

**ARTICLE 3  
GENERAL REGULATIONS**

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

**(1) Interpretation of Code.**

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

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

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

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

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

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

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

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

**(5) Exemptions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**50.301 General Requirements.** Unless otherwise expressly modified, the following provisions shall apply to the use of all land and

the location and use of all buildings and other structures within the City of Harbor Springs:

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

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

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

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

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

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

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

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

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

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

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

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

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

1) If, based on information available to the Zoning Administrator, the proposed location of the improvement is more than three (3) feet from any required zoning setback lines, the Zoning

Administrator may waive the survey requirement. Any waiver of the survey requirement by the Zoning Administrator shall be in writing.

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

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

(iii) After completion of construction, but prior to occupancy of the building, the owner, contractor, or his agent shall notify the Zoning Administrator that the project is ready for final inspection. If such building or alterations comply with the statements in the application, plans, working drawings, and specifications, and with all provisions and restrictions of this Code, a certificate of occupancy shall be issued as hereinafter provided in Section 50.301(3).

(f) [Penalties.

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

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

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

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

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

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

(b) The erection or alteration of accessory buildings (and required motor vehicle

parking and storage areas) for single and two-(2) family buildings.

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

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

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

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

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

(a) No vacant land shall be occupied or used and no building hereafter erected or altered shall be occupied, used or changed in use until a certificate of occupancy and compliance shall be issued by the Zoning Administrator, stating that the building or proposed use of the building or premises complies with all of the building and health laws and Ordinances, including the provisions of this Chapter.

(b) Certificates of occupancy and compliance shall be applied for coincident with the application for a zoning permit and shall be issued within ten (10) days after the construction

or alteration of such buildings shall have been substantially completed in conformity with the provisions of these regulations and final inspection has been made as required by Section 50.301(1)(e). A record of all certificates shall be kept on file in the office of the Zoning Administrator and copies shall be issued on request to any person having a proprietary or tenancy interest in the building affected.

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

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

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

(b) [Existing buildings, as defined in Section 50.201(21), may be utilized to their capacity through structural alteration or rebuilding (excluding basements and additions) for the permitted uses occupying such building on the effective date of the Ordinance adopting the Harbor Springs Zoning Code of 1990 (the "Effective Date"), and shall be exempt from providing off-street parking spaces. Uses requiring an equal or lesser number of parking spaces may be substituted for the principal use of record on the Effective Date, without providing off-street parking spaces. When additions are made to existing buildings, or the basements thereof are converted to uses requiring parking spaces, or when uses requiring

more spaces than the use of record on the Effective Date are substituted, then off-street parking spaces for the addition or the change difference shall be provided and irrevocably reserved and recorded in accordance with the standards of Article 18 of this Chapter. The foregoing notwithstanding, if an existing building is converted from a commercial use to a residential use, on-site, off-street parking must be provided in accordance with the requirements for single family residential dwelling units provided in Article 18 of this Chapter, provided for residential dwelling units containing less than 900 square feet, only 1 parking space need be provided.]<sup>11, 95</sup>

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

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

--or--

(ii) Is made available for parking to the public at large and is within sufficient proximity of the property owner's premises that parking congestion within the vicinity of the property owner's premises should be reduced.

If the off-site location is not irrevocably committed to the property owner's benefit, or to the public at large, as the case may be, the property owner must reserve sufficient space on his property (to be indicated on his Site Plan) to meet the off-street parking requirement should his right to use the off-site location terminate. If the right to use the off-site location is terminated, the property owner shall forthwith provide the required off-street parking spaces, in conformity with this Chapter. A violation of this requirement shall be deemed a violation of this Code.

(d) Nothing in this Section shall be construed to prevent collective provisions of

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

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

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

**(5) Lot Requirements.**

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

(b) No Non-Conforming Lots to be Created. No lot upon which a building has been erected shall be so reduced or diminished in area that the setback requirements, or minimum area requirements of this Chapter, will be violated, or that yards or open spaces shall be smaller than those prescribed by this Chapter.

