

**FIRST READING:** \_\_\_\_\_

**SECOND READING:** \_\_\_\_\_

**PUBLICATIONS:** \_\_\_\_\_

**EFFECTIVE:** \_\_\_\_\_

**AMENDMENT TO CODIFIED ORDINANCES OF  
THE CITY OF NEGAUNEE, TITLE SIX - ZONING**

The City of Negaunee ORDAINS:

That TITLE SIX - ZONING of the Codified Ordinances of Negaunee, Michigan, shall be, and the same hereby is, amended to read as follows:

**REPEALER**

Chapters 1260, 1262, 1264, 1266, 1268, 1270, 1272, 1274, 1276, 1278, 1280, 1282, 1284, and 1286 of the Codified Ordinances of Negaunee, Michigan, and any other ordinance, resolution, order or parts thereof in conflict with the provisions of these Amendments are, to the extent of such conflict, hereby repealed. This repeal shall be effective as of the effective date of the following Amendments.

**AMENDMENT**

TITLE SIX - ZONING of the Codified Ordinances of Negaunee, Michigan, shall be, and hereby is, amended to add Chapters 1260, 1262, 1264, 1266, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1278, 1280, 1281, 1282, 1283, 1284, 1285, and 1286 as follows:

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## **Chapter 1260 Zoning Definitions**

### **1260.01 SEVERABILITY.**

If any section or part of a section of this Zoning Code is held to be invalid for any reason, such invalidity shall not be held to impair or invalidate this Zoning Code in its entirety, it being the legislative intent that every section or part thereof shall remain in force and in effect notwithstanding any invalidity of any particular provision or provisions.

### **1260.02 DEFINITIONS.**

For the purposes of this Zoning Code, certain terms or words used herein shall be defined as follows: Words used in the present tense include the future; words in the singular number include the plural; the plural number includes the singular; the word “person” includes any individual, company, firm, corporation or club, or any group or combination acting as a unit, and the individuals constituting such a group or unit; the word “building” includes the word “structure”; the word “shall” is mandatory and not directory. In addition:

Accessory Building or Structure:

A subordinate building or portion of a main building or structure, the use of which is incidental to that of the main building or structure. The accessory building or structure shall be located on the same property as the main building or structure.

Adult Foster Care Family Home:

A private single family residence licensed under P.A. 218 of 1979, as amended, with the approved capacity to receive six or fewer adults who are provided supervision, personal care, and protection for five or more days a week, and for two or more consecutive weeks, for compensation. The adult foster care home licensee must be a member of the household and an occupant of the residence.

Adult Foster Care Large Group Home:

A facility licensed under P.A. 218 of 1979, as amended, with the approved capacity to receive at least 13 but not more than 20 adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks, for compensation.

Adult Foster Care Small Group Home:

A facility licensed under P.A. 218 of 1979, as amended, with the approved capacity to receive 12 or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for 24 hours a day, five or more days a week, and for two or more consecutive weeks, for compensation.

Asphalt or Concrete Plant:

An establishment engaged in the manufacturing, mixing, or batching of asphalt, asphaltic cement, cement, or concrete products.

Assisted Living Facility:

A residence that provides a special combination of housing, personalized support, and health care designed to respond to the individual needs of those who need help with activities of daily living but do not need the skilled medical care provided in a nursing home.

Automobile Wash Facility:

A structure containing facilities for the washing of vehicles by automatic or self service means.

Banks and Financial Institutions:

A non-residential structure in which money is kept for savings or commercial purposes or is invested, supplied for loans or exchanged. Such business establishment can be a bank, credit union, brokerage or other establishment pertaining to the management of money.

Barber and Beauty Shop:

Includes hair salons, and other personal grooming services such as nails, skin, and spas.

Basement:

A story partly underground, provided that where the vertical distance from the average grade to the ceiling of a basement equals or exceeds five feet, the basement shall be considered a "story".

Bed and Breakfast Establishment:

A single family residence where no more than 5 (five) guest rooms are made available for the temporary accommodation of the traveling or vacationing public. Such an establishment may offer meals only to those persons temporarily residing at the establishment.

Bed and Breakfast Inn:

A structure used primarily for lodging purposes where the use as a residence is clearly secondary. A structure where more than 5 (five) but not more than 9 (nine) guest rooms are made available for the temporary accommodation of the traveling or vacationing public. Such an establishment may offer meals to the public and persons temporarily residing at the establishment.

Billboard:

Any freestanding structure on which is lettered, pictured or displayed matter, the chief purpose of which is for advertising or publicity.

Board of Zoning Appeals:

The Board of Zoning Appeals of the City of Negaunee.

Boat Livery:

An establishment for the renting of boats, canoes and other similar vessels to the public.

Building:

Any structure used, designed or intended for the protection, shelter or enclosure of persons, animals or property.

Building, front line of:

The line of that face of the building nearest the front line of the lot. This does not include the steps, but it does include sun parlors, chimneys, fireplaces and open and enclosed porches.

Building, height of:

The vertical distance from final grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs, to the average height between eaves and ridge for gable, hip, and gambrel roofs. Where a building is located on a sloping terrain, the height shall be measured from the average ground level of the final grade at the building walls.

Building Material Sales and Storage:

A facility for retail sales and storage of building materials not including production or remanufacturing.

Business Service Establishment:

Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research; development and testing; photo finishing; and personnel supply service.

Conference Center:

A facility to allow large group meetings, ceremonies and assemblies which may include classrooms and exhibit areas.

Contractor Yard:

An area intended for the temporary or long-term storage of materials and equipment used for construction, road building, and forestry operations.

Convenience Retail:

A retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods, such as salads.

Cultural Facility:

A premises designed for musical or other performances, museum displays and art exhibits, which may include classrooms.

Day Care Home, Family:

A day care operation located in and subordinate to the residential use of the residence of the operator of the facility, which provides day care services for six or fewer children, and which is licensed or registered under P.A. 116 of 1973.

Day Care Home, Group:

A day care operation located in and subordinate to the residential use of the residence of the operator of the facility, which provides day care services for seven to 12 children, and which is licensed or registered under P.A. 116 of 1973.

Day Care Center:

A facility, other than a private residence, that provides care for preschool or school-aged children for periods of less than 24 hours a day, as defined by Act 116 of 1973. A day care center does not include a family or group day care home.

Dry Cleaning Establishment:

A facility using chemical solvents containing little or no water for the cleaning of clothing of fabrics.

Dwelling Unit:

“Dwelling Unit” means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, which meets all of the following criteria:

1. It complies with the minimum square footage requirements for building floor area for the applicable District.
2. It has a minimum width along any exterior side elevation of 24 feet and a minimum internal height of seven and one-half feet.
3. It is firmly attached to a solid foundation constructed on the site in accordance with the Michigan Building Code and Michigan Residential Code.
4. It does not have exposed wheels, towing mechanisms, undercarriage or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
6. The dwelling contains storage area(s) either in a basement located under said dwelling, in an attic area, in a closet area or in a separate fully enclosed structure on the site, equal to not less than 15% of the interior living area of the dwelling.
7. The dwelling is aesthetically compatible in design and appearance to conventionally on-site constructed homes.

8. The dwelling contains no additions of rooms or other areas which are not constructed with similar materials and are similar in appearance and with similar quality of workmanship as in the original structure.
9. The dwelling complies with all pertinent building and fire codes including the Michigan Building Codes and Michigan Residential Code.

Erected:

Erected means built, constructed, reconstructed, moved upon or any physical operation on the premises required for a building. Excavations, fill, drainage and the like shall be considered part of erection.

Essential Services:

“Essential Services” means the erection, construction, alteration, or maintenance by public or private utilities or municipal departments or commissions of underground, surface or overhead, gas, electrical, steam, or water transmission or distribution systems, or of collection, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the mentioned equipment.

External Wood and Solid Fuel Burning Boilers:

Any equipment, device, appliance or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of wood or other solid fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.

Fairground:

Activities that are primarily out-of-doors for a fixed period of time, not to exceed five consecutive days, and including flea markets, fireworks, displays, speeches, farm stands, seasonal sales, swap and shop markets, racing meets, circuses, carnivals, concerts.

Flea Market and Farmer’s Market:

A structure which is used seasonally for display and sale of items such as agricultural produce, and farm products, flowers, Christmas trees and wreaths and grave blankets, antiques and collectibles, and prepared food and beverage items.

Floor area:

The floor area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

Food Processing Establishment:

Premises used for the preparation and/or manufacture of foodstuffs for resale but not for consumption on the premises including wholesale food preparation.

Freight Handling Facility:

A terminal with the capability of handling a large variety of goods which may involve various forms of transportation and may provide multi modal shipping capabilities, such as rail to truck.

Front of lot:

The front boundary line of a lot bordering on the street, and in the case of a corner lot, may be either frontage.

Fuel Sales Establishment:

A structure used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles and other internal combustion operated machines, and including the customary space and facilities for the installation of such commodities on or in such vehicles and machines.

Funeral Home:

A building used for the preparation of the deceased for burial, and for display of the deceased and rituals connected before burial or cremation.

Garage, Residential:

A fully enclosed residential accessory building or space typically used for the storage of vehicles.

Grade:

The level at which the ground intersects with the foundation of a building.

Gravel/Sand Pit:

An open land area where sand, gravel and rock fragment are mined, excavated and processed for sale or off-tract use. An area is maintained for the on-site storage of materials to be processed or have been processed.

Greenhouse:

A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Health Care Facilities, In patient:

A facility offering medical care, and services for observation, diagnosis, and active treatment of an individual with a medical, mental, surgical, obstetric, chronic or rehabilitation condition requiring the daily direction or supervision of a physician. Overnight care is provided.

Health Care Facilities, Out-patient:

An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists or other medical personnel, psychologists, or social worker and where patients are not lodged overnight.

Heavy Manufacturing and Assembly:

Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of components parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins or liquor.

Home Occupation:

Activities of the type usually conducted for gainful employment which are clearly incidental and subordinate to a principle residential use as further set forth in § 1285.

Hotel:

A building in which lodging or boarding are provided and offered to the public for compensation and which ingress to and egress from all rooms is made through an inside lobby or office normally supervised at all hours. As such, it is open to the public as distinguished from a boarding house, lodging house, or apartment.

Indoor Recreation Facility:

A place designed and equipped for the conduct of indoor sports and leisure activities such as handball, badminton, basketball, tennis, archery, golf, bowling and ice skating.

Kennel:

A commercial establishment or animal shelter in which dogs or other domesticated animals, other than horses, are housed, groomed, bred, boarded, trained, or sold, for a fee or compensation. This specifically excludes animals kept and raised for a person's personal enjoyment or for hobby or recreational purposes.

Laundromat:

An establishment providing clothing and fabric washing and drying, machines on the premise for rental use to the general public. Laundromats may incorporate drop-off facilities for commercial dry-cleaning establishments, but do not include dry-cleaning equipment.

Library:

An installation or foundation maintaining a collection or repository of literary or artistic materials such as books, periodicals, and newspapers kept for reading or reference.

Light Manufacturing and Assembly:

Establishments where the finished product generally consists of small machine parts, small electronic equipment or similar items. Light manufacturing operations shall be located within the principal building.

Lodge Hall:

A building used by a non-profit membership organization for recreational or social purposes.

Lot:

Land occupied or to be occupied by a building and its accessory buildings, including such open spaces as are required under this Zoning Code, and having its frontage upon a public street or any private way used for street purposes. "Lot" shall also mean a parcel of land.

Lot, Corner:

Any lot having at least two contiguous sides abutting upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve, at its point of beginning within the lot or at the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.

Lot lines:

The lines bounding a lot.

Mining:

The extraction of minerals including the actual removal, processing and transportation of minerals and attendant by-products.

Mini-storage Facility:

A structure or group of structures for the storage of customer's goods and wares, recreational vehicles and related equipment, but not warehousing.

Mobile Home:

A structure designed and built to comply with U.S. Department of Housing and Urban Development manufactured home and construction safety standards, as adopted by the State of Michigan in its Mobile Home Commission Act. Any mobile home or manufactured home which does not meet the definition of a "dwelling" under this ordinance, but which complies with the State and Federal Manufactured Home Code, may be placed in a mobile home park as provided in this ordinance.

