

## CHAPTER 3 GENERAL PROVISIONS

### SECTION 3.1 APPLICATION OF REGULATIONS

- A. The regulations in this Ordinance apply throughout the city and within each district. They shall be minimum regulations and shall apply uniformly to each class or kind of structure, land or use.
- B. All buildings, structures or land may hereafter be used, constructed, altered or occupied, only when in conformity with all of the regulations herein specified in this Ordinance for the district in which it is located and for the use to be made of them in accordance with the procedures of this Ordinance.
- C. No building or other structure shall hereafter be altered:
  - 1. To accommodate or house a greater number of persons or families than permitted by the Zoning District;
  - 2. To have narrower or smaller rear yards, front yards, or other side yards, other than permitted.
- D. No yard or lot existing at the time of passage of this Ordinance shall be subdivided or reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.
- E. Building Permits: In accordance with other city codes, ordinances and regulations duly adopted by the City Commission, and in accordance with this Ordinance, no building shall hereafter be erected, relocated or altered in its exterior or interior dimension or use, and no excavation for any building shall be begun until a building permit has been issued. With respect to this Ordinance, eligibility for a building permit shall be established upon conformance with the provisions contained herein. This shall apply to all new construction and all major improvements to existing structures. A building permit is required for detached accessory buildings and structures, as provided herein.
- F. Certificates of Occupancy: No new main building or dwelling subject to the provisions of this Ordinance shall be occupied, inhabited or used until a certificate of occupancy is issued. Each dwelling unit and main building shall be equipped with adequate water-carried sewage disposal facilities to comply with the City of Otsego water and sanitary regulations, as amended, (Chapter 78, Articles 2 and 3 of the City Codes) in effect at the time of the erection of the dwelling or main building. Where public utilities exist within two hundred (200) feet at the property line, the owner or developer shall be required to hook up with that system.

- G. Essential Public Services: Except as may otherwise be noted in this Ordinance, the erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; because the erection, construction, alteration or maintenance is exempt from the application of this Ordinance.
- H. Where a use is defined or listed as a permitted use or a special land use in a given zoning district, such use shall not be permitted in any zoning district where it is not listed. This is true even if such use might be similar to a listed permitted use.

### **SECTION 3.2 ACCESS TO STREETS**

Every main building or structure hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

### **SECTION 3.3 MAIN BUILDING OR PRINCIPAL USE**

Except as may otherwise be noted in this Ordinance, each parcel shall contain only one (1) main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple family dwellings, contained within a single, integrated complex as demonstrated by sharing parking, signs, access, and other similar features which together form a unified function and appearance.

### **SECTION 3.4 ACCESSORY BUILDINGS AND USES**

- A. General Requirements
1. Accessory buildings and structures that are customarily incidental and subordinate to an existing main building, structure or use permitted within the applicable district, located on the same lot and not otherwise regulated by this Ordinance, shall be permitted subject to the regulations of this Section.
  2. Attached accessory buildings and structures shall be made structurally a part of the main building and shall conform to the requirements of the district in which the building or structure is located.
  3. Detached accessory buildings and structures shall be no closer than ten (10) feet from the main building or structure.
  4. No accessory building shall be erected in any required front yard, and no separate accessory building shall be erected within three (3) feet of any other building or any property line.
  5. Construction: Detached accessory buildings shall have solid exterior walls clad in wood, stone, brick, metal/aluminum or cementitious or vinyl siding. The roofs

shall be flat or pitched and shall be metal or shingled (flat roofs may be of a rubber membrane). The building shall be affixed to a permanent foundation or piers.

6. Architecture: The architectural character shall be similar to, or compatible with, the principal structure, incorporating similar elements such as roof type, color, building materials, or architecture style.
7. Structures providing shade and shelter for humans, such as patio coverings, gazebos, pergolas, or similar structures, are not required to have walls. However, these structures shall not be used for storage or to shelter vehicles or equipment.

B. Detached Accessory Buildings and Structures - Residential Districts or Uses

1. Except as may otherwise be provided in this Ordinance, detached accessory buildings and structures shall be located only in the rear yard and located no closer than three (3) feet from any lot line, as measured from the main wall of the building.
2. One (1) detached accessory building shall be permitted for a Residential District or use not exceeding the following area and height:
  - a. For lots of ten-thousand (10,000) square feet in area or less: seven hundred and twenty (720) square feet and not exceeding sixteen (16) feet in height to its highest point.
  - b. For lots greater than ten-thousand (10,000) square feet in area, up to one (1) acre: nine hundred and sixty (960) square feet and not exceeding eighteen (18) feet in height to its highest point.
  - c. For lots greater than one (1) acre: one thousand five hundred (1,500) square feet and not exceeding twenty (20) feet in height to its highest point.
3. One (1) additional detached storage shed shall be permitted for a Residential District or use not to exceed one hundred and twenty (120) square feet in area. A swimming pool and cover structure shall also be permitted on a lot, subject to the requirements of Section 3.12 and any other applicable Ordinance.