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

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

(e) Lot Size Averaging Permitted. Whenever a subdivider or developer wishes to vary lot sizes and lot widths so as to average the

minimum size per dwelling unit as required in each respective district, the following conditions must be met:

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

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

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

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

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

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

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

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

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

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

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

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

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

**(8) Driveway Requirements.**

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

(b) Other Zoning Districts. The location of all driveways, entrances and exits in all other zoning districts shall be included within the Site Plan presented for approval to the Planning Commission and shall not be constructed without Site Plan approval.

**(9) Sidewalk Requirements.**

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

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

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

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

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

(a) Duty to Maintain Property. The owners or occupants of all lands, structures, and any parts thereof, shall have the duty to maintain the same in a clean and sanitary condition free from any accumulation of dirt, filth, rubbish, garbage, junk, vermin, and the duty not to act or omit to act so as to create or permit the existence of a nuisance as defined in this Chapter. This duty shall extend to any area of land between the lot line and adjoining streets or curbs.

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

**(12) [Maximum Density, Residential.**

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

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

**(1) Accessory Buildings.** No accessory buildings shall be located in the front yard or corner side yard of any lot (except in the case of a through lot in which case Section 50.301(6) shall apply); provided, an accessory building may be built in a front yard or corner side yard when authorized by the Planning Commission after consideration of the standards as set forth in Article 21 and the following:

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

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

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

[The following regulations pertain to all accessory buildings:

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

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

(f) The foot print of any accessory building which exceeds 576 square feet in area shall not exceed 75% of the principal building foot print.

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

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

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

(j) No space in an accessory building shall be rented for any purpose, and an accessory building shall not be used or occupied

as a permanent residence, and shall not be used as a rooming or boarding house.

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

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

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

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

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

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

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

(l) Any accessory building which exceeds one story, and any accessory building containing guest quarters, shall have similar architectural details to the principal building, such as finish, color and quality of building materials. Windows in such accessory buildings

shall be of the same quality and appearance of those in the principal building.”<sup>89</sup>

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

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

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

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

(a) Definitions:

(i) **Bluff Area.** The natural geologic feature in the City of Harbor Springs consisting of the steep land bank, commonly referred to as the “Bluff”, which lies generally south of Bluff Drive west of Hoyt Street, and generally south of Main Street east of Hoyt

Street, and legally described as follows: that property bounded by a line beginning at the intersection of West Bluff Drive and Fourth Street in the City of Harbor Springs; thence easterly along West Bluff Drive to East Bluff Drive; thence easterly along East Bluff Drive to the end; thence continuing easterly along the line of East Bluff Drive if East Bluff Drive were extended to the Westerly boundary of Shay Park; thence northerly to Pine Street; thence easterly along the centerline of Pine Street to the intersection of Hoyt Street; thence southerly along the centerline of Hoyt Street to the intersection of East Main Street; thence easterly along East Main Street to the City limits; thence southerly along the City limits to Pennsylvania Avenue; thence westerly along the centerline of Pennsylvania Avenue to the intersection of Zoll Street; thence northerly along Zoll Street to the intersection of East Main Street; thence westerly along East Main Street to the intersection of Nelson Street; thence northerly along the centerline of Nelson Street to the intersection of Third Street; thence westerly along Third Street to a point which would be the southerly extension of Ann Street if Ann Street were extended southerly; thence North along the southerly extension of Ann Street to Fourth Street; thence westerly along Fourth Street to the point of beginning. The line above described shall be the centerline of the said streets or extensions of streets.