Mobile Home Park:

A parcel or tract of land as defined by, and which complies with, the definition and standards adopted by the State of Michigan in its Mobile Home Commission

Act.

Motel:

A building or group of buildings having units containing sleeping accommodations which are available for temporary occupancy primarily by automobile travelers and usually providing separate entrances for the units.

Nonconforming Use:

A building or premises lawfully used or occupied at the time of the passage of this Zoning Code or amendments thereto, which use or occupancy does not conform to the regulations of this Zoning Code or amendments thereto.

Nursing Home:

A nursing care facility, including a county medical care facility, that provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury, or infirmity, as defined by the Michigan Public Health Code.

Nursery:

Land or greenhouses used to raise flowers, shrubs, and plants for sale.

Office Building:

A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, and which may include ancillary services exclusively for workers in the building, such as a restaurant, coffee shop, newspapers or candy stand, or child care facilities.

Office Parks:

A development on a tract of land that contains a number of separate office buildings, accessory and supporting uses, and open space designed, planned, constructed and managed on an integrated and coordinated basis.

Passive park:

A green or natural area for public use, not including sporting facilities or fields.

Personal Service Establishment:

A type of business providing services for personal grooming and exercise, such as health clubs, spas, chiropractic services, etc.

Planned Unit Development:

An area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated and maintained as a single entity and containing one or more residential clusters or planned unit residential developments and/or one or more public, quasi-public, commercial, or industrial areas.

Planning Commission:

The Planning Commission of the City of Negaunee.

Public Buildings:

Any government or quasi-governmental building, structure, facility or complex used by the general public or providing public services, including, but not limited to, assembly buildings, such as auditoriums and libraries, etc.; city halls; community centers, senior citizen centers and fire halls.

Recreation Facility:

A place designed and equipped for the conduct of sports and leisure-time activities.

Recycling Center, Junkyard, Salvage Yard:

A facility in which used material, such as paper, glass, plastic or motor oil, is separated and processed prior to shipment to other locations for processing or manufacturing into new products or for reuse

Recycling Collection Point:

A site containing containers for the collection and temporary storage of recyclable materials, typically an accessory use. Materials collected are transported from the drop-off site to another location for processing.

Recycling Plant:

A facility in which recyclable materials, such as newspaper, magazines, books, and other paper products; glass; metal; and other products, are recycled, reprocessed, and/or treated to return such products to a condition in which they may again be used in new products.

Religious Institutions:

A building whose primary purpose is the regular assembly for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Residence, Multiple Family:

A building containing more than one dwelling unit.

Residence, Single-Family:

A building containing a single dwelling unit designed for residential use by one or 2 persons who may be providing care for their children and/or parents plus not more than 2 other persons, or by not more than 4 unrelated persons living together as a single housekeeping unit.

Restaurants with or without Drive Through:

An establishment where food or beverages are cooked or prepared and offered for

retail sale and where consumption is permitted on the premises.

Retail Food Establishment:

Establishments selling food to the public for consumption but not for resale, usually in small quantities, as well as services incidental to the sale of these goods.

Retail Outlet Store:

A retail establishment selling a single manufacturer's product.

Retail Sales Establishment:

Establishments selling goods to the public for consumption but not for resale, usually in small quantities, as well as services incidental to the sale of these goods. This shall not include the sale of heavy equipment, vehicles, recreational vehicles, watercraft or establishments where there is the permanent exterior display of merchandise.

Retail Warehouse Outlet:

A retail operation from a warehouse as an accessory to the principal warehouse use.

School, Public or Private:

An institution which offers regular instruction at the preschool, primary, or secondary level or serves disabled students. This definition does not include day care facilities, programs offering individual instruction, or courses offered in a non-institutional setting in a specialized subject.

Setback:

The required distance between every structure and any lot line on the lot on which it is located except where a front lot line is not defined by any conveyance or recorded plat, in which case it means the required distance between every structure and the nearest land actually used for purpose of a roadway or parallel drainage ditch.

Shopping Center:

More than one commercial establishment planned, constructed and managed as a total entity, with customer and employee parking provided on site, with provision for delivery separated from customer access. Buildings constructed on outlots shall not be considered part of the shopping center unless access and parking easements are provided.

Sidewalk Café:

An outdoor dining area on a public sidewalk or right of way where patrons consume food and beverages provided by an abutting food service establishment. Such establishments include either table service in the outdoor area or takeout items to be consumed there.

Special Land Uses:

Those uses of land which are essentially compatible with the uses permitted in a zoning district, but which possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land.

Storage of Flammable Liquids or Gas Facility:

Any tankage loading facilities and buildings used for the storage and distribution of flammable liquids by tank truck, tank car or pipe line.

Story:

That portion of a building included between the surface of any floor and the surface of the floor or roof next above.

Story, Half:

That portion of a building between the eaves and the ridge lines of a pitched roof which may or may not be used for tenant purposes.

Street:

A public thoroughfare for vehicles which has been dedicated for public use.

Structural Alteration:

Alterations or repairs which may be made to any structure without requiring the existing structure to comply with all the requirements of this Zoning Code, provided that such work conforms to that which is required of a new structure.

Structure:

Anything constructed or erected, the use of which requires permanent location on the ground.

Tavern:

An establishment used primarily for the serving of liquor by the drink to the general public for consumption on the premises and where food or packaged liquors may be served or sold as accessory to the primary use.

Theater:

A building or structure which contains an assembly hall for the performing arts (dramatic dance, musical or other live performances) and/or for the showing of motion pictures.

Trade or Technical School:

An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects, or a facility offering instruction at any level in martial arts, arts, drama, dance, speech, music, or similar personal

skills. This definition does not apply to instruction in craft or fine arts in a single family residence only which is a permitted residential use pursuant to Michigan law and this Code.

Vehicle Body Shop:

A premise where one or more of the following services are provided for compensation: rebuilding or reconditioning of motor vehicles; collision service such as body, frame or fender straightening and repair; painting and undercoating of automobiles, including bumping, and refinishing.

Vehicle Repair Garage:

A premise where general vehicle repairs including engine rebuilding, but not including bumping, painting, or refinishing-

Veterinary Clinic:

A facility providing diagnosis, treatment, surgery and similar veterinary care for domestic animals with overnight boarding incidental to treatment.

Video Arcade:

A facility dedicated to the playing of electronic, mechanical or table games which do not involve gambling.

Warehouse:

A building or portion thereof whose principal use is storage of goods, merchandise or other property which may or may not be incidental to retail sales on the site. As a type of storage it is typically not accessible to the general retail public, but may involve the pick-up of bulk goods not readily stored on retail shelves or in the retail store proper or setting.

Wholesale Sales Establishment:

An establishment selling goods for resale, usually in large quantities, as well as services incidental to the sale of these goods. This shall not include the sale of heavy equipment, vehicles, recreational vehicles, watercraft or establishments where there is the permanent exterior display of merchandise.

Wireless Communication Facilities:

All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio and television broadcasting or relay towers, wireless or cellular telephone communication receivers and transmitters, telephone communication receivers and transmitters, telephone devices and exchanges, microwave relay facilities and towers, telephone transmission equipment buildings, and public, private and commercial mobile radio service facilities. This definition will not include satellite dishes under three (3) feet in diameter.

Wireless Communication Facilities Attached:

Wireless communication facilities affixed to existing structures, including but not limited to existing buildings, towers, water tanks, or utility poles.

Wireless Communication Tower:

A structure intended to support equipment used to transmit and/or receive communication signals. This definition includes, but is not limited to radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, monopoles, freestanding lattice structures and guyed lattice structures.

Woodyard:

A parcel of land where pulp wood and other logs are gathered from various locations and stored for commercial sale or for transport to a processing facility.

Yard:

An open space, which is on the same lot with a building and which is unoccupied, except as otherwise provided in this Zoning Code.

Yard, Rear:

A yard extending the full width of a lot and situated between the rear lot line and the rear line of a building projected to the side lines of the lot.

Yard, Side:

An open, unoccupied space on the same lot with the building located between the building and the side lot line.

**Chapter 1262**  
**Administration, Enforcement and Penalty**

**1262.01 AMENDMENTS.**

All requests for re-zoning or for amendment of the zoning ordinance or map shall be referred to the Planning Commission for review and recommendation. Upon receiving a recommendation from the Planning Commission, the City Council may, by ordinance, amend, supplement or change this zoning code, according to the procedures established under Michigan law. If a proper protest against a proposed amendment, supplement or change is presented, such amendment shall require at least five votes of the City Council for approval.

**1262.02 ZONING COMPLIANCE PERMITS; CERTIFICATES OF OCCUPANCY.**

(a) It is the intent of this section to require a zoning compliance permit for all new structures and uses, as well as changes in usage. The regulations contained herein are intended to provide and promote the orderly development of the City; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values and investments by preventing the impairment or depreciation of land values and development by the erection of structures or additions or alterations thereto without proper attention to setting or to unsightly or undesirable appearances; harmonious relationship to buildings, other structures and uses, both within a site and/or adjacent sites; and the conservation of natural amenities and resources and to promote the public safety.

(b) No land use shall be commenced or changed and no structure shall be erected or enlarged until the person conducting such use or erecting or enlarging such structure has obtained a Zoning Compliance Permit from the Zoning Administrator.

(c) No zoning compliance permit shall be issued where it appears that any land area required to conform to any provision of this Ordinance is also required as part of any adjoining property to keep the development or use thereof in conformity with this Ordinance, or to keep it from becoming more non-conforming. The applicant for a Zoning Compliance Permit shall agree that neither he nor his successor in title, shall sell, convey, lease, or otherwise dispose of any land surrounding a structure if such conveyance will result in the structure being left on a lot which fails to meet the minimum requirements set forth in this Ordinance.

(d) Any zoning compliance permit based on any material false statement in the application of supporting documents is absolutely void and shall be revoked.

(e) Special or Conditional Uses and Non-Conforming Uses and Structures shall require approval of the Planning Commission and become part of the Zoning Compliance Permit.

(f) Variances require the approval of the Zoning Board of Appeals.

(g) The Zoning Administrator shall issue all Zoning Compliance Permits and shall clearly designate any and all conditions and variances, which have been approved by the Planning Commission and/or Zoning Board of Appeals when required by this Ordinance.

(h) If the applicant does not exercise the use of the Zoning Compliance Permit by completing any approved construction and/or use within two years after its issue, the zoning compliance permit will become null and void.

(i) Any Zoning Compliance Permit acted upon by the applicant or his agents or successors will inure for the duration of the existing use and is limited to those uses specified in the zoning compliance permit.

(j) It shall be unlawful to use or permit the use of any building or premises or part thereof hereafter created, erected or altered, or to change or enlarge the use of any building or premises or part thereof, until a Certificate of Occupancy shall have been issued by Marquette County.

**1262.99 PENALTY.**

(a) Whoever violates any of the provisions of this Zoning Code shall be deemed responsible for a Municipal civil infraction and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for each such infraction. A separate infraction shall be deemed committed each day during or on which a violation occurs or continues. Such penalty provisions do not preclude any other civil action against the violator for injunctive or such other relief as may be available in law or in equity.

(b) In addition to the penalty provided for in subsection (a) hereof, any violation of this Zoning Code is hereby declared to be a public nuisance which may be enjoined. (Ord. Unno. Passed 7-11-96).

## **Chapter 1264 Board of Zoning Appeals**

### **1264.01 ESTABLISHMENT; MEMBERSHIP; COMPENSATION.**

(a) A Board of Zoning Appeals is hereby established in and for the City. The word “Board,” when used in this Zoning Code, shall be construed to mean the Board of Zoning Appeals. The Board shall consist of five members who shall be appointed for terms of three years by the City Council. Two alternate members may be appointed by the City Council, each for a term of three years. The membership shall be representative of the population distribution and of the various interests present in the City. All members of the Board shall serve without compensation.

(b) One member may be a member of the City Council, but no City Council member shall serve as chairperson of the Zoning Board of Appeals.

(c) One member may be a member of the Planning Commission. Such a member shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the Planning Commission, however, this member may consider and vote on other unrelated matters involving the same property.

