

ARTICLE 3 GENERAL PROVISIONS

Section 3.10 Construction Begun Prior to Adoption of Ordinance

The adoption of this Zoning Ordinance shall not require:

- a) A change in the intended use of land where there has been work of a substantial nature in reliance upon prior approval by the City under the provisions of a former ordinance.
- b) Compliance with the location and design requirements of this Ordinance to the extent that there has been actual material commencement of construction of a structure pursuant to a building permit issued by the City of Ferrysburg.

Any conditions or other requirements imposed under the provisions of a prior ordinance shall remain in effect, even though this Ordinance may not provide for same. However, a property owner subject to conditions or requirements not provided for by this Ordinance may request the Planning Commission to remove or modify same by filing a site plan application and fee consistent with the Site Plan Review requirements of this Ordinance. In the event the conditions or requirements were established by action of the City Council, the Council shall have the authority to remove or modify same, after receipt of a recommendation from the Planning Commission.

Section 3.20 Building to be Moved

Any building or structure which has been wholly or partly erected on any premises shall not be moved to and be placed upon any premises in the City unless the Building Inspector shall have made an inspection of the building or structure to be moved and has found it structurally safe and the Zoning Administrator has made a positive determination of site suitability pursuant to compliance with the underlying zone district standards and impact on the character and use of surrounding buildings and structures. Any building or structure to be placed upon a lot in the City and to be used in connection with a special land use, whether existing or proposed, shall be subject to the Special Land Use and Site Plan Review requirements of this Ordinance.

Section 3.30 Excavation, Removal, and Filling of Land

The use of land for the excavation, removal, filling, or depositing of any type of earth material, topsoil, sand, gravel, or similar material shall be accomplished in accordance with the following provisions:

- a) **Sand Mining (and similar) Operations.** Sand mining operations shall adhere to the regulations of **Chapter 152 of the City Code** of the City of Ferrysburg. The excavation of other natural materials, such as topsoil, gravel, peat, and the like, shall also be accomplished in

conformance with the provisions of **Chapter 152** whenever an excavation is proposed to exceed ten thousand (10,000) cubic yards of material, whether singularly or in combination.

b) Review and Approval Agency. The review and approval of applications to excavate or fill which are not governed by **Chapter 152** shall be processed by the following:

- 1) **Zoning Administrator.** Excavation or fill operations not exceeding four hundred (400) cubic yards.
- 2) **Planning Commission.** Excavation or fill operations greater than four hundred (400) cubic yards, but less than ten thousand (10,000) cubic yards, and all excavation or earth movement projects designed to result in the creation of a pond, lake, or similar water retaining feature. The project shall be processed by the Planning Commission under the Site Plan Review requirements of this Ordinance, including any applicable standards of this section.

c) Soil Erosion and Sedimentation Control. All operations shall adhere to the provisions of the Soil Erosion and Sedimentation Control Act, Public Act 347 of the Michigan Public Acts of 1972, including any amendment thereto.

d) Excavation and Filling of Land. No use of land for filling (deposition) with soil, sand, gravel, industrial by-products, cinders, dredging spoils, or any material in any form shall be allowed without a fill permit. In no case shall a fill product represent an environmental hazard or be classified by the State or Federal Government as environmentally unsafe. All fill materials shall meet or exceed the minimum “clean” levels identified by the Michigan Department of Environmental Quality or the United States Environmental Protection Agency (the more stringent levels thereof) necessary pursuant to the intended use of the site and the range of uses provided for by the underlying zone district. In no instance shall fill material represent a hazard to those properties adjacent to the site to be filled, nor to the groundwater and local surface waters. In all instances, the City may require written analysis and certification regarding the full composition and potential health hazard of any material regulated by this Section, provided, however, this analysis and certification shall be required for the use of dredge material, industrial by-products, and cinders. All analysis and certification shall be completed by a bonafide testing laboratory meeting the testing certification requirements of the Michigan Department of Natural Resources and Environment and the United States Environmental Protection Agency.

e) Excavation and Fill Standards. The excavation and filling of land which is not governed by the requirements of **Chapter 152** shall comply with the following standards:

- 1) Shall not cause surface water to collect or to run off onto adjoining lands contrary to normal and natural drainage patterns.
- 2) Shall not result in off-site fugitive dust, grime, fumes, or odors above the levels existing prior to the excavation or filling operation.
- 3) All fill shall be properly compacted to ensure a stable surface and to prevent settling which may be disruptive to buildings and structures.
- 4) Shall not result in a situation or condition such that the use of the land as designated by this Ordinance is no longer viable.

- 5) Shall not reduce the stability, nor bearing capacity, of soils on adjoining property. All fill and excavation operations, including the use and temporary parking of equipment, shall be conducted a minimum of fifty (50) feet from adjoining lot lines, provided, however, the Zoning Administrator may authorize a reduction in the required setback based on the determination that a reduction will not represent a harm to surrounding properties.
 - 6) Shall not degrade groundwater quality, nor result in negative impacts on groundwater quantity.
 - 7) Shall not result in a reduction of light and air to adjoining properties.
 - 8) Shall not result in the spread of dirt, mud, or other debris on the public road system resulting from vehicles entering or leaving the site of the excavation or fill.
 - 9) Shall only be accomplished between the hours of 7 a.m. and 7 p.m., unless it can be demonstrated that hours beyond these are necessary due to emergency purposes. Approval for extended hours of operation shall rest with the Zoning Administrator. Normal hours shall be resumed upon elimination of the emergency situation.
 - 10) Shall not represent a fire or other safety hazard.
 - 11) Excavation projects shall require an approved restoration plan indicating the full scope of site restoration and use. The plan shall incorporate detail on final grades, surface water drainage, vehicular and pedestrian access, buildings and structures, proposed infrastructure, landscape, signage, lighting, sidewalks, and/or other such information as applicable to the proposed use, as required under normal site plan review.
- f) **Conditions and Performance Guarantee.** In approving an excavation or filling operation, the approving party may establish conditions and/or require a performance guarantee which are determined necessary to protect the health, safety, and welfare of the citizens of Ferrysburg and to ensure compatibility of the operation with the surrounding neighborhood.
- g) **Permit as Part of a Building Project.** Application for earth moving or filling operations to be completed as a component of a building project, such as the construction of a residential subdivision, may be submitted for review and approval concurrent with the application for the building project. Moreover, the applicant may file a comprehensive (combined) application containing the information necessary for review of all project elements.
- h) **Permit Exemptions.** The following shall be exempt from the permit requirements of this Section, but shall be required to adhere to the standards of Section 3.30, e), 1) - 6) and 8):
- 1) The removal of soil (earth materials) necessary for the placement of a building foundation or basement which has received a bonafide building permit.
 - 2) The movement of material from a lot or parcel, or onto a lot or parcel, provided the quantity of the material does not exceed three hundred (300) cubic yards, does not raise or lower the existing natural grade by more than twelve (12) inches over an area encompassing more than twenty-five (25) percent of the total lot or parcel,

and does not cause surface water to collect or to run-off on to adjoining lands contrary to normal and natural drainage patterns.

- 3) Normal lawn maintenance.
- 4) Site landscaping which does not circumvent the intent of this section.
- 5) Permitted commercial and industrial uses which, by the nature of their business, temporarily stockpile non-hazardous material in excess of three hundred (300) cubic yards (singularly or combined), but not exceeding one thousand (1,000) cubic yards (singularly or combined). Such uses include, but are not limited to, landscape nurseries, lumber yards selling landscape products, and industries which package for wholesale or retail soil and gardening products. The temporary stockpiling of material (singularly or in combination) in excess of one thousand (1,000) cubic yards shall require site plan approval by the Planning Commission, provided, however, this requirement shall not apply to the stock piling of materials within the Port Industrial District. The stock piling of materials within the Port Industrial District shall be subject to the regulations of that district.
- 6) The above exemptions do not override the need to also comply with any State and/or Federal permit requirements.

Section 3.40 Zoning Application Procedures in General

The process for application and review by the City of Ferrysburg for site plan review, special use permits, planned unit development (PUD), amendments to this Ordinance and rezoning of land, request for variance, and other zoning actions are set forth in those sections of this Ordinance dealing with the specific action sought. Application submittal dates, application forms, and fee requirements are available from the office of the Zoning Administrator of the City of Ferrysburg. A fully executed application and payment of fees shall be submitted to the Zoning Administrator in order to initiate official consideration of any zoning matter.

Section 3.50 Required Area or Space

- a) **Required Area and Dimensions** - No lot, required yard area, required parking area, required lot width, or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. The minimum area for any new lot or parcel shall be no less than the minimum lot size of the underlying zone district in which the lot or parcel will be located (Refer to **Schedule of District Standards, Section 9.140**). If already less than the minimum requirements of this Ordinance, a lot, required yard, parking area, lot width, or space shall not be divided or reduced in dimensions or area so as to increase noncompliance with the minimum requirements of this Ordinance.
- b) **Double Counting of Designated Space Prohibited** - Unless otherwise permitted by this Ordinance, no space which for purpose of a use or building has been counted or calculated or included as part of a yard area or other space required by this Ordinance

may be counted or calculated or included to satisfy the yard or other space requirements for any other use or building.

[Ordinance No. 265, 10/4/2010]

Section 3.60 Projection into Yards by Architectural Building Features, Stoops, Decks, Balconies, and Window Awnings

- a) **Projection Into Yards** - Provided they do not pose a threat to the public health, safety, welfare, or damage to adjoining properties, certain architectural features and structures may project into required yards. The most extreme (outward) point of the feature and/or structure shall be used when measuring the permitted yard encroachment. In all instances, projections shall be subject to review and approval by the Zoning Administrator. In making a determination of approval, the Zoning Administrator may consult with the Building Inspector, Fire Chief, or other individuals for purposes of determining potential impacts on the public health, safety, welfare, or damage to adjoining property.
- b) **Cornices, Eaves, Gutters, Building Overhangs, Chimneys, Pilasters and Similar Features** - may project into required yards as follows:
- 1) Three (3) feet into a required front yard.
 - 2) Five (5) feet into a required rear yard.
 - 3) Two (2) feet into a required side yard.
- c) **Unenclosed Stoop, Deck, Balcony, or Window Awning** - may project into required yards as follows:
- 1) Five (5) feet into a required front yard.
 - 2) Ten (10) feet into a required rear yard. [See also d) and e) following.]
 - 3) Steps and Landing Only - Steps and an adjoining landing, the landing not to exceed three (3) by three (3) feet, may project into a side yard if located directly off a main floor exterior door. The projection shall be at least three (3) feet from the side lot line.

- d) **Stoop or Deck Enclosed by Privacy Fencing** - may project up to ten (10) feet into a required rear yard subject to the following restrictions (see Figure 3-1):

- 1) The stoop or deck shall be attached to, or within twelve (12) inches of, the principal dwelling.
- 2) The enclosure shall be designed and constructed as privacy fencing, as opposed to an enclosed seasonal or year round living space such as an enclosed porch, sunroom, family room, etc.

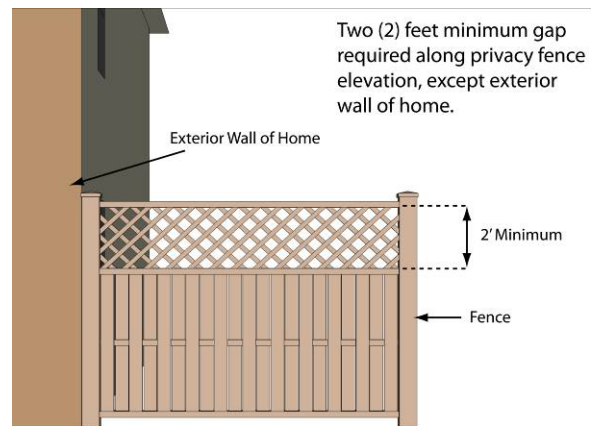


Figure 3-1: Privacy Fencing around Stoop or Deck

- 3) The privacy fencing may be covered by a roof type structure or covering, provided, a minimum gap of two (2) feet between the roof or covering and fence shall be maintained, except for the exterior wall of the home to which the roof structure or covering is attached or abuts. No more than twenty (20) percent of the required gap may be blocked by roof supports or other structural elements.
 - 4) The height of the privacy fence located on deck shall not exceed:
 - a. Six (6) feet for a deck located off the first floor.
 - b. Five (5) feet for a deck located off a second story.
 - c. Four (4) feet for a deck located above a second story.
 - 5) The above projection distance shall include any eave, gutter, or similar device or feature which may be attached to the stoop, deck, roof, or covering.
- e) **Low Level Rear Yard Deck** - A low level deck located in the rear yard may cover the yard subject to the following restrictions:
- 1) The deck shall be subject to site plan review and approval by the following party:
 - a. Deck covering up to fifty (50) percent of the rear yard - by the Zoning Administrator.
 - b. Deck covering more than fifty (50) percent of the rear yard - by the Planning Commission.
 - 2) The deck surface shall not exceed twelve (12) inches above ground height.
 - 3) The deck shall be at least three (3) feet from any side or rear lot line.
 - 4) No portion of the deck located in a required yard area may contain a roof, provided, however, a permitted accessory structure located on a deck such as a pool shower area, changing room, sauna, utility building, and other permitted accessory building may possess a roof.
 - 5) An accessory building placed on the deck shall be constructed of materials similar to that of the deck. For determining height, the height of the accessory building shall include any distance between the building and ground surface.
 - 6) Adequate provisions shall be made to ensure the proper handling of surface water. The deck shall not result in damage to adjoining properties as a result of modifications to normal surface water drainage patterns.
 - 7) In granting approval, the Zoning Administrator or Planning Commission may require additional conditions including, but not limited to, perimeter landscaping; restrictions on the design, placement, and use of an accessory building; and, reduction in deck height and/or yard area coverage.
- f) **Building Code Requirements** - A yard projection permitted by Section 3.60 shall not violate any provisions of the City Building Code.
- g) **Limits of Encroachment** - A projection must be at least three (3) feet from any public right-of-way.