(ii) **Restricted Bluff Zone:**

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

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

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

(b) Restrictions and Regulations:

(i) Any construction or excavation proposed within twenty feet south of the Toe of the Restricted Bluff, or within twenty feet north of the Top of the Restricted Bluff, (the "Regulated Areas") must be first approved by the City Manager or Planning Commission, pursuant to the following procedure. The City Manager shall review the proposed activity, and if, in the opinion of the City Manager, such activity will have little or no effect on the integrity of the Bluff, or is necessary for safety considerations, the City Manager may approve such activity. By way of example only, repairs to existing retaining walls may be approved by the City Manager in the exercise of his discretion under this Section. If the City Manager is concerned that the proposed activity may impair the integrity of the Bluff, or has other concerns, the City Manager shall refer the proposed activity to the Planning Commission for review as a matter requiring Site Plan Approval under Article 20, and the applicant shall submit a Site Plan for such activity to the Planning Commission for review, together with the following additional data:

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

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

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

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

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

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

(c) [Penalties.

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

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

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

appropriate order by a court of competent jurisdiction.]<sup>110</sup>

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

**(7) [Condo-Hotels.** In addition to the requirements that otherwise apply to any permitted principal use in a district where a Condo-Hotel is permitted, the following requirements shall apply to Condo-Hotels. For purposes of this Section, "Unit" shall mean a condominium unit as defined in the Michigan Condominium Act, being the enclosed surveyed space devoted to separate ownership as depicted in the condominium subdivision plan (Exhibit B) of the Master Deed for the Condo-Hotel.

(a) **Requirements.** A Condo-Hotel shall include the following features: the name "Hotel" shall appear prominently in the name and signage on the building, and in all marketing literature; ingress to and egress from the Units shall be made only through an inside office or lobby supervised at all hours of the day and night by an employee of the owner or operator of the Hotel (there shall be no direct outside access to Units); there shall be electronic card access only to Units (no keys), and the card access codes shall be changed at least weekly; there shall be no assigned parking in the Condo-Hotel parking lot for Units in the Condo-Hotel; there shall be no regular mail service available to Unit owners in the Condo-Hotel; there shall

be no direct telephone, cable, or internet service available to Unit owners in the Condo-Hotel; there shall be a standard furniture package in place and in use in all Units in the Condo-Hotel, and unique furniture or unique furniture arrangements in Units shall not be permitted; there shall be daily maid service provided to all Units in the Condo-Hotel; all Units in the Condo-Hotel shall be available for rental to the general public for overnight lodging facilities through the rental pool as required by subsection (c) of this Section whenever the Owner of a Unit in the Condo-Hotel (as defined in subsection (c)) is not occupying the Unit; an owners' association shall be established and shall operate the Condo-Hotel as required by subsection (b) of this Section. If a building approved as a Condo-Hotel is not continuously maintained and operated so that each and every of the foregoing requirements is satisfied, said building shall not be a Condo-Hotel, and the use of such building by each and every of the Unit owners shall be deemed a violation of this Code;

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

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

(d) **Marketing.** A Condo-Hotel shall be created, sold, and maintained under documentation, including the condominium master deed, bylaws, sales brochures, and pre-construction agreements, (in form and content approved by the City) that adequately discloses and ensures that the facility will in all respects be permanently and exclusively operated as a Hotel and will not be occupied as a multi-family dwelling.

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

(f) **Reporting and Inspection.** Each Owner of the individual Condo-Hotel Units, the owner's association and management entity shall allow reasonable access to individual Units, and shall maintain and regularly make available to City such information, books, records, and documentation as the City finds necessary to

have or review in order to ensure that the City may determine the Condo-Hotel's compliance with this Section and other applicable City laws, regulations and project conditions. The original and every subsequent management entity shall immediately advise the City of its name, qualifications, address, telephone number and the name of a contact person.<sup>104</sup>

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

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

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

**(10) Fence and Wall Restrictions.** For all single- and two-family uses, fences shall be permitted, subject to the following restrictions:

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

(b) Within a rear yard, no fence or wall, other than a retaining wall, shall be higher than six (6) feet.

(c) Within a front yard, no fence or wall other than a retaining wall shall be higher than four (4) feet.