(d) A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure to do so constitutes malfeasance in office and may be grounds for removal.

(e) An employee or contractor of the City Council may not serve as a member of the Zoning Board of Appeals.

### **1264.02 MEETINGS.**

Meetings of the Board of Zoning Appeals shall be held as needed, at the call of the chairperson and as provided in the Board’s rules of procedure. There shall be a fixed place of meeting and all meetings shall be open to the public. The Board shall adopt its own rules of procedure and keep a record of its proceedings showing the action of the Board and the vote of each member upon each question considered. The presence of three regular members shall be necessary to constitute a quorum.

### **1264.03 JURISDICTION.**

(a) The jurisdiction of the Board of Zoning Appeals shall extend to the hearing of appeals including the interpretation of the Zoning Map as well as decisions upon all matters referred to the Board or upon which the Board is required to decide pursuant to this Zoning Code. As a part of any decision, the Board may impose conditions which shall become a part of any zoning permit issued.

(b) The Board may call upon the City Manager to secure the assistance of any City department in the performance of its duties and it shall be the duty of such other departments to render such assistance as may be reasonably required.

#### **1264.04 APPEALS.**

(a) An appeal from a ruling of the Planning Commission or Zoning Administrator under this Code concerning the enforcement of the provisions of this Zoning Code may be made to the Board of Zoning Appeals within such time as shall be prescribed by the Board in compliance with State statute. The applicant shall file with the Board a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all documents concerning the appeal. The notice requirements under state law shall be met as to the matters heard by the Board.

(b) The Board shall fix a reasonable time for the hearing of an appeal and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board's actions shall be in the form of a resolution clearly setting forth the Board's decision. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the office or board or commission from whom the appeal is taken.

(c) An appeal shall stay all proceedings in furtherance of the action being appealed.

#### **1264.05 VARIANCES.**

In addition to the general powers provided in Section 1264.03, the Board of Zoning Appeals may, in specific cases after public notice and hearing, authorize by permit, a variation of the application of the height, area or other dimensional regulations established in this Zoning Code, provided that the variation is in harmony with the general purpose and intent of the regulations, as follows:

(a) A temporary building for commerce or industry, in a Residence District, which is incidental to the residential development, such permit to be issued for a period not to exceed one year.

(b) The erection and use of a building, or an addition to an existing building of a public service corporation or for public utility purposes, in any location, to a greater height or larger area than the district requirements established in this Zoning Code, which the Board shall find reasonably necessary for the public convenience.

(c) A building or use in an Industrial District otherwise excluded from such District, provided that such building or use is distinctly incidental and essential to a use permitted in an Industrial District, and provided, further, that not more than twenty-five percent of the employees of the entire plant are engaged therein.

(d) If there are practical difficulties in carrying out the strict letter of the zoning ordinance, the Board may grant a variance relating to the construction, structural changes or alteration of buildings or structures as to dimensional requirements or other standards, provided that the spirit of the Zoning Ordinance is observed, public safety secured and substantial justice done.

(e) In ruling upon any request for a variance, the procedures outlined in §1264.04 for appeals shall be applied.

(f) In ruling upon any request for a variance, the Zoning Board of Appeals shall apply the standards set forth in §1280 for the evaluation of special uses. No variance shall be granted if any portion of the considerations in §1280 would be violated.

**Chapter 1266  
Districts and Zoning Map**

**1266.01 ESTABLISHMENT OF ZONING DISTRICTS**

For the purposes of this Zoning Code, the City of Negaunee is hereby divided into the following ten districts:

- Single-Family Residential District (R-1)
- Multiple Family Residential District (R-2)
- Rural Residential District (RR)
- Business District (B-1)
- Business District (B-2)
- Industrial District (I)
- Public Area District
- Mining District (M)
- Natural Resource District (NR)
- Teal Lake Overlay District (TL)

**1266.02 ZONING MAP; DISTRICT BOUNDARIES**

The boundaries of the districts established in Section 1266.01 are hereby established as shown on a map entitled “Zoning Map, City of Negaunee, Michigan,” dated \_\_\_\_\_, which is on file in the office of the Zoning Administrator and which is hereby made a part of this Zoning Code. Except where specifically designated on said Map, the district boundary lines are intended to follow lot lines, the centerlines of streets or alleys, the centerlines of streets or alleys projected, railroad right-of-way lines, section lines, one-quarter section lines, one-eighth section lines or the city limits. Where a district boundary line does not coincide with lot lines, said boundary line shall be dimensioned on the Zoning Map.

**Chapter 1268**  
**Single-Family Residential District (R-1)**

**1268.01 INTENT.**

The Single-Family Residential District (R-1) is intended for the establishment and preservation of quiet single-family residence neighborhoods. The uses in the district are intended to keep the neighborhood relatively quiet and free from unrelated traffic influences. The R-1 District is designed to accommodate residential dwellings served by municipal water and wastewater treatment services.

**1268.02 PERMITTED PRINCIPAL USES.**

1. Adult Foster Care Family Home, provided it is not within 1,500 feet of Another Adult Foster Care Family Home
2. Day Care Home, Family
3. Essential Services
4. Recreational Uses: community playground; picnic area; passive park
5. Residence, Single-Family

**1268.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for and the issuance of a Special Land Use Permit as provided for in Chapter 1280:

1. Bed and Breakfast Establishment
2. Home Occupation
3. Library
4. Planned Unit Development
5. Recreational Uses: boat launch; cross-country ski trail; fields (soccer, hockey, ballfields); fishing piers; ice rink; passive park; swimming beach
6. Religious Institutions
7. School
8. Wireless Communication Facility, attached

**1268.04 ACCESSORY BUILDINGS AND USES.**

Accessory structures normally associated with permitted uses are allowed when located on the same lot or lots, subject to the following conditions:

(a) Not more than two (2) accessory buildings shall be permitted on the lots served by the principal building.

(b) The total square footage of all accessory buildings shall not exceed the total square footage of all floors of the principal building, excluding basements. In no case shall a single accessory building exceed 1,200 square feet of floor area.

(c) All accessory buildings in excess of 150 square feet shall be constructed of similar materials or have the same general appearance as the principal building

(d) The height of the accessory building shall not exceed twenty-five (25) feet or the height of the principal building, whichever is less.

(e) No portion of an accessory building shall be located in the front of the principal building, except garages attached to the principal building. No part of the accessory or principal building shall protrude into the setback line.

(f) Accessory buildings shall not be occupied by or involved in the conduct of a business or home occupation.

(g) No accessory building may be constructed or erected prior to the construction or erection of the principal building on the same lot or lots.

#### **1268.05 GENERAL REGULATIONS.**

(a) Height of Buildings: No building or structure thereof shall be erected or altered to a height exceeding thirty-five (35) feet; except a permitted nonresidential structure may exceed this limit by one (1) foot for each foot in excess of ten (10) feet that the building or structure is set back from all property lines.

(b) Lot Area: No building shall be erected or altered unless it is on a lot having an area of not less than 9,600 square feet. This regulation shall not apply to lots already platted and recorded as of the effective date of this Zoning Code, where the owner of such platted lots does not own a sufficient amount of adjacent land to permit compliance, provided that all other requirements of the Zoning Code are met.

(c) Lot Frontage: Every Lot shall have frontage of not less than eighty (80) feet along a public street. This regulation does not apply to lots already platted and recorded as of the effective date of this Zoning Code where the owner of the such platted lots does not own a sufficient amount of adjacent land to permit compliance, provided all other requirements of this Zoning Code are met.

(d) Setbacks: There shall be a building setback line of not less than twenty (20) feet or a setback line consistent with adjacent structures. On every corner lot, the minimum setback distance shall be twenty (20) feet on the short side of the lot and may be as little as fifteen (15) feet on the long side of the lot, except for those lots where the long side is parallel to the front of the majority of other lots on the street, in which case the setback shall be twenty (20) feet.

(e) Rear Yard: Every lot shall have a rear yard of not less than twenty-five (25) feet. Necessary buildings or structures for accessory uses shall not occupy more than forty percent (40%) of the required rear yard area, provided that where such rear yard abuts on streets, no garage or other building for accessory use shall be placed nearer than fifteen (15) feet from the line of such street. Further, regarding corner lots, where such rear yard abuts on an adjacent lot to the rear, the accessory building setback from such lot line shall be not less than five (5) feet. If alleys are

present to the rear lot line of the property, no building or accessory building shall be erected within (5) feet of the alley right-of-way.

(f) Side Yards: Every lot shall have two (2) side yards, neither of which shall be less than ten percent (10%) of the width of the lot. The width of the lot shall be determined at the front setback line of the structure to be built. If alleys are present to the rear lot line of the property, no building or accessory building shall be erected within (5) feet of the alley right-of-way.

(g) Building Floor Area: Every dwelling shall have a first floor area of not less than 720 square feet if the dwelling is one (1) story or one and one-half (1.5) stories in height, or 475 square feet if the dwelling is two (2) stories in height.

(h) Density: Not more than one (1) principal building or structure shall be permitted on any lot.

**Chapter 1269**  
**Multiple Family Residential District (R-2)**

**1269.01 INTENT.**

The Multiple Family Residential District (R-2) is intended for the establishment and preservation of residential areas with single-, and multiple- family dwellings. The uses in the district are to be compatible with the residential character of the neighborhoods.

**1269.02 PERMITTED PRINCIPAL USES.**

1. Adult Foster Care Family Home
2. Day Care Home, Family
3. Essential Services
4. Recreational Uses: community playground; picnic area
5. Residence, Single-family
6. Residence, Multiple-family

**1269.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for the issuance of a Special Land Use Permit as provided for in Chapter 1280:

1. Adult Foster Care Small Group Home
2. Adult Foster Care Large Group Home
3. Assisted Living Facility
4. Bed and Breakfast Establishment
5. Day Care Home, Group
6. Library
7. Nursing Home
8. Planned Unit Development
9. Recreational Uses: boat launch, cross-country ski trails, fields (soccer, hockey, ballfield), fishing piers, ice rink, passive park, ski trail, swimming beach
10. Religious Institutions
11. School
12. Temporary Outdoor Activity
13. Wireless Communications Facility, Attached

**1269.04 ACCESSORY BUILDINGS AND USES.**

Accessory structures normally associate with permitted uses when located on the same lot or lots, subject to the following conditions:

- (a) No more than two (2) accessory buildings shall be permitted on the lot served by the principal building.

- (b) The total square footage of all accessory buildings shall not exceed the total square footage of all floors of the principal building, excluding basements. In no case shall a single accessory building exceed 1,200 square feet of floor area.
- (c) All accessory buildings in excess of 150 square feet shall be constructed of similar materials or have the same general appearance as the principal building.
- (d) The height of the accessory building shall not exceed thirty-five (35) feet or the height of the principal building, whichever is less.
- (e) No portion of an accessory building shall be located in the front of the principal building, except garages attached to the principal building. No part of the accessory or principal building shall protrude into the setback line.
- (f) Accessory buildings shall not be occupied or involved in the conduct of a business or home occupation.

#### **1269.05 GENERAL REGULATIONS.**

- (a) Height of Buildings: No building or structure thereof shall be erected or altered to a height exceeding thirty-five (35) feet; except a permitted nonresidential structure may exceed this limit by one (1) foot for each foot in excess of ten (10) feet that the building or structure is set back from all property lines.
- (b) Lot Area: No building shall be erected or altered unless it is on a lot having an area of not less than 9,600 square feet. This regulation shall not apply to lots already platted and recorded as of the effective date of this Zoning Code, where the owner of such platted lots does not own a sufficient amount of adjacent land to permit compliance, provided that all other requirements of the Zoning Code are met.
- (c) Lot Frontage: Every Lot shall have frontage of not less than eighty (80) feet along a public street. This regulation does not apply to lots already platted and recorded as of the effective date of this Zoning Code where the owner of the such platted lots does not own a sufficient amount of adjacent land to permit compliance, provided all other requirements of this Zoning Code are met.
- (d) Setbacks: There shall be a building setback line of not less than twenty (20) feet or a setback line consistent with adjacent structures. On every corner lot, the minimum setback distance shall be twenty (20) feet on the short side of the lot and may be as little as fifteen (15) feet on the long side of the lot, except for those lots where the long side is parallel to the front of the majority of other lots on the street, in which case the setback shall be twenty (20) feet.
- (e) Rear Yard: Every lot shall have a rear yard of not less than twenty-five (25) feet. Necessary buildings or structures for accessory uses shall not occupy more than forty percent (40%) of the required rear yard area, provided that where such rear yard abuts on streets, no garage or other building for accessory use shall be placed nearer than fifteen (15) feet from the line of such street. Further, regarding corner lots, where such rear yard abuts on an adjacent lot to the rear, the accessory building setback from such lot line shall be not less than five (5) feet. If alleys are

present to the rear lot line of the property, no building or accessory building shall be erected within (5) feet of the alley right-of-way.

