapter, and/or any person who maintains any building or land in or on which such violation exists, shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be punished by a fine of not more than five hundred (\$500) dollars for each offense, or shall be punished by imprisonment in jail for a period not to exceed ninety (90) days, or both such fine and imprisonment at the discretion of the court. In case the owner, lessee, or tenant is an unincorporated association or a non profit membership corporation, every member of such association or corporation shall be deemed guilty of a misdemeanor as herein provided and subject to the penalties herein specified. Each day that a violation is permitted to exist shall constitute a separate offense.]<sup>111</sup>

(5) The City or any interested party may apply to any court of competent jurisdiction to restrain any person, firm or corporation from such disobedience or threatened violation, notwithstanding such disobedience or violation may be punishable by a fine or imprisonment as above provided.

**50.2601 Administrative Officer.**

(1) To administer and enforce regulations and restrictions hereafter set forth, there is hereby established the office of Zoning Administrator to be filled by an appointee of the City Manager subject to approval by the City Council.

(2) The Zoning Administrator may delegate clerical, filing, and recording work to the clerical employees of the City. He shall be responsible for the enforcement of all the provisions of the Chapter, and he and his authorized assistants, where properly identified, shall have the authority to enter any premises, at any

reasonable time, for the purpose of investigating or inspecting any building conditions. It shall be the duty of the Zoning Administrator to receive and examine all applications for permits required by this Chapter and to approve or reject such application. He shall collect all special fees established hereby and turn them in daily to the City Treasurer. He shall make such inspections as are necessary and he shall have authority to revoke a permit as hereinafter provided.

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**CROSS-REFERENCE CHART****Zoning Code**

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