(d) [On any corner lot, no fence or wall, except a retaining wall, shall exceed four (4) feet in height along any street line, nor along the required setback of any such lot; except that in the area formed by the lot corner, and the two points twenty feet each way along the street line from said corner, no fence or wall, except a retaining wall, shall exceed three (3) feet in height.]<sup>41</sup>

(e) No fence or wall other than a retaining wall shall be constructed or maintained on any rear line constituting the side line of another lot which exceeds the height of any fence or wall permitted to be constructed on said side lot line.

For other than single- and two-family uses, the size and location of fences shall be included within a Site Plan presented for approval to the Planning Commission, and no fence shall be constructed without Site Plan approval.

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

**(12) Historic Building Restriction.** No existing building listed in the Michigan Historic Preservation Plan, dated August 22, 1975, as

amended, etc., shall be structurally altered on its exterior or demolished until the impact of the proposed action has been examined by the Planning Commission and a report from the State of Michigan is obtained detailing the building's historic significance. If the Planning Commission deems it necessary, a preservation plan may be required from the owner before a permit to alter the building is granted. The purpose of this provision is to protect and guard as part of the cultural inheritance of the City of Harbor Springs, those unique historic buildings which have been designated by the State of Michigan; to preserve the cultural, historic, and tourist attractive nature of the City of Harbor Springs, so as to benefit the City by promoting the tourist industry and the economic health and welfare of the City, as well as preserving places of historic interest.

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

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

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

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

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

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

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

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

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

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

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

(c) The open parking and/or storage of a boat or recreational vehicle not owned by a resident or property owner of the City, for periods exceeding twenty-four (24) hours on lands not approved for said parking or storage shall be expressly prohibited, except that the Building Inspector may extend temporary permits allowing the parking of a recreation vehicle in a rear yard on private property not to exceed a period of two (2) weeks. All boats and recreational vehicles owned by residents or property owners of real estate within the City and stored on their individual lots shall not be stored within any front yard or any side yard and the regulations applicable to accessory buildings in Article 3 of this Chapter shall apply to said recreation vehicles, insofar as distances from

principal structures, lot lines, and easements are concerned. Except within approved mobile home parks (or upon temporary approval of the Building Inspector as aforesaid), no recreational vehicle shall be connected to sanitary facilities and no recreational vehicle shall be occupied.

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

**(16) Raw Materials - Storage and Dumping Prohibited.** No lot or parcel of land shall be used for the dumping or storage of soil, sand, gravel, broken concrete or similar materials until a written permit is secured from the Planning Commission.

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

**(17) Rental of Dwelling Units for Less Than Seven Days - Restricted.** Regardless of how a building is equipped, any structure in which dwelling units are available for rent of periods of less than one week shall be considered a hotel or motel. This regulation does not apply to a bed and breakfast establishment having special land use approval.

**(18) Tarpaper Exteriors - Prohibited.** All buildings which face upon a street or Little

Traverse Bay, including buildings located on a corner lot and having frontage on a side street are prohibited from having a street side and/or lake side exterior surface consisting of any kind of paper materials, including tar paper, or other materials which are known to deteriorate rapidly in appearance, strength, weatherproofing, or impermeability.

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

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

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

**(2) No Intrusion into Public Rights-of-Way.** Signs are expressly prohibited from extending over any public rights-of-way or dedicated public easements except in the Central Business District, and there, only as specifically permitted by the sign provisions pertaining to that District.

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

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

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

**(6) Computation of Sign Area.** In computing the sign area for purposes of determining a sign's compliance with this Chapter, the following rule prevails: sign area means that area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports and uprights on which such sign is placed; provided, however, any open space contained within the outer limits of the display face of a sign or between any component, panel, strip, or figure of any kind composing the display face shall be included in the computation of the area of the sign, whether such open space be enclosed or not by a frame or border. For double-faced signs, each display face shall be measured or counted in computing sign area. All lettering and other sign elements printed or mounted upon a wall of a building without any distinguishing border, panel or background and pertaining to the same enterprise shall be treated as a single sign for purposes of area computation, and each letter shall be enclosed tightly with a rectangular imaginary line to define the area for computation.