(f) Side Yards: Every lot shall have two (2) side yards, neither of which shall be less than ten percent (10%) of the width of the lot. The width of the lot shall be determined at the front setback line of the structure to be built. If alleys are present to the rear lot line of the property, no building or accessory building shall be erected within (5) feet of the alley right-of-way.

(g) Building Floor Area: Every dwelling shall have a first floor area of not less than 720 square feet if the dwelling is one (1) story or one and one-half (1.5) stories in height, or 475 square feet if the dwelling is two (2) stories in height.

(h) Density: Not more than one (1) principal building or structure shall be permitted on any lot.

(i) Multi-family dwellings consisting of 2 units shall provide at least four (4) off-street parking stalls.

(j) Multi-family dwellings of three or more dwelling units shall require a Site Plan approved by the Planning Commission, pursuant to §1283, including the following requirements:

1. The minimum lot area required shall be increased by an additional 300 square feet for each dwelling unit in excess of two (2);
2. Each multi-family dwelling shall have two (2) off-street parking stalls per dwelling unit for each of the first four (4) dwelling units, and one and one-half (1 1/2) off-street parking stalls for all dwelling units in excess of four (4);
3. A site plan shall be submitted with the application for a Special Land Use permit, which site plan shall be drawn to scale and shall contain and demonstrate the following:
  - a. The lot lines and dimensions of the lot upon which such multi-family dwelling is to be erected;
  - b. The location and dimensions of the multi-family dwelling on said lot;
  - c. The location and dimensions of all off-street parking stalls provided for said multi-family dwelling
  - d. The location of all structures on lots abutting the lot upon which the multi-family dwelling is to be constructed;
  - e. The size and location of any and all accessory buildings or structures to be placed upon said lot; and
  - f. Such other information as may be reasonably required by the Planning Commission as will enable it to make a determination as to whether the proposed multi-family dwelling will comply with all of the standards described in Chapter 1280 and all other provisions of these Codified Ordinances.

**Chapter 1270**  
**Rural Residential District (RR)**

**1270.01 INTENT.**

The Rural Residential District is designed primarily for single-family residential home use with lots larger than other areas of the city. This is to create a more rural character to the district than found in the R-1 and R-2 districts. The larger lots are to insure a safe, potable water supply and/or adequate area for on-site wastewater treatment.

**1270.02 PERMITTED PRINCIPAL USES.**

1. Adult Foster Care Family Home
2. Day Care Home, Family
3. Essential Services
4. Residence, Single-family

**1270.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for and the issuance of a Special Land Use Permit as provided for in Chapter 1280:

1. Adult Foster Care Small Group Home
2. Adult Foster Care Large Group Home
3. Banks and Financial Institutions
4. Bed and Breakfast Establishment
5. Cemetery
6. Day Care Center
7. Day Care Home, Group
8. Golf Course
9. Health Care Facilities, in-patient
10. Library
11. Mobile Home Park
12. Planned Unit Development
13. Recreational Uses: cross country ski trail, fields (soccer, hockey, ballfield), golf course, golf driving range, ice rink, mini-golf course, passive park
14. Religious Institution
15. Residence, multiple family
16. School
17. Wireless Communications Facility
18. Wireless Communications Facility, Attached

**1270.04 ACCESSORY BUILDINGS AND USES.**

Accessory structures normally associated with permitted uses when located on the same lot or lots, subject to the following conditions:

1. No more than three (3) accessory buildings shall be permitted on the lots served by the principal building.
2. The total square footage of all accessory buildings shall not exceed the total square footage of all floors of the principal building, excluding basements. In no case shall a single accessory building exceed 1,200 square feet of floor area.
3. All accessory buildings in excess of 150 square feet shall be constructed of similar materials or have the same general appearance as the principal building.
4. The height of the accessory building shall not exceed thirty-five (35) feet or the height of the principal building, whichever is less.

#### **1270.05 GENERAL REGULATIONS.**

(a) Height of Buildings: No building or structure thereof shall be erected or altered to a height exceeding thirty-five (35) feet, except a permitted structure may exceed this limit by one foot for each foot in excess of ten (10) feet that the building or structure is set back from all property lines, except that no building may exceed 75 feet.

(b) Lot Area: No building shall be erected or altered unless it is on a lot having an area of not less than one (1) acre. This regulation shall not apply to lots already platted and recorded as of the effective date of this Zoning Code, where the owner of such platted lots does not own a sufficient amount of adjacent land to permit compliance, provided that all other requirements of the Zoning Code are met.

(c) Lot Frontage: Every lot shall have frontage of not less than 150 feet along a street. This regulation does not apply to lots already platted and recorded as of the effective date of this Zoning Code where the owner of such platted lots does not own a sufficient amount of adjacent land to permit compliance, provided all other requirements of this Zoning Code are met.

(d) Setbacks: There shall be a building setback line of not less than twenty-five (25) feet or a setback line consistent with adjacent structures. On every corner lot the minimum setback distance shall be twenty-five (25) feet on the short side of the lot and may be as little as fifteen (15) feet on the long side of the lot, except for those lots where the long side is parallel to the front of the majority of other lots on the street, in which case the setback shall be twenty-five (25) feet.

(e) Rear Yard: Every lot shall have a rear yard of not less than twenty-five (25) feet. Necessary buildings or structures for accessory uses shall not occupy more than forty percent (40%) of the required rear yard area, provided that where such rear yard abuts on streets, no garage or other building for accessory use shall be placed nearer than fifteen (15) feet from the line of such street. Further, regarding corner lots, where such rear yard abuts on an adjacent lot to the rear, the accessory building setback from such lot line shall be not less than five (5) feet. If alleys are present to the rear lot line of the property, no building or accessory building shall be erected within (5) feet of the alley right-of-way.

(f) Side Yards: Every lot shall have two (2) side yards, neither of which shall be less than ten percent (10%) of the width of the lot, or not less than fifteen (15) feet for lots of 150 feet or more in width. The width of the lot shall be determined at the front setback line of the structure to be built. If alleys are present to the rear lot line of the property, no building or accessory building shall be erected within (5) feet of the alley right-of-way.

(g) Building Floor Area: Every dwelling shall have a first floor area of not less than 720 square feet if the dwelling is one (1) story or one and one-half (1 ½) stories in height, or 475 square feet if the dwelling is two (2) stories in height.

(h) Density: Not more than one (1) principal building or structure shall be permitted on any lot.

**Chapter 1271**  
**Business District (B-1)**

**1271.01 INTENT.**

The Commercial Business District (B-1) is intended to provide for commercial uses which are appropriate for high-density development, such as in the central business district. Uses in this district occasionally occupy buildings which share common walls and front directly on the sidewalks. Where off-street parking is provided it is behind the business or at a nearby parking lot. Residential uses are not permitted in the district, with the exception of dwellings in the upper floors of commercial establishments and as a Special Land use authorized by permit.

**1271.02 PERMITTED PRINCIPAL USES.**

1. Banks and Financial Institutions
2. Barber and Beauty Shop
3. Bed and Breakfast Establishments and Bed and Breakfast Inn.
4. Bowling Alley
5. Business Service Establishment
6. Commercial Printing
7. Conference Center
8. Convenience Retail
9. Cultural Facility
10. Essential Services
11. Flea Market and Farmer's Market
12. Fuel Sales Establishment
13. Funeral Home
14. Greenhouse, Greenhouse with nursery
15. Health Care Facility, Out-patient or In-patient
16. Hotels, Motels
17. Indoor Recreational Facility
18. Laundromat
19. Library
20. Lodge Hall
21. Office Building
22. Office Parks
23. Personal Service Establishment
24. Public Buildings
25. Religious Institutions
26. Residence, Upper Floor Commercial Building
27. Restaurants with or without Drive Thru
28. Retail Food Establishment
29. Retail Outlet Store
30. Retail Sales Establishment
31. Sidewalk Café
32. Tavern
33. Theater

34. Trade or Technical Schools
35. Veterinary Clinic
36. Video Arcade
37. Wholesale Sales Establishment

### **1271.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for and the issuance of a Special Land Use as provided for in Chapter 1280:

1. Automobile Sales or Showrooms, New or Used
2. Day Care Center
3. Dry Cleaning Establishment
4. Fairground
5. Food Processing Establishment
6. Motel, Hotel, Cabin and Resort
7. Planned Unit Development
8. Recreational Uses: campground; passive park
9. Recycling Collection Point
10. Residence, single family
11. Residence, multiple family
12. Retail Warehouse Outlet
13. Vehicle Repair Garage
14. Wireless Communication Facilities, Attached

### **1271.04 PERMITTED ACCESSORY USES.**

Any accessory use or structure that is normally associated with a permitted use.

### **1271.05 GENERAL REGULATIONS.**

(a) Site Plan: No building permit, certificate of occupancy or zoning compliance permit shall be issued authorizing any development on a lot in the Business District (B-1) without first securing the approval of the Planning Commission of a site plan pursuant to this Ordinance Code Section 1283 and with all other requirements of this Zoning Code.

(b) Obscuring Wall, Fence or Shrub: Whenever the parking plan for a development in the Commercial Business 1 (B-1) District is laid out so as to bring automobile headlights toward any residential land, an obscuring wall, fence, or shrub four (4) feet, six (6) inches in height shall be provided along that side of the parking area.

(c) Height of Buildings: No building or structure shall exceed a height of seventy-five (75) feet.

(d) Prohibited Uses: Any process or activity resulting in the emission of odor, fumes, smoke, dust, excessive noise or vibration, or of a character generally detrimental and disturbing to the district as a whole shall be prohibited, unless such processes or activities meet federal, state, and local regulations pertaining to health and safety, and do not affect other properties.

## **Chapter 1272 Business District (B-2)**

### **1272.01 INTENT.**

The Commercial Business District (B-2) is intended to provide for a diversified, lower density commercial district, containing businesses which may require larger lots or generate more traffic, lighting or other impacts on adjacent uses. Uses in the district are oriented toward automobile traffic. Residential use may be permitted and could be an accessory use if associated with a business, by application for and issuance of a Special Land Use Permit, as provided in Section 1280.