Section 3.70 Mechanical Equipment - Roof and Ground Mounted

- a) Except as noted under Section b), which follows, mechanical equipment, including water and gas meters; elevator housing; stairways; tanks; heating, ventilation, and air conditioning equipment (HVAC); and other similar equipment shall comply with the following standards:
- 1) **General Provision** - All such equipment, roof or ground mounted, shall be screened by a solid wall, fence, landscaping or architectural feature that is compatible in appearance with the principal building.
 - 2) **Roof Mounted** - Roof-mounted equipment shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall occupy no more than fifteen percent (15%) of the total roof area.
 - 3) **Ground Mounted** - Shall be placed in a non-required side or non-required rear yard.
- b) The following shall be exempt from the above provisions:
- 1) Single-family homes.
 - 2) Two-family homes.
 - 3) Window air condition units.
- c) No outdoor furnaces shall be installed or operated anywhere in the City of Ferrysburg [Ordinance No. 223, 6/6/05]

Section 3.80 Essential Public Services

- a) The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district subject to the following review and approval procedures:
- 1) **Review and Approval by Zoning Administrator** - The Zoning Administrator shall have authority to review and approve essential public services buildings not exceeding a ground floor area of six hundred (600) square feet nor twelve (12) feet in height, and which do not possess an outside storage area. A site plan shall be submitted to the Zoning Administrator for review and approval. The site plan shall include those elements required by Article V. of this Ordinance, provided, however, the Zoning Administrator may waive any required site plan element which he/she determines is unnecessary to make a determination of conformity of the essential public services building with the character of the surrounding neighborhood and this Ordinance.
 - 2) **Review and Approval by Planning Commission** - Essential public services buildings having a ground floor area exceeding six hundred (600) square feet or twelve (12) feet in height, all essential public services outdoor storage areas including any buildings associated therewith, and all sub-stations shall require site plan review and approval by the Planning Commission pursuant to the provisions of Article V. of this Ordinance.

- b) All buildings and storage areas used for essential public services shall be designed, erected, and landscaped to conform harmoniously with the character of the surrounding neighborhood.
- c) Communication towers shall comply with the provisions of Section 3.140 of this Ordinance.

Section 3.90 Fences, Walls, Gates, Screens, and Landscape - General Requirements and Intersection Visibility

- a) **Front Yard** - Unless specifically authorized elsewhere in this Ordinance, no fence, wall or screen located within the front yard of any zoning district shall exceed the following height limitations [Refer also to Paragraph g) of this Section regarding Clear Vision standards]:
 - 1) Residential Districts - Three (3) feet.
 - 2) Commercial Districts - Four (4) feet.
 - 3) Industrial Districts - Six (6) feet.
 [Ordinance No. 187, 3/4/02]

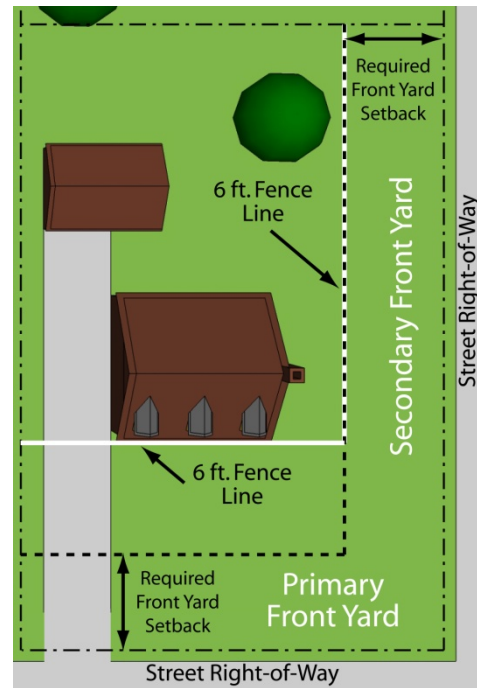


Figure 3-2 Fence Location in Secondary Front Yard on Corner Lots

- b) **Corner Lots.** On a corner lot in a residential district, a fence up to six (6) feet in height may be allowed upon or behind the required front yard setback within a secondary front yard only. The secondary front yard shall be a front yard other than the yard upon which the house faces. The Zoning Administrator shall determine which yard is the secondary front yard for the purposes of this Section (See Figure 3-2). [Ordinance No. 265, 10/4/2010]
- c) **Side and Rear Yard Height** - Unless specifically authorized elsewhere in this Ordinance, no fence, wall or screen located within the side yard or rear yard in any zoning district shall exceed a height of six (6) feet, except that a security fence for a permitted industrial use may include a maximum of one (1) additional foot of barb wire.
- d) **Waterfront Yard** – A fence, wall or screen in a waterfront yard shall be subject to the same requirements for front yards, as in Paragraph a), above, except for a swimming pool enclosure as required in this Section, shall be five (5) feet. [Ordinance No. 243, 03/03/08]

e) **Measuring Fence Height** - Fence height shall be measured from the grade (elevation) of the ground immediately below the location of the fence (see Figure 3-3) . For purposes of this section, the grade associated with placement of a fence shall be defined as:

- 1) **Fence Erected on Site Containing No Building or Structure** - The grade shall be the naturally existing grade without modification.
- 2) **Fence Erected on Site Containing Principal Building or Structure** - The grade shall be the finished grade existing at the fence site after construction of the principal building or structure. For fence construction purposes, the grade shall be subject to approval by the Zoning Administrator.

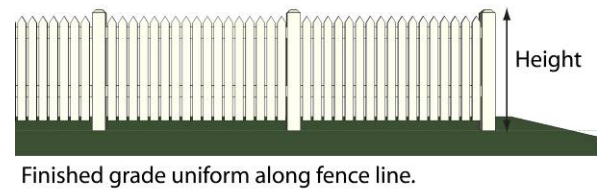
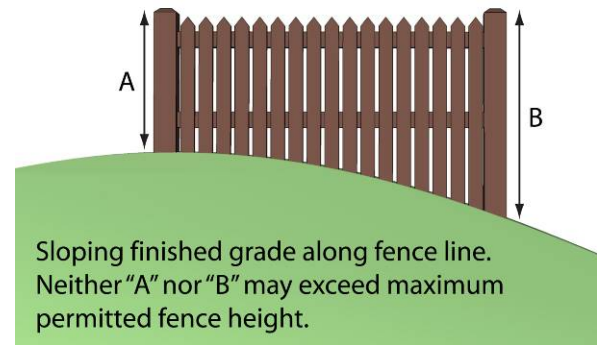


Figure 3-3: Measuring Fence Height

[Ordinance No. 265, 10/4/2010]

f) **Fence Placed on Retaining Wall, Berm, or Similar Feature** (see Figure 3-4). A fence, or portion thereof, may be erected on a retaining wall, berm, or similar feature provided the combined height of the retaining wall, berm, or similar feature and fence shall not exceed the total allowable fence height as referenced under Items a) and b) above, or as noted in the following paragraph.

The Zoning Administrator may allow placement of a retaining wall and fence which, when combined, exceed the total allowable fence height as referenced above. This approval may occur when the Zoning Administrator determines that additional height is necessary to permit the placement of a retaining wall of sufficient height to stabilize a natural bank against which the retaining wall will be positioned. In granting approval, the Zoning Administrator shall determine that the additional height is needed for stabilization, as opposed to erecting an extended base for purposes of gaining fence height. The combined height of the fence and any portion of the retaining wall above the finished grade of the principal structure shall not exceed maximum fence height standards.

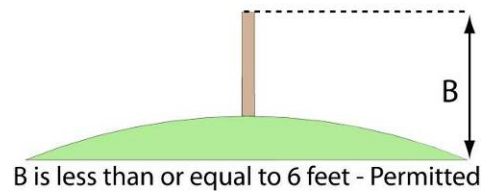
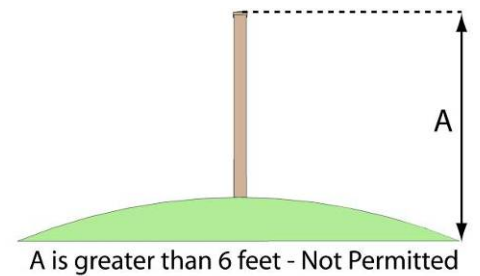


Figure 3-4: Fence Placed on Berm

g) **Placement in Public Right-of-Way.** No fence, wall or screen shall be erected within any public right-of-way unless the placement is approved by the City Council.

h) **Proximity to Public Right-of-Way.** No fence, wall, or screen shall be placed closer than two (2) feet to a public right-of-way or public easement, provided, however, a greater distance may be required by the Zoning Administrator if necessary to secure public safety, provide opportunity for the efficient use and maintenance of infrastructure located within the public right-of-way, or for a similar public purpose or need.

i) **Clear Vision Area.** No fence, wall, screen or planting material greater than thirty (30) inches in height shall be erected or maintained in such a way as to obstruct the vision of motorists within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points located on those intersecting right-of-way lines twenty-five (25) feet from the point of intersection with the right-of-way lines. Alley and street intersections shall comply with the above standards, provided, however, the dimensional factor shall be ten (10) feet from the point of intersection with the right-of-way lines (see Figure 3-5).

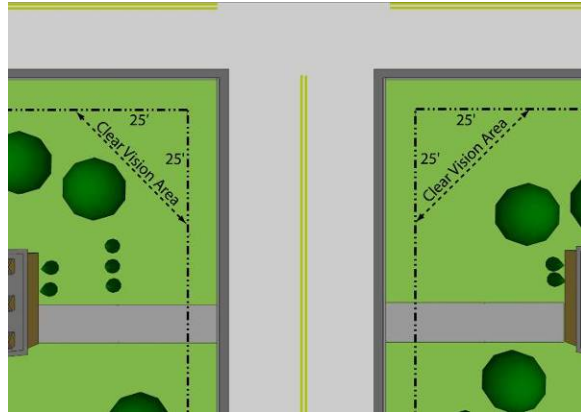


Figure 3-5: Clear Vision Area

j) **Clear Vision and Driveway Exiting.** No fence, wall, screen or planting material shall be erected or maintained in such a way as to obstruct the vision of motorists exiting driveways.

k) **Property Line Location.** A fence may be located on a common property line but may not encroach onto an abutting parcel without the written consent of the owner(s) of the abutting parcel, a copy of which written consent shall be filed with the Zoning Administrator.

l) **Electric Charge.** The use of electric current or charge on any ground surface or above ground fence or part thereof is prohibited. Electronic fences buried beneath the ground shall be placed at least three (3) feet from all lot lines and shall be subject to the provisions of the City Electrical Code.

m) **Wall, Fence, and Gate Design/Type and Animal Enclosure.** Walls and fences, including gates, shall be compatible with the neighborhood in which they are placed. Except as noted below, fence and gate designs and types commonly associated with agricultural, commercial, and industrial operations are prohibited in residential districts. Prohibited fencing and gates include, but are not limited to, livestock fencing such as barbed wire, cattle and horse fencing and gates, chicken wire, woven wire fencing, commercial and industrial security fencing, and fencing containing barbed wire, electrical charge, razor/knife blades, or other device.

Animal enclosures (e.g. dog pen) placed in a residential district shall be located in the rear yard, a minimum of three (3) feet from adjoining lot lines.

n) **Construction Material.** Walls and fences, including gates, shall be constructed of new, durable, weather-resistant, rustproof, and easily maintainable materials customarily used in the construction of walls and fences, provided, however, this provision shall not

preclude the use of decorative architectural materials when consistent with the intent of this section, the character of the area in which the fence is to be placed, and as approved by the Zoning Administrator. Used material may be permitted subject to review and approval by the Zoning Administrator.