C. Detached Accessory Buildings - Nonresidential Districts or Uses

1. No more than two (2) detached accessory buildings shall be permitted on any lot.
2. The total area of all detached accessory buildings shall not exceed twenty-five percent (25%) of the floor area of the main building(s).
3. Detached accessory buildings shall meet all setback requirements for main buildings for the district in which it is located, as measured from the main wall

- of the building, except that in no case shall be closer than ten (10) feet from any lot line.
4. No detached accessory building shall be located nearer than ten (10) feet to any main building.
  5. No detached accessory building shall exceed the permitted height for main buildings in the district in which it is located.
- D. Attached Accessory Buildings Permitted – Residential Districts or Uses (October 2020)
1. Attached Accessory Buildings (Private Garage) - Subject to the following limitations, one garage attached to a principal residential dwelling is permitted on any single family residential lot.
    - a. Attached Accessory Building (Private Garage) must meet all setbacks with the attached residential main building.
    - b. The maximum size of an attached accessory building (private garage) shall be limited to 832 square feet for the first 1,300 square feet of habitable floor area contained in the residence. In addition, for each whole increment of five (5) square feet that the floor area of the dwelling exceeds 1,300 square feet, the floor area of the attached or detached garage may be increased by one (1) square foot.

### **SECTION 3.5 HEIGHT EXCEPTIONS**

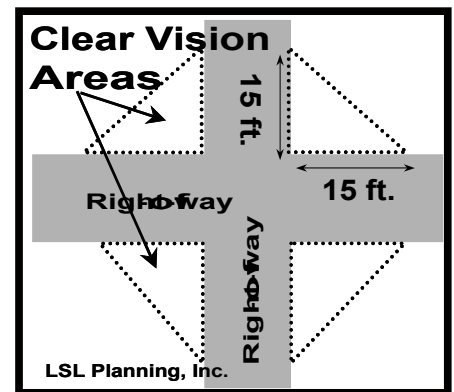
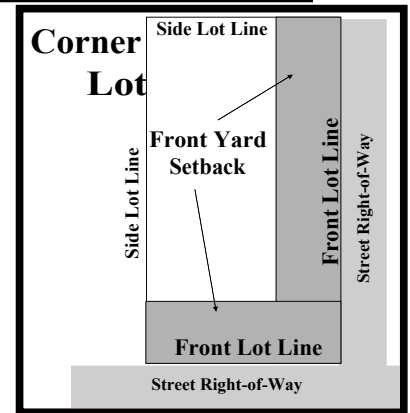
The height limitations contained in this Ordinance do not apply to spires, belfries, cupolas, antennae, water tanks, ventilators, chimneys, or other similar appurtenances usually required to be placed above the roof level and not intended for human occupancy.

### **SECTION 3.6 LOTS AND LOT MEASUREMENTS**

- A. All newly created lots shall have buildable area and meet the minimum lot size requirements of this Ordinance. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.

**B. Corner Lots**

1. On a corner lot, each lot line which abuts a street shall be deemed to be a front lot line, and the required yard along both lot frontages shall be a required front yard. The two (2) remaining yards shall each be side yards.
2. Required front yard setbacks shall be measured from both front lot lines.
3. For a corner lot with three (3) front lot lines, the remaining lot line shall be a rear lot line.
4. The minimum lot width of a corner lot shall be determined at the shorter of the two (2) front lot lines.
5. No solid fence, wall or planting screen greater than thirty (30) inches in height as measured from grade, shall be located within a triangular section of land formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines fifteen (15) feet from the point of intersection of the right-of-way lines.

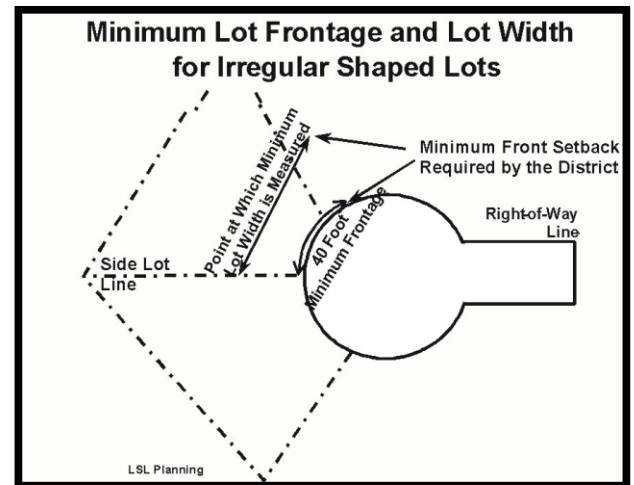


**C. Average Setbacks**

1. The required front setback for a lot shall be the average of the front setbacks of existing main buildings within two hundred (200) foot distance of the lot where the front yard setbacks for existing main buildings are non-conforming and are:
  - a. less than the required front yard setback for the zoning district;
  - b. entirely or partially within two hundred (200) feet of the side lot lines of the subject parcel;
  - c. on the same side of the street and either side of the subject parcel; and
  - d. are in the same Zoning District as the subject parcel.
2. The permitted front setback reduction shall only be permitted if there are two (2) or more lots occupied by main buildings within the two hundred (200) foot distance.
3. In no case shall the required front setback resulting from the application of this subsection be less than fifteen (15) feet.

## D. Cul-de-Sac Lots

1. A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
2. The minimum lot width for a lot on a cul-de-sac shall be measured at a line drawn between the two (2) points located at the intersection of a line extending along the side lot lines equal to the distance of the required front setback.
3. A lot on a cul-de-sac shall have not less than forty (40) feet of lot frontage as measured along the front lot line.