### **1272.02 PERMITTED PRINCIPAL USES.**

1. Amusement Parks, Fairgrounds, Miniature Golf Courses
2. Automobile Wash Facility
3. Automobile Sales or Showrooms, New or Used
4. Banks and Financial Institutions
5. Barber and Beauty Shop
6. Bed and Breakfast Establishment
7. Boat Livery
8. Bowling Alley
9. Building Material Sales and Storage
10. Business Service Establishment
11. Commercial Printing
12. Conference Center
13. Convenience Retail
14. Cultural Facility
15. Dry Cleaning Establishment, Laundromat
16. Essential Services
17. Flea Market, Farmer's Market
18. Fuel Sales Establishment
19. Funeral Homes
20. Golf Courses
21. Greenhouse, Greenhouse with nursery
22. Health Care Facility, In-patient or Out-patient
23. Laundromat
24. Library
25. Lodge hall
26. Mini-storage facility
27. Motel, Hotel, Cabins and Resort
28. Office Building
29. Office Parks
30. Personal Service Establishment
31. Public Building
32. Recycling Collection Point

- 33. Religious Institution
- 34. Restaurant, with or without Drive-Thru
- 35. Retail Food Establishment
- 36. Retail Outlet Store
- 37. Retail Sales Establishment
- 38. Retail Warehouse Outlet
- 39. Shopping Center
- 40. Tavern
- 41. Theater
- 42. Trade and Technical School
- 43. Utility Substation
- 44. Vehicle Repair Garage
- 45. Video Arcade
- 46. Warehousing
- 47. Wholesale Establishment

**1272.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for and the issuance of a Special Land Use as provided for in Chapter 1280:

- 1. Adult Foster Care Large Group Home
- 2. Assisted Living Facility, Nursing Home
- 3. Billboards used solely for advertising or publicity purposes. The Planning Commission shall be guided by Section 1280 and the following standards when making decisions regarding billboards as a Special Land Use:
  - a. Such billboards shall not extend more than fifteen feet above street grade;
  - b. Such billboards shall have a minimum setback of twenty-five feet from the edge of the street right-of-way;
  - c. There shall be a minimum distance of 1,000 feet between billboards; and
  - d. Billboards along public highway rights-of-way shall comply with all laws, regulations and requirements of then State of Michigan and its various agencies and departments
- 4. Contractor Yards
- 5. Day Care Center
- 6. Food Processing Establishment
- 7. Freight Handling Facility
- 8. Greenhouse with nursery
- 9. Kennels
- 10. Planned Unit Development
- 11. Recreational Uses: boat launch; campground; fishing pier; mini-golf
- 12. Recycling Collection Point
- 13. Residence, Multiple family
- 14. Residence, Upper Floor Commercial Building
- 15. Sidewalk Café
- 16. Temporary Outdoor Facility

17. Use, building or structure constructed or erected within the Teal Lake Overlay District (§1278 of these Codified Ordinances). Such proposed uses shall be evaluated pursuant to the requirements in §1280 and in the Teal Lake Overlay District.
18. Veterinary Clinic
19. Wireless Communication Facility
20. Wireless Communication Facility, Attached
21. Wireless Communication Towers

#### **1272.04 PERMITTED ACCESSORY USES.**

Any accessory use or structure that is normally associated with a permitted use.

#### **1272.05 GENERAL REGULATIONS.**

(a) Site Plan: No building permit, certificate of occupancy or zoning compliance permit shall be issued authorizing any development on a lot in the Business District (B-2) without first securing the approval of the Planning Commission of a site plan pursuant to this Ordinance Code Section 1283 demonstrating that such proposed development will comply with all of the standards described in Chapter 1280 and with all other requirements of this Zoning Code.

(b) Obscuring Wall, Fence or Shrub: Whenever the parking plan for a development in the Commercial Business 2 (B-2) District is laid out so as to bring automobile headlights toward any residential land, an obscuring wall, fence, or shrub four (4) feet, six (6) inches in height shall be provided along that side of the parking area.

(c) Height of Buildings: No building or structure thereof shall be erected or altered to a height exceeding fifty (50) feet except a permitted nonresidential structure may exceed this limit by one (1) foot for each foot in excess of ten (10) feet that the building or structure is set back from all property lines

(d) Lot Area: No building shall be erected or altered unless it is on a lot having an area of not less than 9600 square feet. This regulation shall not apply to lots already platted and recorded as of the effective date of this Zoning Code, where the owner of such plated lots does not own a sufficient amount of adjacent land to permit compliance, provided that all other requirements of the Zoning Code are met.

(e) Lighting: Lighting shall be installed so as to avoid shining on to the waters of the lake or on to adjacent lots. Each light pole or structure, including signs, shall be 30 feet in height or less.

(f) Lot Frontage: Uses other than residential shall have no requirements as to lot frontage, front yard, rear yard, side yard or coverage.

(g) Prohibited Uses: Any process or activity resulting in the emission of odor, fumes, smoke, dust, excessive noise or vibration, or of a character generally detrimental and disturbing to the District as a whole, shall be prohibited, unless such processes or activities meet federal, state, and local regulations pertaining to health and safety, and do not affect other properties.

**Chapter 1273**  
**Industrial District (I)**

**1273.01 INTENT.**

The Industrial District (I) is intended to accommodate establishments when the finished product generally consists of small machine parts, small electronic equipment or similar items.

**1273.02 PERMITTED PRINCIPAL USES.**

1. Automobile Wash Facility
2. Automobile Sales or Showrooms, New or Used
3. Bottling Works
4. Building Material Sales and Storage
5. Business Service Establishment
6. Commercial Printing
7. Contractor Yard
8. Essential Services
9. Light Manufacturing and Assembly
10. Mini-storage Facility
11. Office Buildings,
12. Office Parks
13. Public Building
14. Recycling Center, Junk Yard, Salvage Yard
15. Recycling Collection Point
16. Recycling Plant
17. Trade and Technical School
18. Utility Substation
19. Vehicle Body Shop
20. Vehicle Repair Garages
21. Wholesale and Warehousing Facility

**1273.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for and the issuance of a Special Land Use as provided for in Chapter 1280:

1. Asphalt Plant
2. Banks and Financial Institutions
3. Bowling Alley
4. Conference Center
5. Convenience Retail
6. Food Processing Establishment
7. Freight Handling Facility
8. Fuel Sales Establishment
9. Gravel/Sand Pit
10. Greenhouse, Greenhouse with nursery

11. Heavy Manufacturing and Assembly
12. Planned Unit Development
13. Retail Warehouse Outlet
14. Storage of Flammable Liquids or Gas Facility
15. Use, building or structure constructed or erected within the Teal Lake Overlay District (§ 1278 of these Codified Ordinances). Such proposed uses shall be evaluated pursuant to the requirements in §1280 and in the Teal Lake Overlay District.
17. Veterinary Clinic
18. Wireless Communication Facility
19. Wireless Communication Facility, Attached
20. Wireless Communication Tower
21. Woodyard

**1273.04 PERMITTED ACCESSORY USES.**

Any accessory use or structure that is normally associated with a permitted use.

**1273.05 GENERAL REGULATIONS.**

(a) Site Plan: No building permit, certificate of occupancy or zoning compliance permit shall be issued authorizing any development on a lot in the Industrial District (I) without first securing the approval of the Planning Commission of a site plan pursuant to this Ordinance Code Section 1283 and with all other requirements of this Zoning Code.

(b) Height of Buildings: No building or structure shall exceed a height of seventy-five feet or six stories.

**Chapter 1274**  
**Public Area District**

**1274.01 INTENT.**

The Public Area District (PA) is intended to establish and preserve appropriate access for City, public, or quasi-public uses which are designed to serve the entire community or specific section of it, except such uses as constitute a nuisance in the place where conducted, and to allow the necessary flexibility to address specific land use proposals regarding public lands to make informed decisions in the best interests of the public, health, safety, and welfare of the city and its residents.

**1274.02 PERMITTED PRINCIPAL USES.**

1. Land held for public use.

**1274.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

1. Cemeteries
2. Community School District facilities
3. Concessions
4. Essential Services
5. Libraries
6. Municipal Buildings
7. Municipal Water/Wastewater Facilities
8. Planned Unit Development
9. Police and Fire Stations
10. Post Offices
11. Public Recreation facilities including parks, playgrounds, camps, camp grounds, winter sports facilities, trails, golf courses, and similar recreation facilities.
12. Solid Waste Transfer Stations
13. Temporary Outdoor Activities
14. Wireless communications facilities

**1274.04 PERMITTED ACCESSORY USES.**

Any accessory use or structure that is normally associated with a permitted use.

**1274.05 GENERAL REGULATIONS.**

(a) Site Plan: No building permit, certificate of occupancy, or zoning compliance permit shall be issued authorizing any development on a lot in the Public Area District (PA) without first securing the approval of the Planning Commission of a site plan pursuant to this Ordinance Code Section 1283 demonstrating that such proposed development will comply with all of the standards described in Chapter 1280 and with all other requirements of this Zoning Code.

(b) Prohibited Uses: Any process or activity resulting in the emission of odor, fumes, smoke, dust, excessive noise or vibration, or of a character generally detrimental and disturbing to the

District as a whole, shall be prohibited, unless such processes or activities meet federal, state, and local regulations pertaining to health and safety and do not affect other properties.

**Chapter 1275**  
**Mining District (M)**

**1275.01 INTENT.**

The Mining District is intended to accommodate uses associated with ore mining, excavation or extractive processing. The district includes caving grounds and abandoned shafts and mines.

**1275.02 PERMITTED PRINCIPAL USES.**

1. Gravel/Sand Pits
2. Mining operations (extractive processing)

**1275.03 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for and the issuance of a Special Land Use permit as provided for in Chapter 1280:

1. Recreational Uses: tracks (ORV, bicycle, BMX, motor cross, go-carts, snowmobile, car, midget racing), motorized and non-motorized trails, athletic fields, and similar uses.
2. Use, building or structure constructed or erected within the Teal Lake Overlay District (§1278 of these Codified Ordinances). Such proposed uses shall be evaluated pursuant to the requirements in §1280 and in the Teal Lake Overlay District.
3. Wireless Communication Facility
4. Wireless Communication Facility, Attached.
5. Woodyard.

**1275.04 PERMITTED ACCESSORY USES.**

Any accessory use or structure that is normally associated with a permitted use.

**1275.05 GENERAL REGULATIONS.**

(a) Height of Buildings: No building or structure shall exceed a height of seventy-five feet or six stories.

**Chapter 1276**  
**Natural Resource District (NR)**

**1276.01 INTENT.**

The Natural Resource District is intended to provide open space in conjunction with recreational uses and other services and to preserve the character of the land in the City which has outstanding scenic and/or recreational qualities. Development shall only be authorized by issuance of a Special Land Use Permit.

**1276.02 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

The following uses of land and structures may be permitted in this District by application for and the issuance of a Special Land Use Permit as provided for in Chapter 1280:

1. Non-motorized Recreational Uses: such as archery range (outdoor), natural campground, cross county skiing or other such trails, fishing pier, picnic area, passive park, swimming beach
2. Temporary outdoor activity
3. Nature Center
4. Essential Services

**Chapter 1278**  
**Teal Lake Overlay District (TL)**

**1278.01 INTENT.**

To prevent development near the shoreline of Teal Lake which would have a detrimental effect upon the purity of the water, the Character of the lake, or the public enjoyment of the scenic views and the shoreline and waters of Teal Lake.

**1278.02 SPECIAL LAND USES AUTHORIZED BY PERMIT.**

Any permitted use, or Special Land Use, permitted by the underlying district, provided said use complies with this sector and §1280, Special Land Uses. However, no building, structure, or parking lot will be erected or placed within two hundred (200) feet of the high water mark of Teal Lake, without prior approval by the Planning Commission as a Special Land Use in accordance with Chapter 1280.

**1278.03 DISTRICT BOUNDARIES.**

Teal Lake shall be defined as encompassing all the lake area as defined by law, which lies north of US Highway 41. The boundaries of the Teal Lake Overlay District shall be within a 200 foot perimeter around Teal Lake, measured from the high water mark of 1367 feet.

**1278.04 GENERAL REGULATIONS.**

The following general regulations will apply to all buildings or structures, in addition to all requirements of the underlying zoning district:

- (a) Rear Yard: There shall be a setback line of not less than fifty (50) feet from the high water mark of Teal Lake.
- (b) Side Yards: Every site shall have two side yards, neither of which shall be less than ten percent (10%) of the width of the sites. The width of the site shall be determined at the front setback line of the structure to be built.
- (c) Lighting shall be installed so as to avoid shining on to the waters of the lake or on to adjacent lots. Each light pole or structure, including signs, shall be 30 feet in height or less.

## **Chapter 1280 Special Land Uses**

### **1280.01 APPROVAL BY PLANNING COMMISSION REQUIRED; STANDARDS.**

Whenever special land uses are proposed, such uses shall be permitted only after review and approval by the Planning commission as established in Chapter 1220. The Planning Commission shall approve a special land use only upon a finding of compliance with each of the following standards:

- (a) The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area;
- (b) The special land use shall not change the essential character of the surrounding area;
- (c) The special land use shall not interfere with the general enjoyment of adjacent property;
- (d) The special land use shall represent an improvement to the property under consideration and the surrounding area in general;
- (e) The special land use shall not be hazardous to adjacent property or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare;
- (f) The special land use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed conditional use shall be able to continually provide adequately for the services and facilities deemed essential to the conditional use under consideration; and
- (g) The special land use shall not place demands on public services and facilities in excess of current capacity.