- o) **Fence Posts/Supports.** All fences shall be erected with fence posts and supports on the interior side. The finished side of the fence shall face the exterior of the lot. [Ordinance No. 265, 10/4/2010]
- p) **Use of Landscape as Desired Alternative to Walls and Fences.** The use of existing natural vegetation and new vegetative landscape is encouraged in place of constructed walls and fences, or in combination with walls and fences.
- q) **Fence Gaps -** Walls and fences required by the City for reasons of security and/or screening, or similar purposes, shall have no openings or discontinuances [e.g., gaps or other non-secured or non-screened breaks] except as may be approved by the Planning Commission.
- r) **Fences for Swimming Pools -** All swimming pools shall be provided with a fence and self-locking gate. The fence and gate shall be no less than five (5) feet in height and shall be no more than six (6) feet in height. This provision shall not apply to hot tubs and spas, provided, however, all features shall meet the City of Ferrysburg building code requirements pursuant to access and safety. [Ordinance No. 186, 12/3/01]
- s) **Fence Permit and Other Regulations Concerning Fence, Wall, and Landscape Requirements.** Erection of a fence shall require a fence permit and payment of necessary permit fee. **(Refer also to regulations governing landscaping, buffers, architectural screens, and the like - Section 3.320).**
- t) **Temporary and Seasonal Fencing -** The erection of fencing for a temporary period of time including, but not limited to, construction site fencing, snow fencing, and other temporary or seasonal fencing shall be subject to review and approval by the Zoning Administrator.

Section 3.100 Principal Building, Structure and Use

No lot may contain more than one principal building, structure, or use, provided, however, this provision shall not apply to groups of multiple family dwellings, commercial buildings, industrial buildings or other groups of buildings which have been determined by the Planning Commission or City Council after review, as based on the requirements of this Ordinance, to be a principal use collectively.

Section 3.110 Repair and Storage of Vehicles in Residential Districts

- a) **Repair, Restoration, and Maintenance -** The carrying out of repair, restoration, and maintenance procedures on vehicles in any residential zoning district shall be subject to the following requirements:

- 1) Procedures exceeding forty-eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty-eight (48) hours shall be carried out within an enclosed building such that neither the vehicle nor any aspect of the repair shall be visible from off-site.
 - 2) No repair shall occur within any portion of a front yard, including driveways, in excess of twenty four (24) hours, or forty eight (48) hours if located in a non-required side yard..
 - 3) Inoperable and unlicensed vehicles, vehicle parts, packaging material, equipment, and other materials shall be stored inside an enclosed building such that the vehicles, vehicle parts, materials, and equipment shall not be visible from off-site.
 - 4) The vehicular repair shall be of a non-commercial nature.
- b) **Parking and Storage of Trucks and Construction Equipment** - It shall be unlawful for the owner, tenant or lessee of any lot in any residential zoning district to permit the open storage or outdoor parking of semi-tractor trucks and semi-tractor trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for construction on the lot. This construction shall be based on issuance of a current building permit. All machinery and equipment shall be removed within one (1) week of the completion of construction, issuance of a certificate of occupancy, or expiration of the building permit, whichever occurs first.
- c) **Parking and Storage of Commercial Vehicles in the Public Right-of-Way** - In any residential zoning district the use of public right-of-way for the parking and storage of semi-tractor trucks and semi-tractor trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery is prohibited, except as noted:
- 1) **Delivery and Moving Operations** - The temporary parking of semi-tractor trucks and semi-tractor trailers and other commercial trucks and vans may occur when directly associated with the short term delivery and/or pick-up of household goods and merchandise, mail delivery, moving of household goods, and similar operations associated with a use permitted in the underlying residential zone district. The temporary parking of vehicles shall be limited to the time necessary to complete the delivery and/or moving operation. Temporary parking in excess of forty-eight (48) hours shall be classified as vehicular storage and shall be prohibited unless authorization for a longer period of time as been obtained from the Zoning Administrator.
 - 2) **Construction Equipment** - Subject to approval of the Zoning Administrator, the temporary parking and storage of semi-tractor trucks and semi-tractor trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery may be parked in the public right-of-way while in use for construction on a lot or parcel directly adjacent to the public right-of-way on which vehicles and equipment are to be parked. Said construction shall be based on issuance of a current building permit. All machinery and equipment shall be removed immediately upon completion of construction, issuance of a certificate of occupancy, or expiration of the building permit, whichever occurs first. Parking

in the right-of-way shall not result in a vehicular or pedestrian safety hazard, nor shall said parking disrupt normal traffic and pedestrian flow patterns.

The above exceptions shall not overrule traffic safety and/or parking regulations in force by the City of Ferrysburg pursuant to the use of public streets and public right-of-way.

Section 3.120 Use of Yard Spaces and Other Open Areas for Storage of Machinery, Equipment, Junk, and Wood Impacting Residential Parcels

On any residential parcel no machinery, equipment, lumber piles, crates, boxes, junk, debris, or other materials shall be stored in any yard or open area that is visible from the street, public right-of-way, or adjoining residential property; provided, however:

- a) **Temporary Placement of Machinery and Equipment Used for Building Activities** - Machinery, equipment, and supplies being used for on-site construction activity for which a current building permit has been issued may be stored on-site. All machinery, equipment, and supplies shall be removed within one (1) week of the completion of construction, issuance of a certificate of occupancy, or expiration of the building permit, whichever occurs first.
- b) **Wood Used for Home Heating** - Cut lumber and wood to be used for the heating of a home or accessory building may be stored outside in a rear yard, and rear and non-required front yard of a lake front lot, provided, the wood and lumber shall be neatly stacked, shall not harbor vermin or pests, shall be limited to no more than four full (4) cords, shall not exceed the maximum fence height for rear yards, and shall be a minimum of three (3) feet from an adjoining property line. Cut lumber and wood stored in the front yard of a lakefront lot shall be screened by landscaping, including the use of natural vegetation. The wood or lumber shall be for the sole purpose of heating a home or accessory building located on the site at which the wood or lumber is stored. This provision shall not include, nor permit, the commercial storage, commercial cutting, or sale of wood and lumber from a residential premises.
- c) **Non-Commercial Compost Piles** - Compost piles may be constructed subject to the following provisions:
 - 1) The pile shall be confined to the rear yard and at least three (3) feet from any adjoining lot line.
 - 2) The pile shall not be used for the placement of household garbage and trash and shall be maintained free of odors and rodents.
 - 3) The pile shall be properly secured to prevent the off-site movement of leaves and other compost materials.
 - 4) Commercial compost operations shall be restricted to those districts permitting same.

Section 3.130 Accessory Buildings, Structures and Uses

- a) **Accessory to Principal Building, Structure, or Use -**
- 1) Accessory buildings, structures, and uses are permitted only in connection with, incidental to, and on the same lot with a principal building, structure or use. No accessory building, structure, or use may be placed on a lot without a permitted principal building, structure or use.
 - 2) Notwithstanding the above, a detached accessory garage that exists on the date of the Ordinance amendment implementing these regulations may be located on a lot directly opposite the street right of way from a waterfront lot of record containing the principal dwelling served by the garage, provided that both lots are under the same ownership. A garage that meets the above conditions shall be subject to the setback requirements of the zoning district for principal structures, but shall in all other respects be subject to the requirements for a detached accessory structure. [Ordinance No. 265, 10/4/2010]
- b) **Zone District Requirement -** An accessory building, structure, or use must be in the same zoning district of the associated principal building, structure, or use.
- c) **When Attached to a Principal Building or Structure -** Unless specifically provided for, accessory buildings or structures structurally attached to a principal building or structure including, but not limited to, porches enclosed by walls or garages attached to a dwelling unit or other principal building in a substantial manner, such as a wall or roof, shall be deemed a part of the main building and shall be subject to all the regulations of this Ordinance applicable to principal buildings, structures, and uses. [Ordinance No. 265, 10/4/2010]
- d) **Use Requirement and Construction Standards, Including Temporary Accessory Buildings and Underground Storage Tanks -** No accessory building, structure, or use shall be utilized unless the principal structure to which it is accessory is occupied or utilized. Accessory buildings shall be stick-built or of equivalent new building construction. No mobile home, tank, junk object, salvage materials, trailer, vehicle, or similar item shall be utilized as an accessory building or storage structure; provided, however, the above requirements shall not be applicable to:
- 1) Bonafide agricultural storage buildings or activities.
 - 2) Tool sheds or similar temporary storage structures used pursuant to the construction of a building, so long as the period of construction does not exceed two (2) years. All such structures shall be removed prior to issuance of a Certificate of Occupancy.
 - 3) Underground storage tanks accessory to a permitted use. All tanks, including the operation of same, shall meet all State and Federal permitting and monitoring requirements.

- e) **Flag Pole - Maximum Height.** A flag pole may be located in any yard, provided that the base is set back a minimum of ten (10) feet from any lot line. A free-standing flag pole shall not exceed thirty-five (35) feet in height. The height shall be measured from the point at which the pole intersects with the ground (at finished grade) to the uppermost part of the pole, including any attachments or embellishments thereto. In the event the flag pole is placed on a raised foundation such as a raised cement pad, fence, constructed berm, architectural feature, or other constructed structure or feature, the height of the pole shall include the height of the raised foundation as measured from the elevation of the finished grade of the ground surface prior to placement of the raised foundation. (See Figure 3-6) [Ordinance No. 265, 10/4/2010]

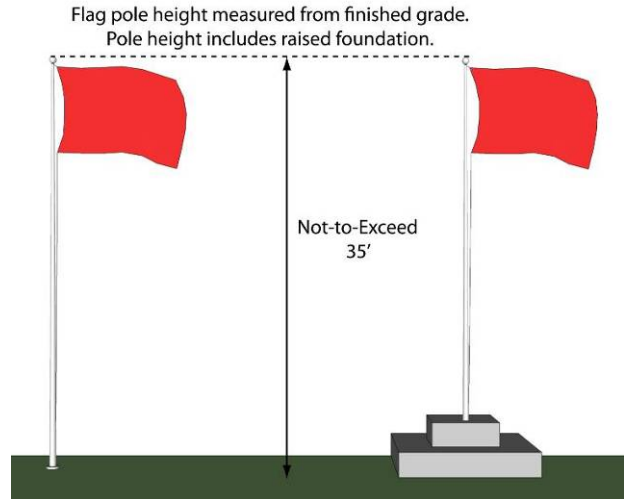


Figure 3-6: Flag Pole Height
The height of the pole shall include the height of the raised foundation as measured from the elevation of the finished grade of the ground surface prior to placement of the raised foundation. (See Figure 3-6) [Ordinance No. 265, 10/4/2010]

- f) **Residential Districts - Additional Accessory Building Standards for Residential Districts (Refer also to Sub-Section “g”, following, for information concerning waterfront lots) -** In addition to the above:

1) **Yard Location** (see Figure 3-7):

- a. Unless otherwise provided for by this Ordinance, no detached accessory building, structure or use shall be erected or placed within any front yard, or within a side yard unless located behind the rear dwelling line.
- b. An accessory building, structure, or use shall be a minimum of ten (10) feet from the principal dwelling, provided, however, a breezeway may be constructed in the required ten (10) feet isolation distance connecting an accessory building with the dwelling
- c. An accessory building, structure, or use shall be at least three (3) feet from any side or rear lot line.