**SECTION 3.7 PROJECTIONS INTO YARDS**

- A. Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be permitted to encroach upon the minimum setback requirements of this Ordinance, provided the projection into a required front or rear yard area is no closer than ten (10) feet from a street right-of-way line or rear lot line. No encroachment shall be permitted into the side setback of the lot.
- B. Terraces, patios, porches, and decks shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance provided they are:
  1. attached to the main building;
  2. not covered with a roof;
  3. elevated no more than thirty (30) inches above the average surrounding final grade;
  4. not fully enclosed by walls or fences over five and one-half (5½) feet in height;
  5. located no closer than ten (10) feet from a street right-of-way line or rear lot line; and
  6. do not encroach into the side setback of the lot.
- C. Terraces, patios, porches, and decks that are enclosed (covered with a roof), not including steps leading to these structures, shall be attached to and considered part of the main building and comply with all regulations applicable to main buildings.
- D. Those structures covered in paragraphs A and B above shall not be considered nonconforming, and therefore, shall be permitted to be rebuilt even if destroyed by an act of God or by the owner/occupant of the structure.

**SECTION 3.8 HOME OCCUPATIONS**

- A. Home occupations shall be approved by the Zoning Administrator, who shall issue a certificate of occupancy which shall specify the home occupation as to use, size, and the specific measures by which compliance with this Section will be maintained and provided the requirements of the Residential District are met.
- B. Only members of the family residing in the home shall be engaged in connection with the home occupation.
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation. No part of the home occupation shall be conducted in any accessory building.
- D. There shall be no change in the outside appearance of the building that would indicate the presence of a home occupation or depart from the residential character of the dwelling, and have any visible evidence of the conduct of the home occupation;
- E. There shall be no sale of products or services except as are produced on the premises or those products which may be directly related to and incidental to the home occupation. There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation.
- F. The home occupation will not create traffic congestion, parking shortages, or otherwise adversely affect the pedestrian or vehicular circulation of the area. Any parking for vehicles associated with the home occupation shall be provided off the street. The following factors shall be considered by the Zoning Administrator to determine whether the traffic effects on a neighborhood may be excessive:
1. Whether the subject parcel is located at the entrance or the interior of a residential development where increased traffic volumes may be otherwise anticipated.
  2. Whether the nature of the proposed home occupation requires scheduled appointments or whether traffic volumes may be higher at certain times of the day.
  3. Whether traffic volumes may vary on a seasonal basis.
  4. Whether the home occupation could be conducted in a manner that reduces traffic generated in the area.
- G. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses
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off the premises. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in the line voltage off the premises.

- H. No more than two customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.
- I. Visits by customers, clients, students or patients to a dwelling unit in which a home occupation is located shall be limited to between the hours of 7:00 am to 8:00 pm, local time.
- J. All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.
- K. A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 (the "General Rules"), the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq* (the "Act"), and the requirements of this section, shall be allowed as a home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the General Rules. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this Ordinance, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:
1. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
  2. A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, to insure community compliance with federal "Drug-Free School Zone" requirements.
  3. Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel.
  4. Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.
  5. All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the City Building Official and the City Police



Department.

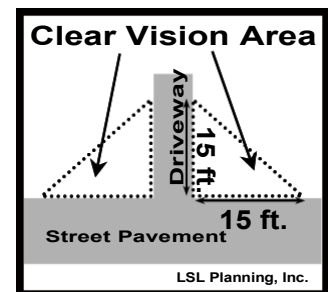
6. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
7. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 pm to 7:00 am, local time, shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
8. That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the City Fire Department to ensure compliance with applicable provisions of the fire code.

### SECTION 3.9 FENCES, WALLS, AND LANDSCAPE BUFFERS

#### A. Fences

##### 1. Residential Districts

- a. Only decorative or ornamental fences not exceeding forty-two (42) inches in height may be permitted in required front yards. A fence of this height shall be permitted from the front building line of a residence to within eighteen (18) inches of the sidewalk.
- b. Decorative or ornamental fences may include wrought iron, split rail, picket, board on board, cyclone, planting screen, privacy fence, or masonry wall.
- c. No solid fence, wall or planting screen greater than thirty (30) inches in height as measured from grade, shall be located within a triangular section of land formed by two (2) fifteen (15) foot perpendicular lines intersecting at the driveway and street pavement point and a connecting line.
- d. A fence or wall shall not exceed six (6) feet in height on rear or side property lines or in rear or side yards.
- e. Fences, with the exception of cyclone/chair link fences and fences constructed of vinyl or other maintenance free materials, shall be placed twenty-four (24) inches within the property boundaries for maintenance purposes. A cyclone, chain link, vinyl, or other maintenance free fence may be placed directly on the property line.



2. No electrically charged fences are permitted.
3. Barbed wire:
  - a. Fences with barbed wire are prohibited in all Residential Districts.
  - b. Barbed wire strands may be used to enclose storage areas or other similar activities in General Industrial and Commercial Districts or uses, provided that a fence with barbed wire shall not be located adjacent a Residential District lot line or residential use.
  - c. The strands shall be restricted to the upper most portion of the fence and shall not extend lower than a height of six (6) feet from the nearest ground level.
4. All fences erected by individual property owners must be located on his/her property.
5. All fences shall be maintained in a good condition so that they do not result in an unreasonable hazard to persons who might come near them. Failure to maintain the fence shall be considered a violation of this Ordinance.
6. Fences constructed of wood or other material having one (1) side designed and considered the decorative side shall be erected with that side facing the adjoining street or abutting property owner's premises.
7. Fences constructed on the side yard of a corner lot shall be erected on the lot, eighteen (18) inches from the inside edge of the sidewalk.
8. It is unlawful to construct any private fence or barrier within a public right-of-way.