**(7) No Moving, Flashing or Portable Signs.** Expressly prohibited in the City of Harbor Springs are roof signs, portable signs, flashing, oscillating or intermittent types of illumination, bare or exposed incandescent neon or fluorescent bulbs, balloons, mechanically-moving signs or components, streamers, windblown devices, spinners,

pennants or flags other than the United States flag or the flag of the State of Michigan, or other flags specifically approved by the City Council.

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

**(9) Limitation on Signage, per building.** The total square footage (area) of principal signs on a building in the B-1, B-2, CBD, WF or M-1 District shall not exceed .75 square feet per lineal foot of building frontage, measured along the street side of the building; provided, for buildings located on corner lots, the building frontage shall be measured on the street where the principal entrance to the building is located. The frontage of any structure located between a building and a street shall be deducted, for purposes of the foregoing computation.

**(10) Exemptions.**

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

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

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

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

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

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

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

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

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

(2) Said sign shall be removed within five (5) days of the closing

on the rental of the premises; and,

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

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

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

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

(c) Special Restrictions for Off-Premises Signs.

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

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

(iii) Permit Required. A temporary permit for a period of not more than two (2) months shall be obtained for each off-premises sign from the Zoning Administrator and may be renewed for additional periods if

deemed appropriate by the Zoning Administrator. An inspection fee to be set from time to time by resolution of the City Council shall be paid to the Zoning Administrator for each sign at the time of the original permit and at each renewal thereof.

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

(v) No Alteration of Approved Sign without Additional Permit. No off-premises sign for which a temporary permit has been obtained shall be thereafter moved or altered in any way without the approval of the Zoning Administrator.

**50.304 [Wireless Communications Antennas and Towers.]** The provisions of this Section are intended to minimize adverse aesthetic impacts in all districts on the scenic views of Little Traverse Bay and the Harbor of the City of Harbor Springs, associated with wireless communications facilities, and on other properties located in proximity to such facilities, and to comply with all Federal Communications Commission rules, regulations and standards. All wireless communications antennas and towers shall be subject to the following requirements and restrictions, which shall be in addition to other and further restrictions which are contained in the provisions regulating particular Zoning Districts in Article 4 of this Code.

**(1) Antennae for Receiving Video Programming Signals.** A ground or building mounted receive-only radio or television antenna which does not exceed 39.37 inches in diameter, which serves only the business or resident occupying the parcel on which the satellite dish

is located, and which receives only signals from direct broadcast satellites, multichannel multipoint distribution (wireless cable) or television broadcast stations, shall be permitted in any zoning district, provided, the height of the antenna does not exceed the height of the primary structure on said parcel and the antenna is located as unobtrusively as possible from public view, and conforms to the color and material specifications contained in Section 50.304(6)(c) of this Code.

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

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

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

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

**(6) Other Telecommunications Facilities.**  
(a) General Development Standards.

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

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

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

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

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

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

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

much as possible into the natural landscape of the City.

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

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

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

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

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

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

(b) Site Location.

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

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

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

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

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

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

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

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

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

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

(ii) All antennae, support facilities, ancillary buildings, towers, poles and other components of a wireless telecommunication installation that remain visible to the public shall be of a color approved by the Planning Commission. If the commission determines that the facility requires paint, it shall be initially painted with a paint color sample that is authorized for trial use at the site by the commission.

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

(iv) Towers and monopoles shall be constructed of metal or other nonflammable material, unless specifically

conditioned by the Planning Commission to be otherwise. Antenna and support structures shall be maintained to the satisfaction of the Public Works Department.

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

(d) Definitions.

(i) Telecommunications

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

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

(iii) Telecommunications

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

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