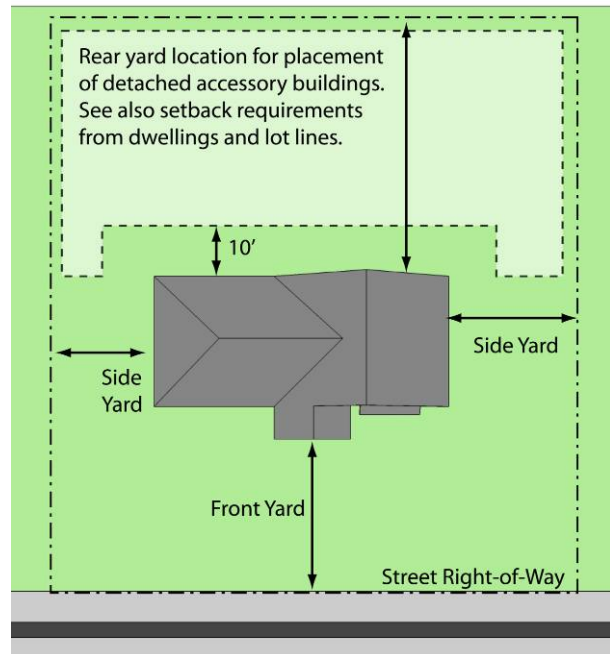


Figure 3-7: Accessory Building Yard Location

- d. On corner lots, no accessory building, structure, or use shall encroach on the required front yard setback of an adjoining property (as though the setback were extended onto the subject property).
- 2) **Attached Garage** - An attached garage may be erected to extend beyond the front building line of the dwelling if the garage has been designed as an integral part of the dwelling and will be constructed of materials architecturally and aesthetically compatible with the dwelling. In no instance, however, shall the garage extend beyond the required front yard setback line. All other setbacks must be consistent with those required for the dwelling to which the garage is attached.
- 3) **Number of Buildings** - No more than two (2) detached accessory buildings shall be permitted on any lot, provided, however, dog pens and similar animal enclosures, swimming pools, satellite dish antennas, towers and antennas, and decks shall not be counted when determining the maximum number of permitted buildings or structures.
- 4) **Height** - The maximum building height of any detached accessory building shall be fourteen (14) feet.
- 5) **Area** - Unless otherwise provided for by this Ordinance, the total square footage of all accessory buildings located on a lot shall not exceed forty (40) percent of the rear yard area or 40% the ground floor area on the largest floor in the principal building located on the lot, whichever is less. Pursuant to the above calculation:
- a. A basement shall not be considered a floor for purposes of this section.
- b. The floor area of the principal building shall not include areas devoted to an attached garage, attached carport, unenclosed porch or deck, or other similar attached feature which is customarily not considered part of the dwelling unit living area. [Ordinance No. 210, 5/3/04]
- 6) **Stable or Kennel** - A stable or kennel shall not be erected as an integral part of the principal building.
- 7) **Design and Construction** - Accessory buildings shall be designed and constructed consistent with the character of the principal use.
- 8) **Required Garage** – In residential districts, all new single-family and two-family/duplex dwelling units shall include a garage on the same property, either attached or detached, as part of the new construction. The minimum size of the garage shall be 352 square feet. [Ordinance No. 238, 08/20/07]
- g) **Residential Waterfront Lots** - Due to the unique characteristics of waterfront lots, some deviation from the standards outlined under Sub-Section “f”, above, shall be permitted for lots having frontage on a body of water. These are:
- 1) **Front Yard (between the dwelling and the street)**
- a. **Detached Garages**- A detached garage, no less than twelve (12) feet by eighteen (18) feet may be placed in the non-required front yard, between the dwelling and the street. A detached garage shall be set back from a side lot line the same distance as required for the principal dwelling.

- b. **Other Accessory Buildings** One (1) accessory (storage) building (not including the garage) may be placed in a non-required front yard between the dwelling and the street if located at least twenty-five (25) feet from the front yard (street) right-of-way line. Accessory buildings shall be set back from a side lot line the same distance as required for the principal dwelling. Accessory buildings so positioned shall be screened in order to reduce the open views of the buildings from off-site, with particular attention given to screening that mitigates open views from properties whose front yards face the street side front yards of waterfront parcels.

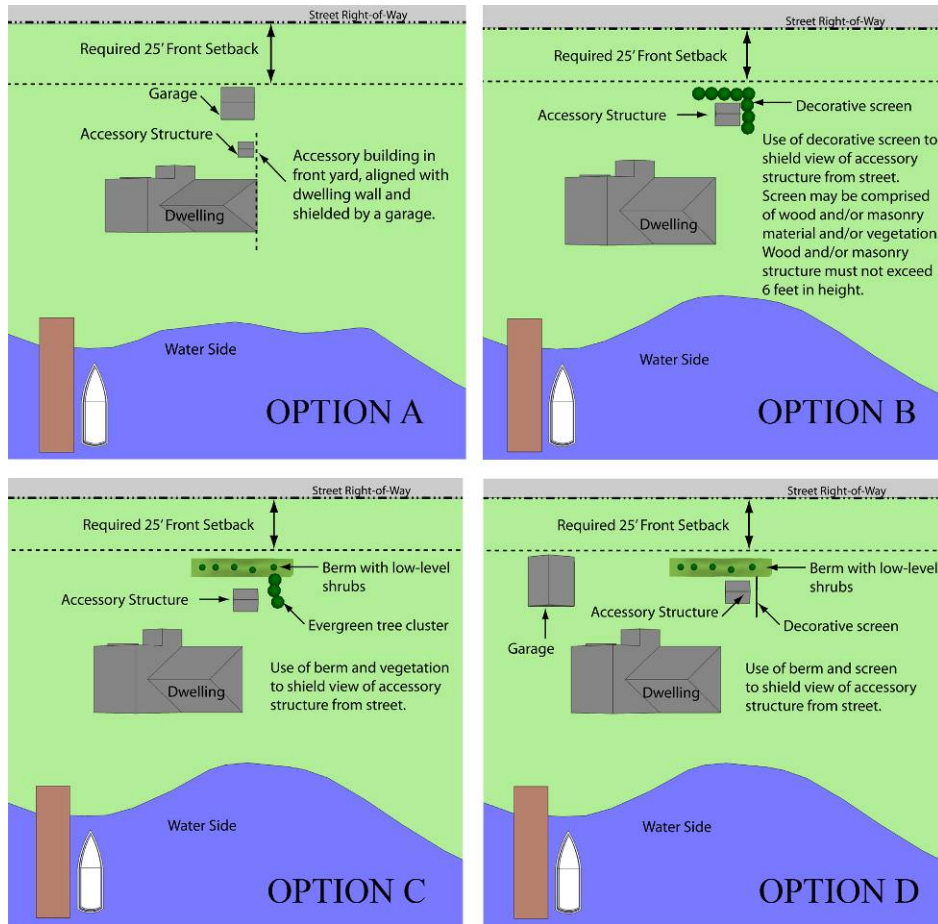


Figure 3-8: Waterfront Lot Accessory Structure Front Yard Options

The illustrations (Options A-D, see Figure 3-8) **depict options associated with placement of accessory buildings in the front yard of a waterfront lot.** In each case, open views of accessory buildings have been partially shielded through use of a permitted garage, screening, and/or landscaping. The Zoning Administrator shall be authorized to review and approve alternative screening designs, provided that the designs comply with the intent of this section.

- 2) Waterfront Yard (see Figure 3-9):
- a. The maximum building height of any detached accessory building in the waterfront yard shall be twelve (12) feet.

- b. The total ground floor area in square feet of any detached accessory structure in the waterfront yard shall not exceed one-hundred (100) square feet or two-hundred percent (200%) of the lot width on the waterfront, whichever is greater. For example, a lakefront lot that is 100 feet wide may have a 200 square-foot accessory building. In no case, however, shall the ground floor area of an accessory structure be greater than forty percent (40%) of the ground floor area on the largest floor of the principal dwelling, pursuant to Sec. 3.130, f), 5, above.

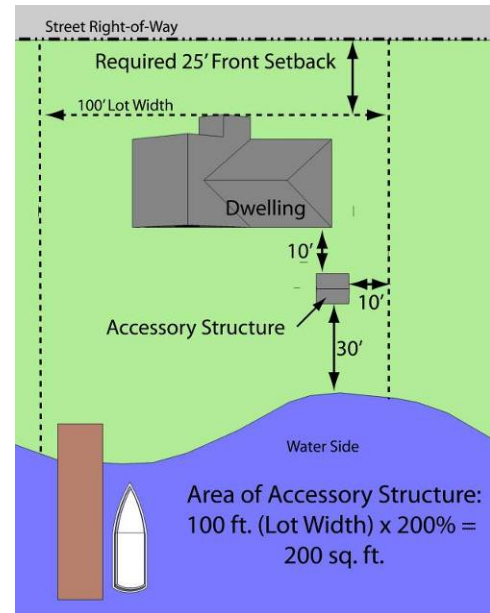


Figure 3-9: Accessory Structure in the Waterfront Yard

- c. Accessory buildings shall be a minimum of thirty (30) feet from the water line, and no less than ten (10) feet from an adjoining side lot line.

3) **Boat Houses:** Boat houses are prohibited.

[Ordinance No. 244, 04/21/08]

- h) **Multiple Front Yards and Accessory Building Setback** - Unless otherwise provided for by this Ordinance, lots with multiple street frontage shall consider each frontage as a front yard for purposes of determining accessory building setback.

- i) **Boat lots** shall be subject to the following regulations:

- 1) **Owner Use** - The use of a boat lot shall be limited to the owners and guests of the boat lot. Boat lots shall not be used for keyhole purposes or the general public.
- 2) **Parking of Vehicles and Placement of Tents** - Except for the temporary loading and unloading of water craft, boat lots shall not be used for the parking or placement of vehicles, trailers or tents.
- 3) Trailers shall not be stored on the boat lot during the boating season or at other times.
- 4) **Use, Area, Height and Setback Restrictions:**
 - a. **Permitted Uses** - Boat lots may be used for the placement of open decks, boat docks, stairs and board walks, and erosion control measures.
 - b. **Lot Area** - A boat lot shall possess not less than 1,000 square feet of lot area.
 - c. **Height** - No structure shall exceed a height of twelve (12) inches above the highest level of the adjoining street or street right-of-way, whichever is greater, unless approved as a Special Use.

Decks and other structures exceeding twelve (12) inches in height may be considered by the Planning Commission as a Special Land Use subject to the provisions of Article 4 of this Ordinance.

d. **Setbacks:**

1. **Street Side and Side Yards** - Along the street side and side yards, all structures located on land shall maintain setbacks equal to the setbacks required of the principle structure located on the parent parcel, unless approved as a Special Use.

The required setbacks of permitted structures may be reduced to not less than ten (10) feet from the adjoining street right-of-way and three (3) feet from side lot lines when approved by the Planning Commission as a Special Land Use subject to the provision of Article 4 of this Ordinance.

2. All structures may extend to the normal high water mark as established by the United States Corps of Engineers, provided, however, a dock and boardwalk serving a dock may extend beyond the normal high water mark. This boardwalk shall not exceed six (6) feet in width.
3. No dock or associated boardwalk shall encroach on water related side lot lines (represented by the imaginary extension of side lot lines of the boat lot over the water's surface), provided, however, adjoining boat lots under separate ownership may share a common dock and boardwalk resulting in the encroachment.
4. All shoreline and water encroachments as provided for by these regulations shall not supersede more stringent State or Federal standards.
5. Erosion control measures may be placed as approved by the Michigan Department of Natural Resources and Environment or United States Corps of Engineers.
- 5) **Fencing** - Boat lots shall not possess fencing.
- 6) **Camping** - Boat lots shall not be used for overnight camping.
- 7) **Landscaping** - All areas of a boat lot not used for the placement of structures shall be landscaped, provided, however, landscaping shall not prevent water oriented views through the boat lot from off-site (e.g. from adjacent properties and public rights-of-way).
- 8) **Dividing of Boat Lots** - No boat lot may be divided for purposes of creating additional boat lots unless all resulting boat lots comply with the provisions of this Ordinance. [Ordinance No. 202, 8/7/03]

Section 3.140 Satellite Dish Antennas and Antennas and Towers

- a) **Satellite Dish Antennas and Towers and Antennas** - It is the intent of the following regulations to accommodate the changing communication needs of residents and businesses while protecting the public health, safety, and general welfare of the City. As such, these regulations recognize the need to provide opportunity for various forms of personal and business communication systems, many of which are experiencing change as a result of technological advances.
- b) **Design and Application of Standards** - The following standards governing satellite dish antennas and towers and antennas have been divided into two (2) sections. The first section deals with satellite dish antennas and towers and antennas of a non-commercial nature which may be found in residential settings. In most instances, these facilities are for the individual and personal needs of the residents or occupants located on the site at which the satellite dish antenna or other instrument is found. The second section deals with towers and antennas for commercial use.
- c) **Satellite Dish Exemption** - A satellite dish having a diameter not exceeding one (1) meter (39.37 inches) shall be exempt from the provisions of this section, provided, however, the antenna shall not extend more than thirty-six (36) inches above the highest point of the roof of the building to which the antenna may be attached. [Ordinance No. 265, 10/4/2010]
- d) **Permitted Zone District, Dimensions, and Approving Authority** - Non-commercial and commercial dish antennas and non-commercial and commercial towers and antennas shall comply with the standards detailed under Sections 3.140 e) and 3.140 f), as well as the other provisions of Section 3.140 and this Ordinance.
- e) *Note: Sections 3.140 e) and*
- f) *3.140 f) are provided in table form on the following page* [Ordinance No. 265, 10/4/2010]
- g) **Application Requirements** - Applicants shall submit an application and fee prior to consideration of a request. Application forms and fee schedules shall be available from the Office of the Zoning Administrator. In addition to the site plan and special land use information (as applicable) required elsewhere in this Ordinance, applications for combined towers and antennas one hundred (100) feet in height or greater shall include the following information, provided, however, the City may require this information for towers and antennas of less height if necessary to determine compliance with the provisions of this Ordinance:

Section 3.140 e) – Non-Commercial Dish Antennas and Non-Commercial Towers and Antennas [Refer also to Section 3.140 e) and Placement Diagrams – Page 22, following.]