**B. Landscape Buffers**

1. Side yards and rear yards for Nonresidential Districts and uses abutting Residential Districts or residential uses shall be screened by any of the following.
    - a. A natural buffer ten (10) feet wide measured at the property line and planted with evergreens or shrubbery which maintains their density and screening effect throughout the calendar year, not less than four (4) feet in height at the time of planting and maintained in a neat and attractive manner commensurate with the adjoining Residential District.
    - b. An artificial wall or fence of sufficient density or compactness to screen the structures and activities of the business from the view of occupants of adjoining premises, not less than five (5) feet in height and maintained in a neat and attractive manner, commensurate with the adjoining Residential District.
  2. For side yard screening, no wall or fence used for screening shall terminate closer than twenty (20) feet from any adjoining street right-of-way (or rear alley into which a lot has vehicular access/egress), in order to provide safe visual sight distances.
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3. Additional screening may be required by the Zoning Administrator where he determines that proposed or existing screening is inadequate to prevent the creation of any nuisance or annoyance by artificial lighting or activity.

### **SECTION 3.10 LIGHTING**

- A. Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be so arranged and maintained as to direct the light away from any Residential District or use lot.
- B. Light fixtures shall be no higher than thirty (30) feet and shall be provided with light cut-off fixtures that direct light downward.
- C. For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of five hundred (500) spaces the Planning Commission may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.
- D. Lighting attached to buildings or other structures shall not permit light to be directed horizontally.

### **SECTION 3.11 KEEPING OF ANIMALS**

The keeping of animals shall be regulated by Chapter 6 of the City Code of the City of Otsego.

### **SECTION 3.12 PRIVATE SWIMMING POOLS**

- A. A building permit shall be issued prior to the construction of a private swimming pool. An application for the permit shall show:
    1. The name of the owner.
    2. A plot plan of the property showing the location of the swimming pool.
    3. The manner in which its use shall be supervised.
    4. The safety precautions to be made to protect those making use thereof, or who might be endangered thereby.
    5. Information showing the size, depth, and capacity of the swimming pool.
    6. Type, height and location of the fence surrounding the swimming pool, and the number of gates therein.
    7. Other information deemed by the Building Inspector as necessary for the protection of the public health and safety.
  - B. All swimming pools shall be constructed or placed so as to have a side yard from the property line of not less than six (6) feet in width on each side, a rear yard of not less than five (5) feet in width and a front setback of not less than thirty (30) feet.
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- C. The current standards set by the state department of public health and the Allegan County Department of Public Health for the use of swimming pools are hereby adopted and made a part of this Ordinance.
- D. Lights used to illuminate any swimming pool or family pool shall be arranged and shaded to reflect light away from adjoining premises.

### **SECTION 3.13 NONCONFORMING USES, STRUCTURES, AND LOTS**

#### **A. General Provisions**

- 1. Any lot, use of land, or structure which has been established in violation of the provisions of a previous Zoning Ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, or structure which has been lawfully established under a previous Zoning Ordinance and subsequently violates the terms of the permit under which it was established, shall be in violation of this Ordinance.
- 2. An existing lot, use of land, or structure which does not fully comply with the provisions of this Ordinance, as amended, and either was lawfully established under a previous Zoning Ordinance, created, or commenced during a period of time when no valid Zoning Ordinance was in effect, or was lawfully established under the jurisdiction of this Ordinance (before amendment), and remains in compliance with the terms of a permit issued at that time, shall be permitted to continue provided there is compliance with this Section.
- 3. A lawful use of land or structure which is under construction in furtherance of the establishment of a building or structure before the enactment of this Ordinance shall be permitted to continue as a nonconformity, subject to the provisions of Section 1.2, G.

#### **B. Nonconforming Uses (Amended 04/12)**

- 1. No part of any nonconforming use shall be moved unless the movement eliminates the nonconformity.
- 2. If a nonconforming use ceases and is abandoned for any reason for a period of more than one (1) year, any subsequent use shall conform to the requirements of this Ordinance. A nonconforming use shall be determined to be abandoned if one (1) or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
  - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
  - b. The property, buildings, and grounds, have fallen into disrepair;
  - c. Signs or other indications of the existence of the nonconforming use have been removed;

- d. Removal of equipment or fixtures which are necessary for the operation of the nonconforming use;
  - e. If the nonconforming use has ceased and the property is not actively being marketed (for sale or lease) for the same nonconforming use.
  - f. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
3. A nonconforming use shall not be changed in use to another nonconformity. Once a conforming use is established the prior nonconformity which it succeeded shall lose its nonconformity and shall thereafter be continued in compliance with the provisions of this Ordinance.
  4. No nonconforming use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this Ordinance, except as may be permitted by the Zoning Board of Appeals upon reaching a determination that the proposed enlargement, increase, or greater area:
    - a. Does not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots;
    - b. Complies with all parking, sign, or other applicable regulations applicable to accessory uses for the area affected by the proposed enlargement, increase, or greater area;
    - c. Complies with any reasonable conditions imposed by the Zoning Board of Appeals that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.
    - d. Is not to be larger than twenty five percent (25%) or the original nonconforming area.
  5. If a nonconforming single family dwelling or associated detached accessory structure located within the PO, C-1, or CBD districts has been damaged or destroyed by fire, wind, an act of God or the public enemy to the extent that the cost of restoring the building or structure equals or exceeds its state equalized value as determined by the Building Inspector, the nonconforming single family dwelling or detached accessory structure may be reconstructed upon the original footprint of the structure, subject to the following:
    - a. The ground floor area of the reconstructed building or structure shall be equal to or less than the ground floor area of the building or structure that was damaged or destroyed.
    - b. The reconstructed building or structure shall not be higher or contain more stories than the building or structure that was damaged or destroyed.