### **1280.02 CONDITIONS FOR APPROVAL; ENFORCEMENT; APPEALS; NOTICE.**

- (a) The Planning Commission may impose conditions with the approval of a special land use which are necessary to insure compliance with the standards for approval and any other applicable standards contained in this Zoning Code. Such conditions shall be considered an integral part of the special land use permit and shall be enforced by the City Zoning Administrator.
- (b) Any decision made by the Planning Commission concerning special land uses may be appealed to the Board of Zoning Appeals.
- (c) The notice requirements set forth in this Code and State law shall be observed relative to the consideration of all special land uses by the Planning Commission.

## **Chapter 1281 Planned Unit Development**

### **1281.01 INTENT.**

To permit greater flexibility in the use and design of structures and land in situations where modifications of specific provisions of this Zoning Code will not be contrary to its intent and purpose or significantly inconsistent with the planning on which it is based and will not be harmful to the neighborhood in which they occur. A Planned Unit Development (PUD) should result in development which maximizes the provision of open space, preserves natural features, and provides a harmonious arrangement of structures and uses. More than one principal use and/or structure per lot may be permitted.

### **1281.02 ELIGIBILITY.**

In order to be approved by the Planning Commission, a proposed Planned Unit Development shall:

(a) On parcels at least two acres in size:

1. Provide for open space and preservation of natural features; clustered development and similar design methods are encouraged.
2. Minimize the amount of impervious surfaces created.
3. Provide a harmonious and efficient arrangement of all structures and uses in relation to topography, the size and type of plot, the character of adjoining property, and the type and size of buildings. Arrangements of buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.

(b) On parcels over 10 acres in size:

1. Provide for open space and the preservation of natural features.
2. Minimize the amount of new impervious surfaces created. The developer shall take into consideration the impact of the size and location of existing impervious surfaces when proposing new impervious surfaces.
3. Arrangements of proposed buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.

### **1281.03 APPLICATION AND MODIFICATION POWERS.**

(a) The applicant shall submit an application to the Planning Commission in accordance with the procedures set forth herein.

(b) In acting upon the application, the Planning Commission may alter setback requirements, building size limits, off-street parking regulations, landscaping rules, and density and intensity limits. It may also authorize uses not permitted in the district where the lot is located, providing such uses are desirable or convenient for the users of the lot as developed or the immediate neighborhood and provided that such uses are planned so as to assure that they will not materially alter the existing character of the neighborhood.

The provisions of this chapter shall be applied to the existing Zoning District, as defined on the zoning map, where the PUD is to be located.

#### **1281.04 PRELIMINARY CONFERENCE.**

Prior to preparing a formal application, the applicant shall meet with the Zoning Administrator to discuss the proposed development and application procedures. No decision regarding any proposed PUD is to be established at this conference.

#### **1281.05 PRELIMINARY APPLICATION.**

Following the preliminary conference, the applicant shall prepare and submit 12 copies of a preliminary application which consists of the following written and graphic documents, together with any fee(s) which have been imposed by the Negaunee City Council.

(a) A written description of the proposed PUD, including:

1. How the proposed PUD is consistent with the intent of this chapter, and with the eligibility criteria in Section 1281.02.
2. A statement identifying all intended uses, including future sales or leasing arrangements of all or portions of the proposed PUD.
3. A legal description of the proposed PUD parcel.
4. A listing of all owners, holders of easements, and other interested parties.
5. A projected assessment of the proposed PUD demands on public services and utilities, including, but not limited to, water, sewer, electrical service, streets and roads, sidewalks, refuse disposal, and emergency services. Nonresidential proposals shall include an indication of the number of employees, number of floors and estimated usable floor area.

(b) A preliminary site plan shall be provided on 12 identical copies on one or more sheets, at a scale adequate to illustrate the proposed activity, and shall include the following information. If the preliminary site plan has been prepared in digital format (.dwg, .dxf, etc.), a copy shall be provided to the city.

1. The legal description and street address of the lot(s).
2. The name, address and telephone number of the owner, developer, and/or designer.
3. An area location map, the proposed use, zoning of adjacent parcels and existing zoning classification.
4. Drawing date and revision date.
5. North arrow and scale.
6. The actual dimensions of the lot(s) as shown with a signature by a licensed surveyor, engineer, architect, or registered landscape architect, with survey stakes visible. The requirement for a survey may be waived if building dimensions will not change as a result of the proposed activity.
7. The relationship of the subject lot(s) to abutting properties.
8. Depiction of all existing structures, including signs, on the subject lot(s) shown to scale.
9. The dimensions of all proposed structures on the subject lot(s), including location,

finished floor area, exterior buildings elevations, and height of proposed buildings.

10. Distances between existing structures and proposed structures on the subject lot(s) and distance between lot lines and proposed structures.
11. Use of all existing or proposed structures on the subject lot(s).
12. The location of all proposed fences and planting screens or other buffers.
13. The location and right-of-way widths of all streets, alleys, private road easements and/or railroads located within or abutting the subject lot(s).
14. Named streets should be labeled.
15. The location of all existing and proposed ingress/egress points, sidewalks, driveways and parking areas on the subject lot(s).
16. The locations of existing ingress/egress points, driveways, streets, alleys and/or railroads within 300 feet of the boundaries of the subject lot(s).
17. The size and location of all existing and proposed public and private utilities.
18. The location of natural features affecting development, such as rock outcrops, water, wetlands, etc.
19. The location of existing and proposed surface water impoundments and surface water drainage patterns.
20. The location and extent of all planned earth movement.
21. The location of areas on the parcel that will be utilized for the storage of snow and the resulting anticipated drainage patterns that will result from the melting snow.
22. The location of proposed lighting and the direction of the illumination.
23. The locations, sizes, and materials to be used for trash receptacle areas and methods of screening said areas.
24. Recreation areas and trails.
25. Any other information necessary, in the opinion of the Zoning Administrator, to establish compliance with the provisions of this Zoning Code or any other applicable ordinances.

(c) A development schedule; a list of proposed covenants or deed restrictions; any proposed maintenance agreements on open space or common ownership areas; and a description of the type of financial guarantees to be utilized to insure PUD development.

#### **1281.06 WAIVER OF FINAL APPLICATION.**

The applicant may request that the requirement of Section 1281.06 for a final application be waived, and include all of the information required for a final application with the preliminary application. If, upon submittal, the Zoning Administrator finds that all items required by Section 1281.05 and Section 1281.08 are included the requirement for a final application and final public hearing may be waived. If the requirement for a final application is waived, the public hearing notice and all other materials pertaining to the preliminary application should clearly state that the final application requirement has been waived, and that no further public hearings on this application are anticipated.

#### **1281.07 APPROVAL OF APPLICATION.**

(a) Within sixty days of the Zoning Administrator's receipt of the complete Preliminary Application the Planning Commission shall hold a public hearing in accordance with the

requirements of this Zoning Code to review the preliminary application. In making its review of any portion of the PUD preliminary application, the Planning Commission shall determine whether the proposed PUD is consistent with the standards outlined in Section 1281.10 and Section 1280.01 and other relevant provisions of this Zoning Code. Following the review, the Planning Commission shall approve, approve with conditions or subject to modifications, or deny the preliminary application. Action taken on the preliminary application shall be specified in writing, including the reasons for approval or denial of the application, and any conditions imposed as part of approval with conditions.

(b) Approval of the preliminary application does not constitute recording of the plan nor authorize the issuance of building permits.

(c) Within a maximum of 9 months following preliminary approval, the applicant shall file for final application as outlined below. For good cause, the Planning Commission may extend this time period for up to 6 months. If the applicant fails to apply for the final application for any reason, approval or conditional approval shall be revoked.

#### **1281.08 FINAL APPLICATION.**

(a) Following approval or approval with conditions of the preliminary application, the applicant shall prepare and submit 12 copies of a final application which shall include:

1. All information as required by the Planning Commission for preliminary approval or conditional approval of the preliminary application, including modifications required to meet conditions imposed on the preliminary application, if any.
2. Signed copies of any preliminary plats, in accordance with the Land Division Act (Act 288 of 1967, as amended).
3. A detailed development time schedule.
4. Deed restrictions or covenants of the parcel.
5. Any other plans, documentation or specifications, as the Planning Commission may require to insure final engineering review and approval, which may include building plans, elevation and perspective drawings, drainage, road or other facility designs, and letters of commitment or intent insuring adequate financing for public utilities and/or services.

(b) The Planning Commission shall hold a second public hearing, within 30 days of the Zoning Administrator's receipt of the complete final application, and shall determine whether or not the final plans substantially conform to the approved preliminary development plan and are in proper form for final recording. Action taken on the final application shall be specified in writing, including the reasons for approval or denial of the application, and any conditions imposed as part of approval with conditions.

**1281.09 AUTHORIZATION AND ISSUANCE OF SPECIAL LAND USE PERMIT.**

(a) Where the Planning Commission determines that the final application is consistent with this chapter and other requirements thereof, and is in proper form for recording, it shall authorize a PUD special land use permit for development and use in accordance with the final accepted development plan. The PUD special land use permit shall be issued on the condition that construction will be commenced within 12 months of the date of issue. Authorizing the PUD special land use permit shall not obligate the Planning Commission or the Negaunee City Council to enforce any deed restrictions or covenants of the development parcel.

(b) The PUD special land use permit shall be issued following evidence of recording of the PUD final development plan with the Marquette County Register of Deeds.

**1281.10 PLANNED UNIT DEVELOPMENT STANDARDS.**

All preliminary and final applications shall be evaluated with respect to the following standards:

(a) Yard, setback, lot size, type of dwelling unit, height, and frontage requirements and restrictions may be waived for the PUD, provided, however, that the spirit and intent of this chapter as defined in the intent statement, are incorporated within the total development plan. The Planning Commission may determine that certain setbacks be established within all or a portion of the perimeter of the site, and shall determine the suitability of the total development plan in accordance with the intent of this chapter.

(b) Access: Every structure or dwelling unit shall have access to a public street, or to a private roadway built to city specifications and dedicated to common use. A maintenance agreement shall be required for private roadways.

(c) Sidewalks: For areas of residential development and significant pedestrian use, all streets and roadways within the PUD shall have a sidewalk at least four feet in width on at least one side of the street or roadway, unless otherwise excluded by the Planning Commission.

(d) Land Usage: Structures and uses shown on the development plan shall be arranged so as not to be detrimental to existing or proposed structures within the development or surrounding neighborhood.

(e) Privacy: Each development shall provide visual and acoustical privacy or provide for spatial separation for dwelling units. Fences, walls, barriers, and landscaping or open space shall be used for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable views or uses and reduction of noise. The planning commission has the right to deem what is reasonable in these situations.

(f) Off-Street Parking: Parking convenient to all dwelling units and other uses shall be provided. Common driveways, parking areas, walks, or steps may be required together with appropriate lighting deemed by the planning commission, in order to insure the safety of the occupants and the general public. Screening of parking and service areas may be required through use of trees, shrubs, hedges or screening walls.

(g) Utilities: PUD's shall provide for the cost effective and necessary installation of utilities (including, water, wastewater, cable TV, electricity, natural gas and telephone). In certain circumstances due to safety and/or aesthetics, the Planning Commission may require the installation of utilities underground. In no instance shall the PUD place demands in excess of the capabilities of the affected public facilities and services.

(h) Planting: The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features; additional new landscaping shall be added where deemed appropriate and necessary for privacy, shade, beauty of buildings and grounds, and to screen out objectionable features. Plant materials used shall be appropriate for the function they are to serve (i.e. parking lot trees or landscaping located along the roadway need to be large and hearty enough to survive the harsh environment and plantings for screening shall provide adequate buffer). Salt tolerant species shall be planted near roadways and parking lots. Landscaping shall not block the views at intersections.

(i) Lighting: Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets. Flashing or intermittent lights shall not be permitted.

(j) Drainage: Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or nearby bodies of water. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.

(k) Screening: All loading and unloading areas and outside storage areas, including refuse storage stations, shall be screened from view.