Zone District	Number Permitted	Maximum Height		Permitted Yards	Setbacks	Approval Body	Notes
		Dish	Tower Antenna				
RD, RG1, RG2 and RG3	2	15 Ft.	75 Ft.	Rear	Behind rear building line in non-required yard	Zoning Administrator	Maximum number of all dishes, towers, and antennas (non-commercial and commercial) not to exceed two (2), of which only one (1) may be a dish antenna.
S, CC and GC	3	15 Ft.	75 Ft.	Rear	Behind rear building line in non-required yard	Zoning Administrator	Maximum number of all dishes, towers and antennas (non-commercial and commercial) not to exceed three (3)
PI, LI-1, LI-2, and LI-3	3	15 Ft.	75 Ft.	Rear	Behind rear building line in non-required yard	Zoning Administrator	Maximum number of all dishes, towers and antennas (non-commercial and commercial) not to exceed three (3)

Section 3.140 f) – Commercial Dish Antennas and Commercial Towers and Antennas [Refer also to Section 3.140 e) and Placement Diagrams – Page 22, following.]

RD, RG1, RG2 and RG3	1	15 Ft.	75 Ft.	Dish-Rear ♦ Others- See Note	Behind rear building line in non-required yard	Dish- Zoning Administrator ♦ Others-City Council as Special Land Use (after PC recommendation)	<p>1. Commercial towers and antennas shall be limited to :a) Church sites when camouflaged as an element of the principal building as a steeple or bell tower; and, b) sites owned by the City of Ferrysburg and public and private school sites when located to the rear of the principal building.</p> <p>2. Maximum number of all dishes, towers, and antennas (non-commercial and commercial) not to exceed two (2), of which only one (1) may be a dish antenna.</p> <p>3. Towers and antennas not designed and constructed to collapse in a downward (vertical) fashion shall be set back from all required yard areas a minimum one (1) foot per each one (1) foot of tower and antenna height.</p>
S, CC, GC, LI-1, LI-3, PI	3	15 Ft.	75 Ft.	Rear	Behind rear building line in non-required yard	Zoning Administrator	<p>1. Maximum number of all dishes, towers, and antennas (non-commercial and commercial) not to exceed three (3).</p> <p>2. Towers and antennas not designed and constructed to collapse in a downward (vertical) fashion shall be set back from all required yard areas a minimum one (1) foot per each one (1) foot of tower and antenna height.</p>
LI-2	3	15 Ft.	300 Ft.	All	Non-required yard	Dish-Zoning Administrator ♦ Towers/Antennas 75 Ft. or less-Zoning Administrator ♦ Towers/Antennas greater than 75 Ft.- -City Council as Special Land Use (after PC recommendation)	<p>1. Maximum number of all dishes, towers, and antennas (non-commercial and commercial) not to exceed three (3).</p> <p>2. Maximum of one (1) tower greater than seventy-five (75) feet in height.</p> <p>3. Any tower, or tower and antenna, in excess of two hundred (200) feet in height shall be located at least two-thousand six hundred forty (2,640) feet away from a tower of similar or greater height</p> <p>4. Towers and antennas not designed and constructed to collapse in a downward (vertical) fashion shall be set back from all required yard areas a minimum one (1) foot per each one (1) foot of tower and antenna height.</p>

- 1) **Engineer's Report** - A report from a qualified and licensed professional engineer registered in the State of Michigan which:
 - a. Describes the tower height and design including a cross section and elevation.
 - b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.
 - c. Describes the tower's capacity, including the number and type of antennas it can accommodate.
 - d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications.
 - e. Documents that the tower will comply with City Electrical and Building Code requirements.
 - f. Proof that the tower complies with regulations administered by the Federal Aviation Administration.
 - g. Includes the Engineer's professional seal and registration number.
 - h. For placement of wireless telecommunication antennas on roofs, walls, and existing towers, the Engineer's Report shall include detail on the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure or tower. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.
 - i. Other information necessary to evaluate the request.
- 2) **Letter of Intent to Shared Use of Tower** - For all commercial wireless telecommunication service towers in excess of one hundred (100) feet, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- h) **New Towers and Co-Location Requirements** - Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least four (4) additional users. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. [Ordinance No. 265, 10/4/2010]
- i) **Tower Construction and Design Requirements** - All towers shall comply with the following construction and design requirements:
 - 1) **Building Codes** - All towers erected, constructed, or located in the City, and all structural elements and wiring therefore, shall comply with the Building Codes of the City of Ferrysburg.
 - 2) **Color and Architectural Treatment** - Towers and antennas shall be designed to blend into the surrounding environment through use of color and camouflaging

architectural treatment, except in instances where the color and treatment is dictated by federal or state authorities.

- 3) **Monopole Design** - Commercial wireless communication service towers shall be of monopole design unless the City determines that an alternative design would enhance the blending of the tower with the surrounding environment. Alternative designs may be approved provided the applicant provides written certification from a qualified and licensed professional engineer registered in the State of Michigan detailing the reasons (design, construction, and otherwise) for replacement of a monopole design with an alternate design.
- 4) **Lighting** - Towers shall not be illuminated by artificial means and shall not display strobe lights unless the lighting is specifically required by state or federal authority. When incorporated into the approved design of the tower, light fixtures used to illuminate parking lots or similar areas may be attached to the tower.
- 5) **Signs and Advertising** - The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- 6) **View Impact** - A proposed tower shall not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
- 7) **Accessory Utility Building** - All utility buildings and structures accessory to a tower shall be architecturally designed to blend with the surrounding environment and shall meet the minimum setback requirements of the underlying zone district.
- 8) **Fencing and Landscaping (Commercial Towers):**
 - a. **Fencing** - Commercial towers shall be properly secured to prevent unauthorized access. The base of the tower shall be fenced and gated. The gate shall be locked at all times, except during those periods in which the tower site is occupied by individuals authorized to enter same. All guy wire and other supports shall be fenced or otherwise properly shielded to prevent injury to the public and local fauna. The City may require additional fencing along the perimeter of the tower site, or any portion thereof, if determined necessary for the public health, safety, or welfare. At the discretion of the City, the perimeter fencing may substitute for fencing to be located at the base of the tower. The fence and gate shall be six (6) feet in height and of cyclone design, or as approved by the City.
 - b. **Landscaping** - Landscaping shall be placed along the exterior side of the security fence (refer to above sub-section). The landscaping shall consist of at least two (2) species of hardy evergreen trees which shall be no less than five (5) feet in height at time of planting and having the potential to reach a minimum height of twenty (20) feet at maturity. The trees shall be spaced at intervals no greater than twenty (20) feet on-center, provided, however, the City may require an increase in density in order to mitigate the visual impacts of the tower base and any ground mounted equipment and buildings. Where feasible, natural vegetation shall be maintained and integrated into the overall landscape design.
 - c. **Alternatives** - The City may consider alternatives to the above fence and/or landscape design criteria, including non-vegetative screening,

provided, an alternative fence and/or landscape and/or non-vegetative screen shall equal or exceed the above standards. In all cases, the design shall reflect and compliment the architectural character of the surrounding neighborhood.

j) **Co-Location Requirements** - All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following co-location requirements:

1) **Search Radius** - A request for a new commercial wireless communication service tower shall not be approved unless the City Council finds that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the following search radius:

Tower Height (Feet)	Required Search Radius (Feet)
Under 100 Feet, or Greater than 20 Feet if Located on a Building	1,320 Feet
100 Feet to 200 Feet	2,640 Feet
Greater than 200 Feet	5,280 Feet

2) **Required Factors to Demonstrate Inability to Co-Locate** - An applicant must demonstrate that an available existing or approved tower or building within the above search radius is not capable of supporting the proposed tower due to one (1) or more of the following reasons:

- a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower or building cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
- b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
- c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
- d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

k) **Abandoned or Unused Towers or Portions of Towers** - Abandoned or unused towers or portions of towers shall be removed as follows:

1) **Removal and Extension Periods** - All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation

of operations at the site, provided, however, an extension of twelve (12) months may be granted by the City, subject to receipt of a written request by the applicant outlining the reasons for the extension and detailing the proposed method for making the tower operational within the extended time frame. The request for extension and processing fee shall be submitted to the Zoning Administrator prior to the end of the twelve (12) month cessation period. The Zoning Administrator shall forward the application to the party responsible for the original approval. At their next regular meeting, the party may approve, approve with conditions, or deny the request. In the event original approval was authorized by the Zoning Administrator, the Administrator shall process the request within seven (7) working days after receipt of the written request for extension.

- 2) **Removal of Towers on Leased or Rented Sites** - For towers located on leased or rented sites, the signed lease shall include language requiring the applicant (the lessee) to remove the tower and associated facilities within a period no greater than twelve (12) months after cessation of operations at the site. The City shall be provided with the relevant portions of the signed lease which requires the applicant to remove the tower and associated facilities as required above. Nothing in this section, however, shall prevent the property owner (lessor) from requiring a more stringent removal time frame.
- 3) **City Removal of Tower** - In the event an abandoned or unused tower is not removed as provided for by this Ordinance, the tower and associated facilities may be removed by the City, with the cost of the removal assessed against the property.
- 4) **Removal of Portion of Tower Previously Holding an Antenna** - Unused portions of towers above a manufactured connection which previously held an antenna shall be removed within twelve (12) months of the time of antenna relocation.
- l) **Interference with Public Safety Telecommunications** - No new or existing telecommunications service shall interfere with public safety telecommunications. The City may require applications for new service to be accompanied by an Intermodulation Study which provides a technical evaluation of existing and proposed transmission and indicates all potential interference problems. In the event this study is required, before the introduction of new service or changes to existing service, telecommunication providers shall notify the City at least thirty (30) days in advance of such changes and allow the City to monitor interference levels during the testing period.
- m) **Zoning Board of Appeals Relief** - The Zoning Board of Appeals shall be authorized to permit the placement of an antenna, tower, or satellite dish antenna in those locations not expressly authorized by this Ordinance, provided, an applicant demonstrates thorough bonafide documentation that adequate reception may only be achieved through relocation and placement as requested. In approving a request, the Zoning Board of Appeals may establish reasonable conditions to mitigate potential impacts of the antenna, tower, or satellite dish location including conditions for screening, fencing, placement, color, height, and related pertinent items.

Section 3.150 Temporary Building and Structures

Temporary Buildings and Structures - Temporary buildings and structures, including trailers, incidental to construction work on a lot, may be placed on the lot, subject to the following restrictions:

- a) **Use** - Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation, solid waste or fuel facilities, related to construction activity on the same lot.
- b) **Dwelling Prohibition** - No temporary building or structure shall be used for dwelling purposes.
- c) **Building Permit Required** - A building permit for the building or structure shall be required prior to the placement of same.
- d) **Placement** - The placement of a temporary building or structure shall be subject to review and approval by the Zoning Administrator.
- e) **Removal** - Temporary buildings and structures shall be removed from the lot within one (1) week of the completion of construction, issuance of a certificate of occupancy, or expiration of the building permit, whichever occurs first.

Section 3.160 Streets, Street Frontage, Street Access, Driveway Location, Driveway Surface Standards, Sidewalks, and Paths

(Refer also to Parking and Loading - Article 6)

- a) **Required Street Frontage** - Any lot created after the effective date of this Ordinance shall have frontage upon a public or approved private street which complies with the City of Ferrysburg requirements, or upon a legally recorded access easement at least sixty six (66) feet in width.
- b) **Design Requirements** - All public and private streets shall meet the road design and construction standards of the City of Ferrysburg.
- c) **Driveways:**
 - 1) **General** - The number and location of driveways providing direct access to a public or private street shall not exceed those which have been determined by the Zoning Administrator to be necessary for proper and efficient traffic flow and for the safety of pedestrians and motorists. In making this determination, the Zoning Administrator shall consider the expected trip generation of the use served by the driveways, the posted speed limit on the street, the proximity of intersecting

streets and driveways, and other applicable circumstances. [Ordinance No. 265, 10/4/2010]

- 2) **Driveway Openings (Curb Cuts)** - All driveway openings shall meet the design and construction standards of the City of Ferrysburg.
- 3) **Driveway Surface Material** - Private access driveways providing access to a public right-of-way shall be surfaced with durable pavement including asphalt or cement binder or brick paver and be constructed to the City of Ferrysburg standards, provided, however, a driveway accessing a non-paved road may be constructed of compacted gravel or stone.
- 4) **Driveway Location and Parking Limitations:**
 - a. Residential (Single and Two Family):
 1. **Single-Family Detached Dwellings** - A driveway shall be permitted in the front or side yard subject to the following:
 - i. Unless otherwise provided for, a driveway and any connected pad shall be at least three (3) feet from a side lot line.
 - ii. Any portion of the driveway located in a front yard shall not exceed twenty-five (25) feet in width, provided, however, that portion of the driveway abutting the front elevation of a garage or carport may be of a width equal to the front elevation and of sufficient depth to support placement of single row of vehicles, plus sidewalk area for pedestrian circulation.
 - iii. The driveway may include an attached pad for purposes of allowing vehicles exiting a garage, carport, or driveway to back-up (reverse direction) in order to permit forward entry on to the street.
 - iv. The driveway shall be positioned on the site such that access to the garage or carport is direct. In the event a garage or carport does not exist, the orientation of the driveway shall be to the rear yard.
 - v. Unless otherwise provided for by this Ordinance, the on-site parking of vehicles shall be restricted to the driveway and, as available, an associated garage or carport.
 - vi. Deviations to the above requirements may be approved subject to Site Plan Review and approval by the Planning Commission.
 2. **Two-Family Dwelling (Duplex)** - A driveway shall be permitted in the front or side yard subject to the following:
 - i. **Converted Single-Family Dwelling** - Single-family dwellings which have been converted to multiple-family use shall comply with the provisions of paragraph 1, above.