- c. The reconstructed building or structure shall be allowed the same or greater setbacks as the building or structure that was damaged or destroyed, and may retain any nonconforming structure status that applied to the original building or structure; provided, however, that no side yard setback may be less than five (5) feet for a principal dwelling and three (3) feet for a detached accessory structure.

C. Nonconforming Buildings and Structures

1. The expansion of a nonconforming structure shall be permitted provided that the addition complies with this Ordinance and does not increase the nonconformity.
2. In the event any nonconforming building or structure shall be damaged by fire, wind or an act of God or the public enemy, it may be rebuilt or restored provided the cost of restoration thereof shall not equal or exceed the state equalized value of the building or structure as determined by the Building Inspector.
3. A nonconforming building or structure shall not be moved in whole or in part except when the moving results in full compliance with the provisions of this Ordinance.

D. Nonconforming Lots of Record

1. A nonconforming lot may be used for the purposes for which it is zoned, provided that:
  - a. If already less than the minimum requirements of this Ordinance, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Ordinance.
  - b. Any main building on the lot shall be located so that at least sixty-six percent (66%) of the setback requirements of the District in which the lot is located are met.
2. Combination of Nonconforming Lots
  - a. For any two (2) or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this Ordinance, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance if they:
    - (1) are in common ownership;
    - (2) are adjacent to each other or have continuous frontage, and;
    - (3) individually do not meet the lot width or lot area requirements of this Ordinance.

- b. Parcels meeting the provisions of subsection 2, a, above, shall be combined into a lot or lots complying as nearly as possible to the lot width and lot size requirements of this Ordinance. No portion of the parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements of this Ordinance.

### **SECTION 3.14 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS OUTSIDE MANUFACTURED HOME PARKS**

Any single-family dwelling, whether constructed and erected on a lot, or a manufactured home, outside a manufactured home park, may be permitted only if it complies with all of the following requirements:

- A. The dwelling shall meet the minimum square footage requirements for the District in which it is located.
- B. Design Features
  - 1. The minimum width across any front, side, or rear architectural elevation shall be at least twenty four (24) continuous feet of exterior wall.
  - 2. All dwellings shall have either a roof overhang of not less than six (6) inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling;
  - 3. Where elevation differences make it necessary, the dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas.
  - 4. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the main building and construction of a foundation as required herein.
  - 5. The dwelling shall contain an interior storage area in a habitable basement or cellar located under the dwelling, or in a defined storage room space separate from closet areas, garage, utility or furnace rooms. The minimum storage area shall be equal to ten percent (10%) of the square footage of the dwelling or one hundred (100) square feet, whichever is less.
- C. The dwelling shall conform to the State Building Code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where the standards allow standards of construction which are less stringent than those imposed by the Building Code, then the less stringent Federal or State standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

- D. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time the standards may be amended.
- E. The dwelling shall be placed upon and secured to a permanent foundation meeting the requirements of the State Building Code. The area between the elevation of the lot and the structure shall have a wall of the same dimensions of the dwelling and constructed of materials and type as required in the applicable code for single-family dwellings. In the event that the dwelling is installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
- F. If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- G. The dwelling shall be connected to sanitary sewer and public water pursuant to the City of Otsego Municipal Standards.
- H. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity.
1. Compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans (which may include elevation sketches or photographs) submitted for a particular dwelling, subject to appeal in accordance with the provisions of Section 17.3, A.
  2. Any determination of compatibility shall be based upon the standards set forth in this subsection regarding dwellings as well as the character, design and appearance of one or more residential dwellings located outside of manufactured home parks within nine hundred (900) feet of the subject dwelling where the area is developed with dwellings to the extent of not less than twenty percent (20%) of the lots situated within the area; or where the area is not so developed, by the character, design and appearance of one (1) or more residential dwellings located outside manufactured home parks in the City.
- I. The requirements of this Section shall not be construed to prohibit innovative design concepts involving matters such as solar energy, view, unique land contour, or relief from the common or standard designed home.

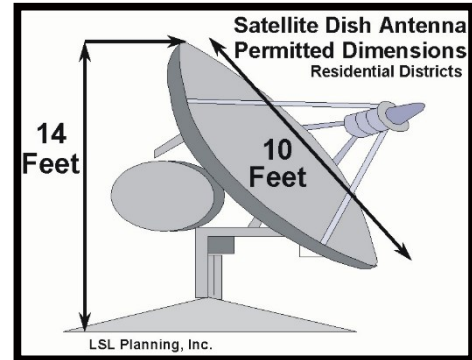


- J. The foregoing requirements shall not apply to manufactured homes located in a state licensed manufactured home park except as required by state or federal law or otherwise specifically required in any City Ordinance pertaining to these parks.