(l) The PUD shall be consistent with the standards outlined in Section 1280.01 and other relevant provisions of the Zoning Code.

#### **1281.11 CHANGES IN APPROVED PUD.**

(a) Changes in the location site or character of the building and structures may be authorized by the Planning Commission, if required by engineering or other circumstances not foreseen at the time the final development plan was approved.

(b) Changes which cause a change in the use, character, or intent of the development, an increase in the intensity of use, changes in the overall coverage of the structures, or problems of traffic circulation, utility services, or similar services, or a reduction in the approved open space, off-street parking and loading space, or pavement width requirements may be authorized by the Planning Commission following a public hearing. The public hearing notice shall be published not less than 15 days prior to the public hearing, in accordance with Section 1280.02(c).

(c) Changes which are approved must be made and recorded in accordance with the procedures established for the recording of the initial final development plan.

## **Chapter 1282 Open Space Preservation**

### **1282.01 INTENT.**

It is the intent of this article to offer an open space preservation option to developers as authorized by Act 179 of 2001 for the purpose of:

- (a) Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
- (b) Allowing innovation and greater flexibility in the design of residential developments;
- (c) Encouraging a less sprawling form of development, thus preserving open space.

For the purpose of this article the term “open space” shall refer to a natural state preserving natural resources, natural features, or scenic or wooded conditions; agriculture use; or a similar use or condition.

### **1282.02 ELIGIBILITY CRITERIA.**

To be eligible for open space preservation consideration, the applicant must present a proposal for residential development that meets each of the following:

- (a) Minimum Project Size. The minimum size of an open space preservation development shall be five (5) acres of contiguous land.
- (b) Unified Control. The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
- (c) Guarantee of Open Space. The applicant shall guarantee to the satisfaction of the Planning Commission that all open space portions of the development will be maintained in the manner approved. Documentation shall be presented that binds all successors and future owners in fee title to commitments set forth in the applicant’s proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the City and the land uses continue as approved in the open space preservation site plan.

### **1282.03 PROJECT DESIGN STANDARDS.**

A proposed open space preservation project shall comply with the following project design standards:

- (a) The open space preservation option is applicable only in the Rural Residential district and restricted to residential development.
- (b) Unless specifically waived or modified by the Planning Commission, and excepting the

minimum lot area, all Zoning Ordinance dimensional requirements for the underlying zoning district and other City regulations shall remain in full force.

(c) The developer shall maintain a minimum of twenty percent of the gross area of the site as dedicated open space. Land dedicated for open space does not include a golf course, street rights-of-ways, unbuildable land areas, or submerged land areas but may include a recreational trail, picnic area, children's play area, greenway or linear park. The dedicated open space may be, but is not required to be, dedicated to the use of the public.

(d) The number of dwelling units allowable within an open space preservation project shall be determined in the following manner: The applicant shall prepare and present to the Planning Commission a design of the area that is consistent with the existing City zoning requirements. The Planning Commission shall review the design and determine the number of lots that could be feasibly constructed on the property. This number, as determined by the Planning Commission, shall be the maximum number of dwelling units allowable for the open space preservation project.

(e) To encourage flexibility and creativity consistent with the open space preservation concept, the Planning Commission may grant specific departures from the requirements of the Zoning Ordinance for yard, lot, and bulk standards as a part of the approval process. Any regulatory modification approved by the Planning Commission shall result in a higher quality of development than would be possible using conventional zoning standards. The regulatory modifications are not subject to variance approval of the Zoning Board of Appeals. No part of an open space preservation site plan may be appealed to the Zoning Board of Appeals.

(f) The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Planning Commission, such as:

1. recorded deed restrictions in perpetuity,
2. covenants that run perpetually with the land, or
3. a conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
4. deeded property to the city

(g) Such conveyance shall assure that the open space "will be protected from all forms of development and shall never be changed to another use." Such conveyance shall:

1. Indicate the proposed allowable use(s) of the dedicated open space.
2. Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
3. Provide standards for scheduled maintenance of the open space.
4. Provide for maintenance to be undertaken by the City of Negaunee in the event that the dedicated open space is inadequately maintained, or is determined by the City to be a public nuisance, with the assessment of costs upon the property owners of the development.

(h) The dedicated open space shall forever remain open space, subject only to uses set forth on the approved site plan. Further subdivision of open space land or its use for other than recreation

or conservation shall be strictly prohibited.

(i) Accessory structures related to a recreation or conservation use may be erected within the dedicated open space, subject to the approved open space preservation site plan. These accessory structures shall not exceed, in the aggregate, one percent (1%) of the total required open space area.

(j) Direct access onto a public road shall be required for all developments receiving approval under the open space preservation option.

(k) The developer shall be responsible for construction of roads providing access into and circulation within the new development.

(l) The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the Planning Commission, as a condition of approval, may require that the open space preservation site plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.

#### **1282.04 PROJECT STANDARDS.**

In considering any application for approval of an open space preservation site plan, the Planning Commission shall make the determinations on the basis of the standards for site plan approval set forth in Chapter 1283 Site Plan Review as well as the following standards and requirements:

(a) Compliance with the project design standards in Section 1246 and Section 1248.

(b) The open space preservation project shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.

(c) The proposed open space preservation project shall be protective of the natural environment.

(d) Compliance with all applicable federal, state, and local regulations.

#### **1282.05 APPLICATION AND APPROVAL PROCESS.**

(a) The application for approval of an open space preservation proposal shall be in accordance with procedures for consideration of a special use permit. The required materials and fees shall be submitted to the Zoning Administrator.

(b) Approval of an open space preservation proposal shall be upon issuance of a special use permit following a public hearing. All improvements and uses of the site shall conform with the approved open space preservation site plan and comply fully with any conditions imposed by the Planning Commission.

(c) The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site specifying the date of final City approval, and declaring that all improvements will be carried out in accordance with the approved open space preservation site plan unless an amendment is adopted by the Planning Commission. In addition, all deed

restrictions and easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the city.

(d) Following final approval of the open space preservation site plan by the Planning Commission, a zoning compliance permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable, city, county, state or federal permits.

(e) If construction has not commenced within twenty-four months of final approval, all City approvals become null and void. The applicant may make written application to the Planning Commission for an extension, not to exceed twelve months. A maximum of two extensions may be allowed.

(f) The Planning Commission may require that a performance guarantee be deposited with the City Treasurer to insure completion of improvements.

**1282.06 REVISION OF APPROVED PLANS.**

Minor changes to an approved open space preservation site plan may be permitted by the Planning Commission following normal site plan review procedures outlined in Chapter 1283, subject to the finding of all of the following:

(a) Such changes will not adversely affect the initial basis for granting approval;

(b) Such minor changes will not adversely affect the overall open space in light of the intent and purpose of such development as set forth in this Article; and

(c) Such changes shall not result in the reduction of open space area as required herein.

(d) Changes which are a substantial departure from the approved site plan or alter the character or intent of the development will require the resubmission of the proposal to the Planning Commission for a public hearing.

## **Chapter 1283 Site Plan Review**

### **1283.01 INTENT.**

It is the purpose of this chapter to require site plan review and approval for all buildings, structures and uses, because they can be expected to have a significant impact on natural resources, traffic patterns, adjacent parcels and the character of future development. The regulations contained herein are intended to provide and promote the orderly development of the City; safe and convenient traffic movement, both within a site and in relation to access streets; the stability of land values and investments, by preventing the erection of structures, additions or alterations thereto without proper attention to setting, aesthetic considerations, or to unsightly or undesirable appearances; harmonious relationship to buildings, other structures and uses, both within a site and/or adjacent sites; the conservation of natural amenities and resources; and to otherwise protect the general safety, health and welfare of the City.

### **1283.02 SITE PLAN REQUIRED.**

(a) A site plan shall be required and shall accompany the applications for Zoning Compliance Permits for:

1. Any proposed construction.
2. Any commencement of a new use.
3. Any proposed change in use.
4. Special Land Use Permit.
5. Variances.
6. Any other request for zoning status where the Zoning Administrator determines a site plan is necessary for accurate review or documentation of the existing development.
7. When required by other city ordinances.

(b) For site plans pursuant to §1283.04, ten copies of the site plan shall be provided to the Zoning Administrator. For site plans pursuant to §1283.03, one copy of the site plan shall be provided to the Zoning Administrator.

### **1283.03 SITE PLANS FOR SINGLE AND TWO-FAMILY DWELLINGS AND RESIDENTIAL ACCESSORY USES AND STRUCTURES.**

(a) The site plan drawing for single and two-family dwellings and for their alterations, accessory uses and structures, as well as for applications involving expansion of no more than 5% of the square footage of an existing structure which does not involve a change in the use for said property, shall show the following information:

1. The legal description of the site and the property tax identification number.
2. All lot lines and dimensions of the lot.
3. All roads, easements, driveways, and parking areas.
4. All existing and proposed buildings, accessory buildings, and other structures shall be shown and labeled.
5. Proposed use of each building.
6. Distances between buildings and all lot lines.

7. Building dimensions.
8. Natural features affecting development (rock, water, etc.).
9. Well and septic locations.
10. A North arrow.

#### **1283.04 SITE PLANS FOR USES OTHER THAN SINGLE- AND TWO-FAMILY DWELLINGS**

(a) The site plan drawing for applications involving expansion of no more than 5% of the square footage of an existing structure which does not involve a change in the use for said property shall show the following information:

1. The legal description of the site and the property tax identification number.
2. All lot lines and dimensions of the lot.
3. All roads, easements, driveways, and parking areas.
4. All existing and proposed buildings, accessory buildings, and other structures shall be shown and labeled.
5. Proposed use of each building.
6. Distances between buildings and all lot lines.
7. Building dimensions.
8. Natural features affecting development (rock, water, etc.).
9. Well and septic locations.
10. A North arrow.

(b) Site plans meeting the following standards shall be required for all applications other than those prepared pursuant to Section 1283.03, including applications for Special Land Use Permits and for Variances.

1. A survey prepared by a licensed surveyor depicting the location of all lot lines, with survey markers erected on site. This requirement may be waived by the Planning Commission upon request by the applicant, in the event that the Planning Commission finds that the survey is unnecessary due to the configuration of the property and/or existing development.
2. A drawing to scale adequate to illustrate the proposed activity.
3. A legal description of the lot; the property tax identification number; the name, address and telephone number of the owner, developer and designer.
4. Date, North arrow, and scale.
5. The actual dimensions of the proposed developed area (as shown by a licensed surveyor, engineer, architect, or registered landscape architect, with the survey stakes visible) showing the relationship of the subject property to abutting properties.
6. The location of all existing and proposed structures, including signs, on the subject property and all existing structures on land immediately adjacent to the site within 10 feet of the site's parcel lines. The location of structures proposed for demolition.
7. The location of all existing and proposed drives and parking areas.
8. The location and right-of-way widths of all abutting streets, alleys, and private easements.

9. The location of proposed planting and screening, fencing, signs and advertising features.
10. The height and floor area of all proposed structures.
11. The size and location of all existing and proposed public and private utilities and required landscaping.
12. Any other information necessary to establish compliance with this Ordinance or any other applicable ordinances.
13. Location of all existing and proposed surface water impoundments and surface water drainage pattern. Indicate whether local, state or federal permits have been applied for.
14. The location and extent of all earth movement which is planned. Indicate if a sedimentation and erosion control permit has been applied for.
15. The location on the parcel that will be utilized for the on-site storage of snow and the resulting anticipated drainage pattern that will result from the melting snow.
16. The location of proposed lighting and the direction of the illumination.

#### **1283.05 REVIEW PROCEDURES.**

(a) Upon receipt of a site plan, the Zoning Administrator shall conduct a preliminary review to determine whether the site plan is in proper form and contains all of the information required by this Ordinance.

(b) The Zoning Administrator shall review and approve or deny site plans, or refer the site plan to the Planning Commission for further review under Section 1283.03 and 1283.04(a). Such review or referral shall be accomplished within ten working days.

(c) The Planning Commission shall review and take action on all site plans except those addressed in Section 1283.03 and 1283.04(a) unless referred by the Zoning Administrator.