ii. **Duplex:**

- a) A duplex shall include one (1) driveway in common use by the occupants of both dwelling units or one (1) driveway per dwelling unit.
- b) Unless otherwise provided for, a driveway and any connected pad shall be at least three (3) feet from side lot lines.
- c) Any portion of a common driveway located in a front yard shall not exceed forty (40) feet in width. Individual unit driveways shall not exceed twenty (20) feet in width. That portion of a driveway abutting the front elevation of a garage or carport may be of a width equal to the front elevation and of sufficient depth to support placement of a single row of vehicles, plus sidewalk area for pedestrian circulation.
- d) Multiple driveways shall be at least six (6) feet apart. The separation area shall be landscaped in lawn or a combination of lawn and other plantings.
- e) The driveways shall be positioned on the site such that access to the garage or carport is direct. In the event a garage or carport does not exist, the orientation of the driveway shall be to the rear yard.
- f) Unless otherwise provided for by this Ordinance, the on-site parking of vehicles shall be restricted to the driveway and, as available, an associated garage or carport.
- g) Deviations to the above requirements may be approved subject to Site Plan Review and approval by the Planning Commission.

b. **Multiple-Family, Commercial, and Industrial Uses:**

- 1. Unless specifically provided for by this Ordinance, the designated travel portion of an approved driveway shall not be used for vehicular parking.
- 2. Driveways serving multiple-family (except two-family and duplexes), commercial, and industrial uses shall be at least twenty (20) feet from any parcel containing a single or two-family dwelling unit, or twenty (20) feet from any parcel zoned RD, RG-1, RG-2, and RG-3.
- 3. Driveways shall be subject to Site Plan Review and approval. The Site Plan Review and approval body may require proposed driveways to be reduced or enlarged in size, relocated, and/or otherwise modified as determined necessary and appropriate to ensure public safety.

- c. **Common Driveway May Overlap Property Lines** - A common driveway providing access to adjoining properties may overlap the common property line of both properties.
- d) **Sidewalks and Activity Paths** - Sidewalks and paths are structures used for the conveyance of pedestrians, normally via a walking mode. However, in certain instances, a sidewalk or path may be designed and constructed to accommodate pedestrians in a running/jogging mode, for non-motorized bicycling, or for other such purposes.
 - 1) **Proximity to Lot Lines** - Except for public sidewalks and public paths located in public right-of-way or other right-of-way or easement providing for public access, sidewalks and paths shall be at least three (3) feet from all public right-of-way and lot lines. Public sidewalks and paths may be located per the requirements of the City after Site Plan Review and approval.
 - 2) **Design and Construction Standards.**
 - a. **Public Sidewalks and Paths** - Shall meet the design and construction requirements of the City of Ferrysburg.
 - b. **Private Sidewalks and Paths** - Private sidewalks shall:
 - 1. Not exceed sixty (60) inches in width nor twelve (12) inches in height unless a greater width and/or height have been approved by the Planning Commission after Site Plan Review.
 - 2. Be constructed of hard surfaced material, such as concrete, asphalt, or brick pavers, or may be constructed of treated wood. Pursuant to the approval of a private sidewalk or path, the City shall have the authority to specify the dimensions and material used for construction purposes.
 - 3. Any sidewalk or path designed and constructed for use by other than strictly pedestrians walking shall be subject to Site Plan Review and approval by the Planning Commission.

[Ordinance No. 265, 10/4/2010]

Section 3.170 Withholding of Approval Pending Other Local, State, or Federal Approvals

The Zoning Administrator, Planning Commission, City Council, or Zoning Board of Appeals may withhold granting of approval of any use, site plan, PUD Plan, appeal, or other approval authorized by this Ordinance pending approvals which may be required by local, state, or federal agencies. Except for a rezoning request, and if deemed appropriate, the Zoning Administrator, Planning Commission, City Council, or Zoning Board of Appeals may grant "conditional" approval of a request based on the applicant's successful receipt of necessary local, state, or federal agency approval. In the event local, state, or federal agency approval is not forthcoming, the "conditional" approval granted shall be automatically voided.

Section 3.180 Standards Applicable to Single-Family Dwellings

All single-family dwellings, other than those located in mobile home parks as regulated by the Michigan Mobile Home Commission, shall comply with the following standards:

- a) **Mobile Home Certification Requirements** - If the dwelling is a mobile home, the mobile home must be:
 - 1) New and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated; or,
 - 2) Used and certified by the Building Official to be safe and fit for residential occupancy.
 - 3) The mobile home shall be aesthetically compatible in design and appearance to conventional on-site constructed homes and other homes in the area.
- b) **Code Compliance** - The dwelling unit shall comply with all applicable City building, electrical, plumbing, fire, mechanical, energy and other similar codes, provided, however, that where a dwelling unit is required by law to comply with any federal or state standards or regulations for construction, and where the standards or regulations for construction are different than those imposed by City codes, then the federal or state regulations shall apply. Appropriate evidence of compliance with these standards or regulations shall be provided to the Building Official. Notwithstanding compliance with federal or state regulations, the dwelling shall comply with the other standards of this Ordinance.
- c) **Compliance with Zoning Standards** - The dwelling unit shall comply with all requirements of this Ordinance, including, without limitation, the minimum lot area, minimum lot width, minimum residential floor area, required yard and yard setbacks, and maximum building height limitation of the zoning district in which it is located.
- d) **Removal of Wheels and Tongue** - If the dwelling unit is a mobile home, the mobile home shall be installed with the wheels and tongue removed.
- e) **Required Building Elevation** - A dwelling unit shall have front, rear and side elevations of a minimum horizontal dimension of twenty-four (24) feet each.
- f) **Foundation** - A dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, which shall have a wall of the same perimeter dimensions as the dwelling unit and to be constructed of those materials and type as required by the Building Code for on-site constructed single-family dwellings.
- g) **Anchoring System** - If the dwelling unit is a mobile home, it shall be installed on the foundation as referenced by Item f), above, pursuant to the manufacturer's setup instructions. It shall be secured to the building site by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for mobile home parks.

- h) **Steps and Porch** - The dwelling shall have permanently attached steps or porch at least three (3) feet in width where there is an elevation difference greater than eight (8) inches between the first floor entry of the dwelling unit and the adjacent grade. Railings shall be provided on the steps or porch in accordance with the City Building Code.
- i) **Exterior Doors** - The dwelling unit shall have no less than two (2) exterior doors. One (1) door shall be located along a front elevation and one (1) door on a side or rear elevation.
- j) **Roof Loading** - Roofs shall have a forty (40) pound snow load capacity.
- k) **Prohibited Dwellings** - No garage, accessory structure, damaged or incomplete structure shall be used as a dwelling. The basement of an incomplete structure may not be used as a dwelling. [Ordinance No. 265, 10/4/2010]

Section 3.190 Outdoor Placement of Motor Homes, Boats, and Recreational Type Vehicles and Use of Recreational Vehicles for Temporary Living Purposes

- a) **Purpose** - The following regulations are intended to restrict the placement of certain vehicles, trailers and related appurtenances in the front yard and in select locations of side and rear yards. The restrictions on the placement have been determined necessary and appropriate in order to:
 1. Maintain the integrity of open space areas.
 2. Prevent neighborhood blight and ensure the safety of residents.
 3. Maintain property values.
 4. Ensure access to light and air and fulfill the Purposes of this Ordinance as detailed under Section 1.20.

In implementing the regulations of this section, it is recognized that residents, and their vacationing guests, periodically desire opportunity to use certain recreational vehicles and/or tents for temporary living purposes. Accordingly, this Section also provides standards governing the temporary use and occupancy of recreational vehicles and tents. To ensure the health, safety, and welfare of those occupying a recreational vehicle or tent, as well as to protect neighboring residents, the regulations are intended to be more stringent than those addressing the placement of non-occupied recreational vehicles and tents.

- b) **Regulations** - The outdoor placement of motor homes, boats, other recreational vehicles, recreational vehicle trailers, and utility trailers and appurtenances on any residential lot or parcel, shall be subject to the following regulations:
 - 1) **Number** - Except for recreational vehicles identified as exempt under subsection d), following, the outdoor placement of the above recreational vehicles and trailers shall be limited to two (2) as based on the following equivalency table:

Vehicle Type		Equivalency
a.	One (1) boat on attendant trailer	1
b.	One (1) self-propelled motor home	1
c.	One (1) fifth wheel motor home	1
d.	One (1) travel trailer	1
e.	One (1) utility trailer	1
f.	One (1) snowmobile on one (1) trailer	1
g.	Multiple snowmobiles on one (1) trailer	1
h.	One (1) jet ski on one (1) trailer	1
i.	Multiple jet skis on one (1) trailer	1
j.	One (1) motorcycle (non-licensed) on one (1) trailer	1
k.	Multiple motorcycles on one trailer	1
l.	One (1) empty boat trailer/R.V. trailer	1
m.	Units comparable to the above	1

2) **Boat Lifts.** In addition to the allowed vehicles and trailers, one (1) boat lift is permitted on a waterfront lot where boats or jet skis are docked during the boating season, and shall not be counted toward the number of vehicles permitted. After boating season, if a boat lift is removed from the water it shall be stored in the waterfront yard, provided that no boat lift shall be stored less than five (5) feet from a side lot line.

3) **Placement Prohibition** - Except as provided for by this Section, there shall be no placement in the front yard.

4) **Side and Rear Yard Placement:**

a. The placement of all such vehicles, trailers and appurtenances in the side and rear yards shall be subject to the setback standards of other accessory buildings, structures, and uses as permitted and regulated, provided, however, in no instance shall the setback in a side yard be less than ten (10) feet (See Figure 3-10).

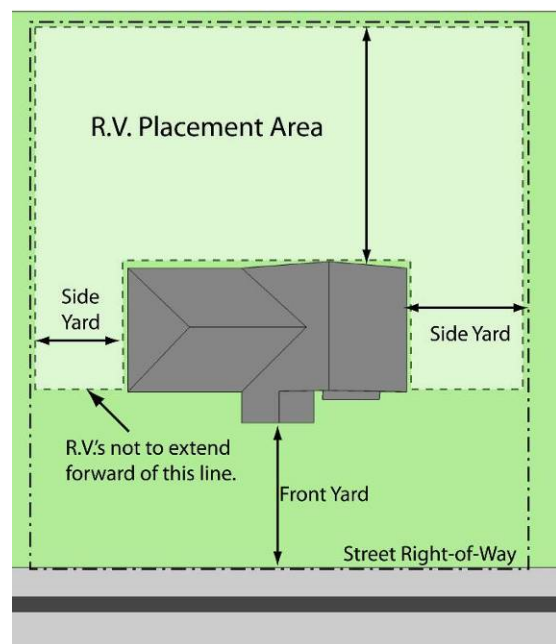


Figure 3-10: Recreational Vehicle Yard Placement

- b. Setbacks greater than the above may be required if determined by the Zoning Administrator to be necessary for the health, safety, and welfare of the residents of the subject and neighboring properties. Similarly, the Zoning Administrator may authorize a reduction in a side yard setback, not less than three (3) feet from the property line, if the Administrator determines that a reduction is necessary to permit placement of a vehicle. In authorizing a reduction, the Zoning Administrator shall determine:
 - 1. That placement of the vehicle as normally required is not possible due to a lack of space between the side lot line and adjoining structure;
 - 2. That placement in another location on the site consistent with the standards of this Ordinance may not reasonably be achieved;
 - 3. That the permitted reduction is limited to the minimum extent necessary to permit reasonable placement of the vehicle; and,
 - 4. That the permitted reduction will not be detrimental to the health, safety, and welfare of adjacent property owners and residents.

A setback reduction shall only extend to the placement of vehicles regulated by the provisions of this Section. At any time the Zoning Administrator determines the conditions of an authorized reduction have been violated or that a reduction is no longer necessary to achieve compliance with the provisions of this Section, the Administrator shall cause the reduction to be rescinded.