### SECTION 3.15 SATELLITE DISH ANTENNAS

#### A. Placement

1. In Residential Districts a satellite dish antenna shall be permitted only in a rear yard, or mounted or attached to a building.
2. A satellite dish antenna shall comply with the side and rear yard setback requirements applicable to main buildings in the District in which it is located.
3. In Nonresidential Districts a satellite dish antenna shall be located only in the side or rear yard or mounted on top of a building. No more than two (2) satellite dish antennas shall be located on the same lot as a main building. Satellite dish antenna are permitted only in connection with, incidental to and on the same lot as a principal use or main building.



#### B. Height

1. In Residential Districts, a ground mounted satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed fourteen (14) feet in height, or ten (10) feet in diameter.
2. In the Nonresidential Districts, a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed the maximum height permitted for main buildings in the district in which it is located.

#### C. General Provisions

1. These regulations shall not apply to dish antennas that are one (1) meter (39.37 inches) or less in diameter in Residential Districts or two (2) meters (78.74 inches) or less in diameter in Nonresidential Districts.
2. No portion of a satellite dish antenna, shall contain any name, message, symbol, or other graphic representation visible from adjoining properties, except as required by the manufacturer or federal regulations for safety purposes.
3. A satellite dish antenna shall be anchored in a manner approved by the Building Inspector as being adequate to secure the satellite dish antenna during high winds.

4. A satellite dish antenna, shall not be erected, constructed, or installed until a building permit has been obtained from the Building Inspector.
5. The Building Inspector may waive any provision of this Section if its enforcement inhibits or prevents the proper operation of the satellite dish antenna.
6. These regulations are formulated to ensure that adequate protection measures are provided in the Ordinance for ensuring that sight distance is not impaired, that the dish antennas are located and constructed in a manner which will not afford the potential for injury, and to ensure that the intent and purposes of this Ordinance are met.

### **SECTION 3.16 SITE CONDOMINIUMS**

- A. A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership which is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- B. A site condominium unit shall be treated as a separate lot or parcel and may have buildings constructed and uses conducted thereon as allowed in its zoning district provided the unit meets the District Regulations for the zoning district in which it is located.
- C. A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the City Commission in accordance with Chapter 14 of this Ordinance.
- D. Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
  1. The Zoning Administrator and the City Engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one (1) year from the date of approval by the City Commission, on condition that the developer deposit with the City Clerk cash, a certified check, or an irrevocable bank letter of credit running to the City of Otsego, whichever the developer selects, in an amount as determined from time to time by resolution of the City Commission.
  2. The deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified.
  3. If the developer defaults, the City Commission shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.

- E. All rights of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
1. The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.
  2. The developer shall dedicate to the City of Otsego all easements for utilities. Water, sewer and electrical easements may be placed within public rights-of-way, subject to the approval of the City Engineer and the City of Otsego Municipal Standards, including Sections 02665 - Watermains, and 02732 Sanitary Sewers.
  3. All streets and roads proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this Ordinance and other Ordinances of the City of Otsego.

### **SECTION 3.17 TEMPORARY BUILDINGS AND PORTABLE STORAGE CONTAINERS**

- A. Mobile offices, tool sheds, storage trailers, shall be permitted on properties subject to valid building permits during the time of actual construction, provided they are located pursuant to Section 3.4 of this Ordinance and are in compliance with the utility Ordinances of the City. These structures shall be removed within twelve (12) working days after the completion or abandonment of construction work on the property.
- B. Portable storage containers shall not be kept on residential property for more than 30 days.
- C. A permit is required for the placement of temporary buildings and portable storage containers on all properties within the City. Permits shall only be valid for the timeframes stated in this section, unless extended by the City Manager.

### **SECTION 3.18 DUMPSTERS AND OUTDOOR TRASH CONTAINERS**

- A. Outdoor trash containers or dumpsters shall be permitted only in the Nonresidential Districts and the R-C District, provided that they comply with this Section, except that these structures may be permitted for reasonable periods on properties undergoing construction activities. The placement of the container shall be included in the submitted site plan.
- B. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from main buildings.

- C. A solid ornamental screening wall or fence shall be provided around all sides of such containers. An access gate shall also be provided and be of such height as to completely screen said containers. The maximum height of walls, fence or gate shall be six (6) feet.
- D. The container or containers, the screening walls, fence and gate shall be maintained in a neat and orderly manner, free from loose rubbish, wastepaper and other debris.

### **SECTION 3.19 ACCESS MANAGEMENT**

- A. The intent of these regulations is to provide access requirements which will facilitate through traffic operations, ensure public safety along roadways, and protect the public investment in the street system; while providing property owners with reasonable, though not always direct, access. The requirements are specifically designed for streets the primary function of which is the movement of through traffic, as opposed to local streets the primary function of which is access to adjacent properties.
- B. Application of Requirements
  - 1. The requirements of this Section shall apply to all uses, except permitted single-family and two-family dwelling units.
  - 2. The access requirements in this Section shall be in addition to, and where permissible shall supersede, the requirements of the Michigan Department of Transportation (MDOT).
  - 3. For expansion and/or redevelopment of existing sites where the City Engineer determines that compliance with all the requirements of this Section is unreasonable, the requirements shall be applied to the maximum extent possible. In these situations, suitable alternatives which substantially achieve the purpose of this Section may be accepted by the City Engineer, provided that the applicant demonstrates all of the following:
    - a. Size of the parcel is insufficient to meet the dimensional standards;
    - b. The spacing of existing, adjacent driveways or environmental constraints prohibit adherence to the access standards at a reasonable cost;
    - c. The use will generate fewer than five hundred (500) total vehicle trips per day or less than seventy-five (75) total vehicle trips in the peak hour of travel on the adjacent street, based on the most recent rates developed by the Institute of Transportation Engineers; and
    - d. There is no other reasonable means of access.