(d) For site plans which are to be reviewed by the Planning Commission, the Zoning Administrator shall provide all site plan materials to the Planning Commission, along with his preliminary review of its compliance with the requirements in the applicable District under this Ordinance, for the next Planning Commission meeting, provided that the complete site plan is provided to the Zoning Administrator 10 days prior to the Planning Commission meeting.

(e) If a zoning permit has been denied and a Variance is requested by the applicant, the Zoning Board of Appeals shall review the site plans for zoning variances. The Zoning Administrator shall forward the site plan materials to the Zoning Board of Appeals for the meeting.

(f) The Zoning Administrator, Planning Commission, and Zoning Board of Appeals shall use the standards in 1283.06 in their review of site plans. For site plans pursuant to Section 1283.03 and 1283.04(a), the standards of Section 1283.06 shall be presumed to be satisfied if the site plan meets the requirements set forth under "Accessory Buildings and Uses" and/or "General Regulations" in Sections 1268, 1269 or 1270, as applicable. Any denial of a site plan shall be in writing and specify inadequacies or deficiencies in the site plan, and may indicate changes which would result in approval.

(g) The applicant may appeal any denial to the Zoning Board of Appeals, who shall use the standards contained in 1283.06 in their review. The review shall be limited to those materials submitted to the Planning Commission.

**1283.06 STANDARDS FOR SITE PLAN APPROVAL.**

(a) The proposed use shall conform to the uses permitted in that district.

(b) All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property and the type and size of buildings. The site development shall not impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

(c) Special attention shall be given to proper site surface drainage so that removal of storm waters will not adversely affect neighboring properties.

(d) The site plan shall provide reasonable visual and auditory privacy for all dwelling units located therein or on adjoining properties. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

(e) All buildings or groups of buildings shall be arranged to permit emergency vehicle access to each building.

(f) Every structure or dwelling shall have access to a public street, walkway or other area dedicated to common use. Attention must be given to assure that safe and efficient ingress and egress is provided and the placement of driveways will not be a traffic concern.

(g) All loading or unloading and outside storage areas at developments other than single- or two-family homes, including areas for storage of trash, which face or are visible from residential properties, abut a residential zone or public thoroughfares, shall be screened by a vertical fence consisting of adequate structural (fence) or plant materials no less than six feet in height.

(h) All outdoor lighting, whether for illuminating parking areas, buildings, signs and/or other structures shall be shielded, shaded, designed and/or directed away from all adjacent residential districts and uses; and further shall not glare upon or interfere with persons and vehicles using public streets. Whenever the parking plan is so laid out as to bring automobile headlights toward any residential land, an obscuring wall or fence four feet, six inches in height shall be provided along that side of the parking area. Flashing or intermittent lights shall not be permitted.

(i) Sufficient area shall be identified for the on-site storage of snow and anticipated drainage that will result from the melting snow.

(j) Sufficient off-street parking shall be provided for residents, customers and employees and all anticipated uses.

## **Chapter 1284 Nonconforming Uses**

### **1284.01 ALTERATIONS.**

A nonconforming use is one that is restricted to an area that was nonconforming at the time this Zoning Code was enacted or amended, subject to the following provisions:

- (a) No existing structure devoted to a use not permitted by this Zoning Code 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 except as otherwise provided herein.
- (b) Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use and which existed at the time of adoption or amendment of this Zoning Code, but no such use shall be extended to occupy any land outside such building.
- (c) If no structural alterations are made, any nonconforming use of a structure, or of a structure and premises may be changed to another nonconforming use provided that the Planning Commission, by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accordance with the purpose and intent of this Zoning Code.
- (d) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations applicable to the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- (e) When a nonconforming use of a structure, or of a structure and premises in combination, is discontinued or ceases to exist for twelve consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- (f) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

### **1284.02 REPAIRS AND MAINTENANCE.**

- (a) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve consecutive months in the nature of ordinary repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not to exceed fifty percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this Code shall not be increased. Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or

part thereof declared to be unsafe by any official charged with protecting the public safety, upon the order of such official.

(b) In the event that a building has been destroyed by fire or other calamity, the building may maintain its nonconforming use status if the building is rebuilt on the same footprint as the destroyed building within 12 months of the date of the calamity.

## **Chapter 1285 Home Occupations**

Home occupations may be conducted within a single or two-family dwelling unit in accordance with the following requirements:

- (a) There shall be no exterior display other than one nonilluminated nonprojecting sign, which shall not be more than two square feet in area and which shall be attached to the wall of the building;
- (b) Not more than one (1) person who is not a resident of the dwelling shall be involved in the home occupation;
- (c) A generally recognized retail store similar to those permitted in the Business Districts shall not be considered a home occupation;
- (d) Home occupations shall not require exterior alterations or involve construction features not customary in dwellings, or required use of mechanical or electrical equipment which shall create a nuisance to the adjacent neighborhood.
- (e) Off-street parking shall avoid conflicts with adjacent dwelling units and prevent congestion in the street. Home occupations shall not require a loading/unloading area.
- (f) Instruction in a fine art, craft or music shall be considered a home occupation.
- (g) Not more than one-fourth (1/4) of the living area of the dwelling unit and less than one-half (1/2) of the living area of the main floor shall be devoted to the home occupation. No part of an accessory structure, either attached or detached shall be used. In no instance shall one (1) or more home occupations in any single dwelling unit permanently occupy more than three hundred (300) square feet of the dwelling unit.
- (h) A home occupation shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, traffic, safety hazards, dirt, dust, gas, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, involved in or resulting from such home occupation.
- (i) There shall be no outdoor storage of items supportive of the home occupation.
- (j) Walk-in retail trade shall be prohibited. All wholesale, jobbing or retail business shall be conducted entirely by mail, email or telephone.
- (k) All electrical motors and equipment used in the conduct of the home occupation shall be shielded so as not to cause radio or television interference for adjoining properties.

## **Chapter 1286 Supplementary Regulations**

### **1286.01 RIGHT TO LIGHT.**

(a) No person, firm or corporation shall build any structure in any single family, two family or rural residential zone in the City without complying with all of the provisions of this Zoning Code.

(b) No person, firm or corporation shall build or place any structure taller than the height set forth in the applicable zoning district, unless the structure comes within the exceptions set forth in subsection (c) hereof.

(c) An applicant must obtain approval from the Planning Commission for a building higher than the limitation set forth in subsection (b) hereof, where the applicant can show any one of the following conditions:

1. There is an existing principal residence building on an adjacent lot and the roof of the building will not be shaded by the building for more than one hour in any day at any time of the year, except one hour after sunrise and one hour before sunset.
2. There is an adjacent lot with no principal residence building and the proposed building will not shade any part of the lot on which the building is permitted by law and by applicable restrictions on the real estate, at a height of eighteen feet, for more than one hour in any day at any time of the year, except one hour after sunrise and one hour before sunset.
3. The adjacent lot is zoned for commercial or industrial purposes and is not in use for residential purposes.

(d) New subdivisions may be designed with innovative ways of preventing shading of residential buildings. Any design will be deemed to comply with the requirements of this chapter if that design results in no roof of any residence building being shaded for more than one hour in any day at any time of year, except one hour after sunrise and one hour before sunset.

### **1286.02 HEIGHT EXCEPTIONS.**

Chimneys, cooling towers, elevators, windmills, penthouses, stacks, towers, shaft houses, tanks, monuments, cupolas and mechanical appurtenances pertaining to or necessary to a permitted use in the district in which they are located shall not be included in calculating the height of the principal structure.

### **1286.03 YARD AND COURT OBSTRUCTIONS.**

Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except that open porches, fire escapes, open stairways and chimneys may be permitted where the same are so placed as not to obstruct light and ventilation.

**1286.04 EXTERNAL WOOD AND SOLID FUEL BURNING BOILERS.**

(a) It is the intent of this section to safeguard the health, comfort, living conditions, safety and welfare of the citizens by regulating the air pollution and fire hazards of outdoor wood, and solid fuel burning boilers.

(b) Stand alone wood and solid fuel fired heating/boiler systems shall conform to the following requirements:

1. Minimum setback of fifty (50) feet from all lot lines.
2. Minimum lot size of two acres.
3. Minimum chimney height of fifteen (15) feet, measured from grade to chimney top.
4. Associated wood or solid fuel storage and stove shall be located in rear of lot.
5. Installation and use shall be as per manufacturer's requirements, except as noted above.

**1286.05 WIRELESS COMMUNICATIONS FACILITIES.**

(a) It is the intent of this section to recognize that the City has a clear and identifiable interest in accommodating the communication needs of residents and businesses but also has an interest in regulating highly visible structures such as large, high communication towers. It is the City's interest, also, to induce, to the extent reasonable, cooperative use and collocation of such towers and their associated facilities and structures.

(b) Wireless Communication Facilities located by special Land Use Permit in the R-1, R-2, RR, B-1, B-2, I, M, and PA Districts are subject to the following qualifying conditions and/or regulations and to the considerations of section 1280:

1. The height of the wireless communication facility shall not exceed 175' from the ground to the highest point of the facility.
2. All sites must contain a minimum area sufficient to contain the wireless communication facility and all related accessory uses.
  - a. If the property is undeveloped or occupied by a non-residential use, it must have a minimum area of 2.5 acres.
  - b. If the property is occupied by a residential use, it must have a minimum area of 20 acres.
3. The site shall have legal documented access to a public road.
4. Any wireless communication tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been certified by a licensed mechanical, civil, professional engineer or architect, or other engineer licensed and competent in assessing the structural integrity of such towers, verifying a safe fall zone. All towers shall be certified by licensed engineer to verify that the structural design will meet federal standards to withstand wind speeds and icing under 100 year event conditions in the area.
5. Accessory structures shall not exceed a total of six hundred (600) square feet of gross building area.

6. No wireless communication facility shall be approved unless the applicant is able to establish in writing that any existing tower, structure, or facility is not available for co-utilization based upon technical inadequacy or lack of capacity, unreasonable or prohibitive cost, denial by owner or other practical impediment to use or access.
7. There shall not be displayed on the wireless communication facility advertising or identification of any kind intended to be visible from the ground or other structures, except as required for emergency purposes.
8. The wireless communication facility shall be maintained in a predominant color, coating, or material which matches the exterior surroundings. The predominant color scheme shall be designed to minimize off-site visibility of the structure.
9. All wireless communication facilities must comply with the standards of the Federal Aviation Administration, the Federal Communications Commission, the Airport Zoning Ordinance for Marquette County and all applicable State or Local codes.
10. Any wireless communication tower or antenna that is not operated for continuous period of 12 months shall be considered abandoned and the owner of such tower or antenna shall remove the same within 90 days of receiving an abandonment notification from the City. Failure to remove an abandoned tower or antenna within 90 days shall be grounds for the City to remove the tower or antenna at the owner's expense. The Planning Commission may require the applicant to post a bond in an amount equal to the reasonable cost of removal for the tower and/or antenna. If a bond is to be required, the Planning Commission shall include the requirement as a condition of approval.
11. Minimum spacing between wireless communication facilities containing one or more towers shall be one (1) mile in order to prevent a concentration of facilities in one area.
12. Wireless communication facilities shall not be artificially lighted unless required by the Federal Aviation Administration.
13. The base of any tower and any cable supports shall be fenced with a minimum six (6) foot high security fence and all fencing shall be screened with landscaping. Accessory structures shall match the construction characteristics of other existing buildings in the surrounding area.
14. All wireless communication facilities shall be inspected after being constructed and then once every three (3) years for compliance with all ordinance, structural and operational requirements and shall be certified as in compliance by a licensed mechanical, civil, professional engineer or architect, or other engineer licensed and competent in assessing the structural integrity of such towers, and said certification shall be submitted to the City.
15. The Planning Commission may require additional setback distances as part of a Special Land Use Permit approval or for towers located within 1000 feet of property zoned for residential use.

The above Ordinance shall be published as required by law, and shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Upon roll call,

Council members voting aye:

Council members voting nay:

Council members absent:

WHEREUPON, this Ordinance is declared passed and adopted on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF NEGAUNEE

\_\_\_\_\_  
By: Paul Gravedoni, Its Mayor

Attest:

\_\_\_\_\_  
By: Judith K. Iwanski, Its Clerk