- c. On a waterfront lot, the vehicle(s) may be stored in the front yard (between the street and the dwelling) only if fully screened, to a height of at least six (6) feet, by a garage, accessory structure, or a landscaped screen meeting the requirements of Section 3.130, g), 1). If located in the side or rear yard, the vehicle(s) shall meet the requirements of subparagraphs a and b above, but shall not be placed closer than 30 feet to the water line.

- 5) **Front Yard Placement – Exception.** Placement in the front yard of a non-waterfront lot shall be permitted only if the following are met:
 - a. The vehicle shall be placed a minimum of two hundred (200) feet from the front lot line.
 - b. The vehicle shall not encroach on a required side yard setback.
 - c. The vehicle shall be positioned such that, where reasonably feasible, it shall be shielded from off-site view by natural vegetation or buildings existing on the site.
 - d. The vehicle shall be at least thirty five (35) feet from any dwelling unit located on an adjacent lot.

Determination of compliance with the above shall be made by the Zoning Administrator.

- 6) A suitable covering in good condition shall be placed over all boats and other unenclosed recreational vehicles in order to deter vandalism or injury to the

general public. The covering shall be properly secured to prevent unnecessary movement and/or noise caused by wind or other natural forces.

- 7) Except as noted in Paragraph e), following, all such vehicles and trailers shall be duly licensed as required by the State of Michigan to the residents of the parcel on which the vehicles and trailers are placed.

[Ordinance No. 265, 10/4/2010]

- c) **Temporary Placement in the Front Yard** (Refer also to Paragraph e), following) - One (1) trailer, with attendant recreational vehicle(s) placed thereon, or one (1) recreational camping unit (e.g. R.V., pop-up camper, etc.) may be temporarily placed in a driveway subject to the following provisions:

- 1) No vehicle or trailer shall be placed in a location or manner that restricts the clear vision area of street intersections, driveway and street intersections, and alley and street intersections.
- 2) Vehicles and trailers shall be placed on the driveway serving the residential parcel.
- 3) No vehicle shall be placed in a public right-of-way unless the right-of-way legally authorizes it.
- 4) The vehicle shall be fully secured to deter unauthorized entry and/or vandalism.
- 5) The length of placement shall be limited to seven (7) consecutive days, provided, however, placement may occur at the rate of two (2) seven (7) day periods per month, but not to exceed six (6) periods per year.
- 6) The above temporary provisions shall not apply to parcels on which the vehicle is greater than two hundred (200) feet from the front lot line as regulated by this Ordinance.

- d) **Temporary Placement In Front Yard Not Entitled To A Non-Conforming Status** - Temporary placement in the front yard as authorized under Paragraph c, above, shall be deemed a temporary condition and shall not receive a legal non-conforming status should this Ordinance be amended such that the provisions of this Section no longer remain valid. Moreover, should the Zoning Administrator determine that placement of the vehicle as approved represents a threat to the local health, safety, or welfare of the occupants of the subject site or occupants of neighboring parcels, the Administrator may, after written notice to the property owner and the passage of a thirty (30) day period, require the vehicle to be moved to a fully conforming location.

- e) **Use and Placement of Recreational Vehicles, Camping (Traveling) Trailers, and Tents for Temporary Living Purposes.**

- 1) **Authorization and Length of Temporary Use** - Recreational vehicles, camping trailers or tents may be used for temporary living purposes when accessory to single-family or two-family dwellings. Except as permitted under 2), below, the use shall only be permitted for a three (3) day period and for no more than one (1) period in any thirty (30) consecutive days.
- 2) **Placement** - While in use for temporary living purposes, recreational vehicles and tents shall be located according to the following:

- a. **Recreational Vehicles and Camping Trailer** - Shall be located on the driveway of the lot or parcel of the dwelling to which the vehicle is accessory, and shall not encroach on a required front yard.
 - b. **Tent** - Shall be located in the rear yard of the lot or parcel of the dwelling to which the tent is accessory.
- 3) **Number of Temporary Dwelling Units** - Recreational vehicles, camping trailers, and tents used for temporary living purposes shall not exceed one (1) recreational vehicle or one (1) camping trailer, plus one (1) tent at any time. These amounts may be in addition to those provided for under Paragraph b), 1), of this section.
- 4) **Extension of Use** - Use of a recreational vehicle, camping trailer, or tent in excess of a three (3) day period may be permitted by the Zoning Administrator subject to the following:
- a. **Application Form** - Application shall be made on a form supplied by the Zoning Administrator requesting the extension.
 - b. **Inspection and Sanitary Requirements** - The Zoning Administrator shall have the right to inspect the grounds upon which the temporary dwelling will be placed to ensure that adequate provisions have been made pursuant to potable water and sanitary needs.
 - c. **Extension Limit** - In no case shall the extended period exceed seven (7) days in any thirty (30) day period, nor shall the number of requests for extensions exceed two (2) in any one (1) year period.
- 5) **Licensing Requirements** - Recreational vehicles and camping trailers used for temporary dwelling purposes shall possess current license tags, which may include out-of-state tags.
- 6) **Conditions** - The Zoning Administrator reserves the right to place reasonable conditions on the request including, but not limited to, placement of the temporary dwelling, parking of associated vehicles, outside storage of camping and other equipment, noise abatement, trash collection, and other factors.
- f) **Recreational Vehicles Exempt From Outside Placement Count** - Non-motorized recreational vehicles such as canoes, small sail boats, row boats, and paddle boats meeting all of the following standards shall not be counted as part of the maximum number of units that may be placed outdoors:
- 1) Shall not exceed fourteen (14) feet in length.
 - 2) Shall not be located on a trailer.
 - 3) Shall be located in the rear yard.
 - 4) Shall be owned by the individuals residing in the premises upon which the exempt vehicles are placed.

Recreational vehicles stationed in the water shall also be exempt from the above count.

Section 3.200 Plat Violations

Where the Zoning Administrator determines that an area proposed for subdividing would violate the Subdivision Control Act, as amended by the Land Division Act; Site Condominium Act; or the Subdivision Regulations of the City of Ferrysburg, no permit for Zoning Compliance or building permit shall be issued.

Section 3.210 Restoring Unsafe Buildings

- a) **Repair of Unsafe Buildings** - Except as noted in Section b), following, nothing in this Ordinance shall prevent the strengthening or repair to a safe condition any part of a building or structure declared to be unsafe by the Building Inspector. Strengthening or repair shall not be interpreted as authorizing a use, or continuation of a use, not permitted by the underlying zone district.
- b) **Condemned Buildings** - A building which has been officially declared as condemned under the provisions of the City's building code shall not be repaired unless authorized by the Building Official. A building which has been officially authorized for demolition by the City Council shall not be repaired unless authorized by the Council. Provided, however, the requirements of this section shall not prevent the Building Official from authorizing building or site repairs or other modifications which, if left undone, would pose an imminent threat to the public health, safety, and welfare.

Section 3.220 Grade

- a) **Yards** - All yards shall be provided with adequate drainage and shall be graded so as to drain surface water away from foundation walls.
- b) **Exceptions to Grade Standards** - Exceptions to the above grading standards may be approved by the Zoning Administrator based on demonstrated evidence that the lot or parcel contains unique natural features that would be destroyed or significantly altered based on compliance with the above standards. In considering an exception to the above standards, the Zoning Administrator shall not be authorized to permit a change contrary to other local, state, or federal regulations or standards or, if approved, result in significant negative impact to adjoining properties. In approving an exception, the Zoning Administrator may attach conditions necessary to protect, and ensure compatibility with, adjoining properties.
- c) **Grade Modification Impacts** - A grade modification shall not result in negative impacts on surrounding properties. These impacts include, but shall not be limited to, increases in the off-site discharge of surface water, flooding, elimination of off-site or through views, and the like.
- d) **Specific Grade Requirements** - Prior to any permitting, the Zoning Administrator shall have authority to establish specific grades should it be determined the grades are necessary for drainage purposes, utility and other infrastructure requirements, to achieve site design consistency among abutting projects, or for other purposes determined to be

beneficial for the public health, safety, and welfare. Once established, a grade shall be used for all design and construction purposes and shall not be modified without Zoning Administrator approval.

Section 3.230 Trash Receptacles and Dumpsters - All Districts

Except for garbage cans (90 gallons or less) and similar residential trash containers, all trash receptacles, including dumpsters, shall comply with the following:

- a) All persons or businesses that accumulate more than ninety (90) gallons of garbage or rubbish per week shall place all garbage or rubbish in a dumpster.
- b) All trash receptacles, including the enclosure and surrounding ground area, shall be maintained in a neat and orderly condition, free from rubbish and other debris. No rubbish or other debris shall be allowed to accumulate on the grounds surrounding the receptacle.
- c) All trash receptacles shall have tight fitting lids which shall be kept completely closed at all times, except for times of filling and collection.
- d) All dumpsters and other trash receptacles shall be emptied as least once per week, and with sufficient frequency to prevent the unreasonable development of odors and attraction of rodents and other pests.
- e) Adequate vehicular access shall be provided to the containers for truck pick-up via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exists from principal buildings nearby.
- f) No dumpster shall be located in a required yard unless approved by the Planning Commission as part of site plan review.
- g) A solid ornamental screen wall or fencing shall be provided around all sides of the trash container which shall be provided with a gate for access and be of sufficient height as to completely screen the container, the maximum height of which shall not exceed eight (8) feet, but shall always be at least one (1) foot above the height of the dumpster. The height requirement shall apply to all sides, including the gated side. For purposes of the above standard, screening materials may consist of any of the following:
 - 1) Wood, provided the wood is cedar, redwood or equivalent of at least 5/8" thickness or other types of comparable wood which have been treated with preservatives to ensure longevity.
 - 2) Decorative masonry wall.
 - 3) Evergreen shrubbery consisting of permanent living plant materials which shall be continually maintained in a sound, healthy, and vigorous growing condition, free of plant diseases and insect pests, and free of weeds, refuse, and debris. The shrubbery shall be of a size, and planted at a density, capable of achieving a continuous, visual, barrier comparable to that of a wood or masonry wall.
 - 4) Other materials as approved by the Planning Commission.

- 5) At the request of the applicant, the Planning Commission may modify the screening requirements of this Ordinance pursuant to dumpsters provided the applicant satisfactorily demonstrates:
- a. The modification will not have a negative impact on surrounding properties;
 - b. Natural screening or other features exist which will provide screening comparable to that of Item g), above;
 - c. The requested modification will be compatible with surrounding uses;
 - d. The requested modification will not represent a threat to the public health, safety, and welfare; and,
 - e. That the request will not provide the applicant with a benefit not made available to other businesses possessing similar site conditions.
 - f. No person shall make unauthorized use of a dumpster.
 - g. All commercial establishments providing food prepared for take-out shall provide and maintain convenient outside trash receptacles sufficient to contain rubbish and garbage that is generated by the customers of such establishments.
 - h. It shall be the responsibility of the land owner and lessee of the premises upon which a dumpster is placed to empty the dumpster, maintain the dumpster and screen, and otherwise comply with the provisions of this Ordinance.
 - i. This Ordinance is not intended to require the enclosure of any dumpster used on a temporary basis for less than sixty (60) days, or in connection with construction activity for which a bonafide building permit has been issued. When used in connection with construction activity, the dumpster shall be removed, or otherwise located in compliance with the enclosure provisions of this Ordinance, prior to issuance of a final certificate of building occupancy.

Section 3.240 Home Occupations

A home occupation shall be permitted by right if it meets the below listed requirements. . The home occupation:

- a) Shall not involve any activities that are discernible from the exterior and shall not result in the exterior of the home having other than a residential appearance, except for a wall sign as permitted by Article 7.
- b) No persons other than those who reside within the residence may be employed in the home occupation.
- c) Shall not involve the storage or use of any materials for which there is high risk of flammability or explosion.
- d) Shall not generate more than five (5) client trips to the home during the hours of 8:00 AM to 8:00 PM. Clients shall not be received during other hours.

- e) Shall not involve deliveries by trucks greater than normal U.S. Postal or similar parcel delivery service step-type vans.
- f) Shall not emit noise in violation of the City of Ferrysburg Anti-Noise and Public Nuisance Ordinance.
- g) The home in which the home occupation is proposed must be used principally for residential purposes. No more than twenty percent (20%) of the residential floor area may be dedicated to the home occupation.
- h) Shall conform to the sign requirements of Article 7.
- i) Shall comply with all applicable building and licensing requirements of the City.
- j) Instruction in a craft, music, or fine art within a dwelling, by a resident member of the family residing in the dwelling, shall be considered a home occupation and shall be subject to the requirements for a home occupation.
- k) The occupation of a registered caregiver pursuant to the Michigan Medical Marihuana Act shall be considered a home occupation and shall be subject to the requirements of home occupations and shall also comply with the following:
 - 1) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the administrative rules of the Department of Community Health.
 - 2) A registered caregiver must be located outside of a 1,000 foot radius from any school or library as defined by the Michigan Public Health Code to insure compliance with the Federal Drug Free School Zone requirements.
 - 3) All medical marihuana shall be grown and contained within the main dwelling in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access by the registered primary caregiver or registered qualifying patient. Marihuana plants may not be visible from the exterior of the building.
 - 4) All building, electrical, plumbing, and mechanical systems shall comply with applicable building and mechanical codes.
 - 5) If a room with windows is utilized as a growing location, any growing lights used in cultivation between sunset and sunrise shall employ shielding methods to prevent ambient light spillage that may intrude on adjacent residential properties.
 - 6) Notwithstanding the above, no sign advertizing the business of a registered caregiver may be erected on the premises or be visible outside the premises.
 - 7) Not more than 1 primary caregiver may shall be permitted to operate a home occupation in a single dwelling.
 - 8) Marihuana may not be consumed in an area visible to the public or occupants of adjacent properties.
 - 9) Not more than 1 qualifying patient who is not a resident in the home may consume medical marihuana in the home at any time.
 - 10) Nothing in this section shall be construed to encourage of condone violations of state or federal law.