## C. Number of Driveways

1. Access to a parcel shall consist of either a single two-way driveway or a pair of one-way driveways wherein one (1) driveway is designed and appropriately signed to accommodate ingress movements and the other egress movements.
2. Where parcel frontage is insufficient to provide a driveway meeting the minimum width and radii, a shared driveway or other means of access shall be required.
3. Where a parcel has frontage along two (2) streets, access shall be provided only along the street with the lower average daily traffic volume, unless the City Commission determines this would negatively affect traffic operations or surrounding land uses.
4. Where the property has continuous frontage of over three hundred (300) feet and the applicant can demonstrate, using the Institute of Transportation Engineers manual Trip Generation or another accepted reference, that a second access is warranted, the City Engineer may allow an additional access point.
5. Where the property has continuous frontage of over six hundred (600) feet, a maximum of three (3) driveways may be allowed, with at least one (1) driveway being designed and signed for right-turns-in, right-turns-out only.

## D. Shared Access, Frontage Roads, Parking Lot Connections and Rear Service Drives

1. Shared use of access between two (2) or more property owners shall be encouraged through use of driveways constructed along property lines of a site, connecting parking lots and construction of on-site of frontage roads and rear service drives, where frontage dimensions are less than three hundred (300) feet, at locations with sight distance problems, and/or along roadway segments experiencing congestion or accidents. In these cases, a shared access arrangement may be the only access design allowed.
  - a. In cases where a site is adjacent to an existing frontage road, parking lot of a compatible use, or rear service drive, a connection to the adjacent facility shall be required by the City Engineer, where feasible.
  - b. In cases where a site is adjacent to undeveloped property, the site shall be designed to accommodate a future frontage road, parking lot connection and/or rear service drive.
  - c. The applicant shall provide the City with letters of agreement or access easements from all affected property owners.
2. Frontage roads, rear service drives and drives connecting two (2) or more parking lots shall be constructed in accordance with the following standards:
  - a. Pavement width shall be a maximum of thirty (30) feet, measured face of

- curb to face of curb; intersection approaches may be widened to thirty-nine (39) feet for a left turn lane.
- b. Frontage roads shall have a minimum setback of thirty (30) feet between the outer edge of pavement and the right-of-way line, with a minimum sixty (60) feet of uninterrupted queuing (stacking) space at the intersections.
  - c. Parking along or which backs into a frontage road shall be prohibited.
- E. Driveways, frontage roads, and rear service drives shall be no closer than ten (10) feet from a property line, except in the case of shared driveways along property lines.
- F. Adequate Sight Distance and Driveway Spacing from Intersections
1. Requirements for minimum intersection or corner sight distance for driveways shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) guidelines defined in Chapter 9 of A Policy on Geometric Design of Highways and Streets. 1994.
  2. The City Engineer may require driveway locations to be adjusted where there is a concern regarding adequate sight distance.
  3. Driveway spacing from intersections shall be measured from the centerline of the driveway to the extended edge of the intersecting street's right-of-way line.
  4. In order to preserve intersection operations and safety, the minimum distance between a driveway and an intersecting street right-of-way shall be based on the following:
    - a. For locations in the vicinity of intersections experiencing congestion (peak hour operations below level of service "C" for one (1) or more movements) and/or a significant number of traffic accidents (five [5] or more annually), the City Engineer may require that access be constructed along the property line farthest from the intersection and a minimum of one hundred and fifty (150) feet from the intersection. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of seventy-five (75) feet from the intersecting street right-of-way.
    - b. For locations within two hundred (200) feet of any signalized or four-way stop intersection, driveways shall be spaced a minimum of one hundred fifty (150) feet from the intersection. Where this spacing cannot be provided, driveways designed for "right-turn in, right-turn out only" movements may be allowed, with a minimum spacing of seventy-five (75) feet from the intersecting street right-of-way.
    - c. For locations not addressed by b, above, minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent to the property or on the opposite side of the street may be set on a case-by-case basis, but in no instance shall be less than one hundred (100) feet.

These measurements are from the near edge of the proposed driveway, measured at the throat perpendicular to the street, to the near lane edge of the intersecting street or pavement edge for uncurbed sections.

G. Driveway Spacing from Other Driveways

1. Driveway spacing from other driveways shall be measured from the centerline of each driveway at the point where it crosses the street right-of-way line.
2. Minimum driveway spacing from other driveways along the same side of the street shall be determined based on posted speed limits along the parcel for each particular frontage, as determined by the accompanying table.
3. To reduce left-turn conflicts, new driveways shall be aligned with those across the roadway, where possible.

Posted Speed (mph)	Minimum Driveway Spacing
25 mph	100 feet
30 mph	125 feet
35 mph	150 feet
40 mph	185 feet
45 mph	230 feet
50 mph	275 feet
55 mph	350 feet

If alignment is not possible, driveways shall be offset a minimum of one hundred (100) feet from those on the opposite side of the roadway. These requirements may be reduced by the City Engineer in cases where compliance is not possible.

H. Directional Driveways, Divided Driveways and Deceleration Tapers: Directional driveways, divided driveways, and deceleration tapers and/or by-pass lanes may be required by the City Engineer where they will reduce congestion and accident potential for vehicles accessing the proposed use or site.

1. The typical driveway design shall include one (1) ingress and one (1) egress lane, with a combined maximum throat width of thirty (30) feet, measured from face to face of curb.
2. Wherever the City Engineer determines that traffic volumes or conditions will cause significant delays for traffic exiting left, two (2) exit lanes will be required.
3. For one-way paired driveway systems, each driveway shall be sixteen (16) feet wide, measured perpendicularly.
4. In areas with regular pedestrian traffic, the exit and enter lanes shall be separated by a median with a maximum width of ten (10) feet.
5. Driveways shall be designed with a twenty-five (25) foot radii and a thirty (30) foot radii where daily semi-truck traffic is expected.
6. The City Engineer shall determine the need for acceleration and deceleration lanes.

- I. Driveway Storage: Driveway storage shall be determined by the City Engineer based on traffic volumes and conditions. A minimum of forty (40) feet of driveway storage shall be provided for less intense developments and a minimum of one-hundred and twenty (120) feet of driveway storage shall be required for larger developments. Driveway storage shall be measured from the right-of-way line.
- J. Non-conforming Private Roads and Access Easements
1. The City recognizes there exist private roads and/or access easements which were lawful prior to the adoption of this Section that do not fully conform with the requirements herein. These roads are declared by this Section to be nonconforming roads or easements. The intent of this Section is to permit nonconforming roads and easements to continue. This Section is also intended to allow new construction to occur on existing lots which front along these roads as of the effective date of this Section, if the roads are capable of providing sufficient access for the uses permitted in the Zoning District and for provision of emergency service vehicles, as determined by the City Engineer.
  2. This Section is also intended to discourage the construction of new private roads, the extension of nonconforming roads or increase the number of lots or building sites served by a private road, except in platted subdivisions, divisions of land or site condominium projects existing on the effective date of this Section, unless provisions are made to upgrade such roads to comply with the requirements herein. Any reconstruction, widening or extension of a nonconforming private road or access easement shall be in conformity with this Section.
- K. Non-Motorized Pathways
1. Intent: It is hereby determined that non-motorized pathways promote and provide for the public health, safety, and general welfare by providing a safer location for travel along roads for bicyclists and pedestrians than the edge of the traveled road, encouraging aerobic exercise, conserving energy, and reducing air pollution and traffic congestion by allowing for a convenient means of travel by bicycle or as a pedestrian, rather than utilizing a motor vehicle.
  2. Location: Non-motorized pathways shall be required as follows:
    - a. Along the entire site frontage of any development located along an arterial or collector road identified in the Otsego Master Plan.
    - b. Along both sides of all internal streets within any residential development that has an overall density greater than two (2) dwelling units per acre. The City Engineer may modify this requirement provided another type of pedestrian trail system is provided by the applicant that meets the intent of this Section.



3. Design: The following construction requirements shall apply to all non-motorized pathways:
  - a. All non-motorized pathways shall be at least five (5) feet wide constructed of concrete or asphalt in accordance with the specifications of the American Association of State Highway and Transportation Officials (AASHTO). Bike paths shall be constructed to meet all requirements of the Road Commission for Allegan County.
  - b. An inclined approach shall be required where sidewalks and bike paths intersect curbs for barrier free access. Crosswalk pavement markings and signs may be required by the City.

### SECTION 3.20 CHARITY COLLECTION BOXES

Charity collection boxes, which are a box or receptacle other than an accessory building or shed complying with all building code and land use requirements, that can be or are used for the reception of money or goods intended for charitable use, are permitted in the city subject to the following requirements:

- A. Approval required. No charity collection box may be placed or located within the city unless the operator of the box is issued a permit by the City Clerk. A permit for a charity collection box shall only be issued if all of the requirements of this section are met.
- B. Charitable status. The operator of the collection box must be a not-for-profit organization that has qualified for tax-exempt status under Section 501(C) (3). The operator shall submit proof of 501(C) (3) status to the city as part of their permit application. This proof shall consist of copies of the following forms and information required to qualify for 501(C) (3) status:
  1. Michigan Articles of Incorporation.
  2. IRS Form 1023.
  3. Proof of directors and officers (D & O) insurance.
  4. Proof of license to solicit donations issued by the Michigan Attorney General's office.
  5. Copies of the organization's three most recent Michigan Annual Reports, filed each October 1 with the Michigan Corporation, Securities and Land Development

Bureau. This requirement may be waived or modified if the organization has not existed long enough to have filed three Michigan Annual Reports.

- C. Property owner consent required. The operator of the collection box shall submit evidence that the owner of the property where the collection box is proposed to be located agrees to allow the collection box on their property.
- D. Where permitted. Collection boxes are permitted as an accessory use to a non-residential principal use of the property.
- E. Location.
  - 1. Front yard or side yard. Collection boxes in the front or side yard shall be located adjacent to a building in a location that does not impede vehicular or pedestrian circulation. For the purposes of this section, "adjacent" shall mean anywhere within 5 feet of an exterior building wall. Collection boxes may not be located in any parking space.
  - 2. Rear yard. Collection boxes located in a rear yard shall be located within the building envelope applicable to a principal building on the site.
- F. Number. No more than two collection boxes may be located on any one property.
- G. Size and mass. Collection boxes have a maximum size of six feet in depth or width and a maximum height of eight feet.
- H. Operation standards. All donations must be fully enclosed in the collection box. Donations that are not fully enclosed in the collection box are considered a public nuisance and subject to removal by the city at the property owner or collection box operator's expense