The allowance of a home occupation by the City, subject to the regulations contained in this Ordinance, shall not in any way constitute an acceptance of, or give validity to, the introduction of non-residential uses into any residential zone district.

[Ordinance No. 265, 10/4/2010; Am. Ord. 269, passed 2-7-11]

Section 3.250 Site Condominiums

Site condominiums shall be processed according to the following procedure:

- a) **Preliminary Review and Approval Stage.**
 - 1) **Planning Commission Review.** An application and site plan for preliminary review and approval shall be submitted to the Planning Commission for review and recommendation based on compliance with the Site Plan Review Standards of Article V. The Planning Commission shall make a recommendation to the City Council to approve, approve with conditions, or deny the request. In making a recommendation, the Planning Commission shall provide the City Council with a statement supporting the reasons for the recommendation.
 - 2) **City Council Review.** After receipt and review of a recommendation from the Planning Commission, the City Council shall review the application and site plan pursuant to the site plan review standards of Article V. The City Council may, at their discretion, conduct a public hearing on the proposed site condominium project for purpose of receiving public comment. The City Council may approve, approve with conditions, or deny the site condominium request based on a finding of compliance with the provisions of this section, Article V., and other applicable regulations.
- b) **Final Review and Approval Stage.** A final application and site plan shall be submitted to the City Council incorporating all conditions placed on the preliminary plan. The City Council shall review the plan for conformity with the approved preliminary plan and conditions, if any, attached thereto. The final application and site plan shall be approved based on a finding that all requirements attached to the preliminary plan have been complied with.
- c) **Additional Information for Preliminary and Final Review** - In addition to the information required by Article V, the following information shall also be included for preliminary and final review and approval:
 - 1) A condominium subdivision plan as required by Section 66 of the Condominium Act.
 - 2) Documented proof of review by other applicable agencies including the Ottawa County Road Commission, Drain Commissioner, Health Department, Michigan Department of Transportation, and the Michigan Department of Natural Resources/Environmental Quality.

- d) **Zoning Compliance** - A site condominium subdivision shall meet the minimum requirements of the district in which it is located, including minimum lot size, minimum setbacks, and minimum floor area.
- e) **Design and Construction Consistency with the Ferrysburg Subdivision Ordinance** - The design and construction of streets, alleys, sidewalks, curb and gutter, easements, street tree plantings, street signs, water, sanitary sewer, storm drainage, and other such systems and utilities shall equal or exceed the design and construction requirements of subdivisions as regulated by Chapter 155 of the City Code of the City of Ferrysburg.
- f) **Underground Placement of Utilities** - All utilities, including power lines and communication lines, shall be placed below ground.
- g) **Master Deed** - The Ferrysburg City Clerk shall be furnished with a copy of the recorded master deed. The master deed must ensure that the City of Ferrysburg will not be responsible for maintenance or liability of the non-dedicated portions of the site condominium and that all private roads will be properly maintained, that snow removal will be provided and that there is adequate access and turnaround capacity for emergency vehicles. Responsibility for the maintenance of stormwater retention areas, drainage easements, drainage structures, lawn cutting, and other general maintenance of common areas must be clearly stated.
- h) **As-Built Drawings** - As construction is completed, the Ferrysburg City Clerk shall be furnished with two (2) copies of all “as-built” drawings for review by the City Engineer or compliance with all City ordinances.

Section 3.260 Day Care and Group Homes

To promote the health, safety, and welfare of the occupants and residents of day care homes and group homes and to ensure compatibility with the surrounding neighborhood, all day care homes and group homes shall:

- a) Meet applicable state and federal regulatory requirements.
- b) Meet applicable local building and other safety codes.
- c) Demonstrate that adequate provisions have been made to secure the health, safety, and welfare of those occupying the day care or group home including, but not limited to, safety fencing around play areas, vehicular drop-off area out of the flow of traffic, and adequate off-street parking.

Section 3.270 Basis of Determining Front Yard Requirements and Averaging of Setback

(See Figure 3-11) The required front yard shall be measured from the right-of-way line to an imaginary line across the width of the lot which represents the minimum required front setback distance for that district, provided, however, that where an average setback line less than required has been established by existing buildings on the same side of the street and within two hundred (200) feet of the proposed building, the established setback shall apply. However, this reduction shall not exceed fifty percent (50%) of the required setback underlying zone district standard, nor permitted on streets or roads which have been identified by the City for future widening.

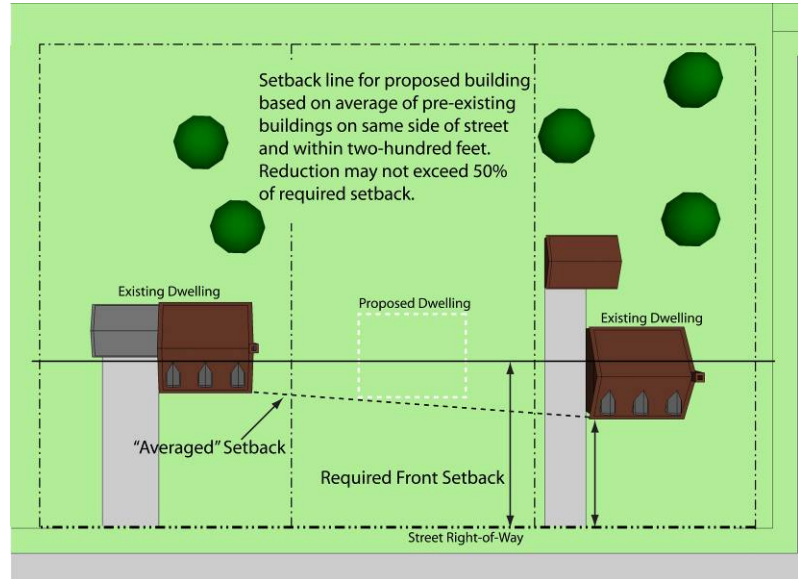


Figure 3-11: Averaging of Front Yards

Section 3.280 Sales on Residentially Zoned Properties

- a) In any residential zoning district established by this Ordinance, outdoor display of items for sale on any portion of a lot or parcel shall be subject to the standards of this section. For purposes of this section, a residential lot or parcel shall consist of one (1) or more lots or parcels of record or one (1) or more metes and bounds descriptions, so long as the lots, parcels, or descriptions are contiguous and in common ownership. As used herein, the term “common ownership” shall refer to the ownership of two or more contiguous lots or parcels by the same person or persons, by spouses, whether jointly or severally; by parents and children; or by different corporations or partnership where a controlling interest in both entities is owned by the persons described above.
- b) **Vehicle Sales.**
 - 1) A vehicle sale item shall be defined as any one (1) of the following:
 - a. car (automobile)
 - b. truck
 - c. recreational vehicle
 - d. motorcycle or motor scooter
 - e. any other type of motorized passenger vehicle designed and required to be licensed for operation on public roads
 - f. boat
 - g. trailer
 - h. boat on a trailer
 - i. recreational vehicle on a trailer

- j. any other type of vehicle on a trailer
 - 2) An owner or occupant may display not more than one (1) vehicle for sale at any one (1) time. The vehicle displayed for sale need not be owned by the owner or occupant of the lot or parcel.
 - 3) The vehicle displayed for sale must be operational, and must not be in violation of the provisions of any other City ordinance or State law.
 - 4) Vehicle sales may not occur more than three (3) times per calendar year on any residential lot, nor more than ten (10) consecutive days per time displayed.
 - 5) A minimum of twenty-one (21) calendar days shall transpire between the end of display of one (1) vehicle for sale and the beginning of display of another vehicle for sale on the same lot.
 - 6) One (1) non-illuminated “for-sale” sign, not exceeding two (2) square feet in area, shall be attached to the vehicle displayed for sale. Any “for-sale” sign which is not attached to the vehicle displayed for sale is prohibited.
 - 7) No vehicle displayed for sale and no “for-sale” sign, as both are described in this section, shall be placed in, on, or over any public street right-of-way or any publicly owned property.
 - 8) Whenever a vehicle for sale is being displayed, except for the display of a car or a truck, the front yard placement of other recreational vehicles as permitted under Section 3.210 shall be prohibited.
- c) **Garage Sales, Estate and Auction Sales, or Outdoor Sales of Individual Items.** Any garage sale, estate, auction or other similar sale, or any outdoor sales of individual items of personal property, conducted on any property in a residential zoning district, shall comply with the following:
- 1) General requirements:
 - a. All personal property items to be sold on the site shall be owned, utilized, and maintained by a resident of the dwelling where the sale is to be conducted.
 - b. Garage sales, estate and auction sales and other similar outdoor sales of individual items are prohibited on vacant lots.
 - c. All merchandise sold and any unsold merchandise remaining on the site and not within an enclosed building at the conclusion of the sale must be removed from the site within twenty-four (24) hours of the conclusion of the sale.
 - d. All displays of sale merchandise shall be limited to that portion of the front yard area which is at least five (5) feet back from any adjoining property line, and at least ten (10) feet back from any sidewalk.
 - e. The conduct of the sale shall not interfere with the orderly flow of pedestrian or vehicular traffic or restrict emergency vehicle access.
 - 2) Garage Sales and Estate and Auction Sales:
 - a. Up to three (3) sales at any given property shall be permitted during a one (1) year time period.

- b. Garage sales and estate and auction sales are limited to forty-eight (48) consecutive hours.
 - c. No garage sale or estate or auction sale shall commence before 8:00 A.M. or continue after 7:00 P.M.
- 3) Outdoor Sales of Individual Items. Outdoor sales of individual items of personal property, not including the sale of vehicles as regulated above, shall be subject to the following:
- a. No item may be displayed for a period exceeding fourteen (14) consecutive days.
 - b. No more than two (2) items may be sold at any one time.
 - c. There may be no more than three (3) individual item sales events on any property during a one (1) year time period.
- 4) The following are exempt from the time and frequency requirements of this section:
- a. Sales conducted by places of religious worship, schools and other non-profit organizations, when held within an enclosed structure.
 - b. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

[Ordinance No. 246, 12/01/08; No. 265, 10/4/2010]

Section 3.290 Temporary Uses

Temporary uses are permitted in any zoning district with the approval of the City Council of the issuance of a temporary use permit by the Zoning Administrator. The following requirements shall apply:

- a) All applications for a temporary use permit shall be filed with the Zoning Administrator at least sixty (60) days prior to the proposed commencement date of the temporary use. This sixty (60) day period can, however, be shortened in the discretion of the Zoning Administrator or the City Council, for good cause shown by the applicant. No application shall be filed less than ten (10) days prior to the date of the City Council meeting at which a decision is requested.
- b) The City Council may authorize the Zoning Administrator to issue a temporary use permit if all of the requirements of Subsection C are satisfied.
- c) A temporary use permit shall not be approved by the City Council unless all of the following requirements are satisfied:
 - 1) Nuisance, hazardous features. The temporary use shall not result in any hazard or nuisance to adjacent lands or the uses thereof, nor otherwise be contrary to the public health, safety or welfare of the City.
 - 2) Traffic and circulation. The temporary use shall not create hazardous vehicle or pedestrian traffic conditions on or adjacent of the streets serving the property. A

temporary use permit shall not be issued if the City Council determines that the proposed use will:

- a. Unreasonably interfere with the use of a public or private street for vehicular travel;
 - b. Unreasonably interfere with the view of access to or use of property adjacent to the public or private street serving the proposed temporary use;
 - c. Cause a violation of any State laws or local ordinances;
 - d. Create any public nuisances related to noise, dust, traffic, or other related condition; or
 - e. Reduce the effectiveness of or access to any utility pole, street lighting, sign or other traffic control device.
- 3) Public facilities and services. Adequate utilities, drainage, refuse management, and sanitary facilities shall be assured. Access to emergency services and other necessary facilities and services shall be available for the proposed temporary use.
 - 4) Natural environment. The proposed temporary use shall not have a substantial adverse effect on the natural environment or possible flood hazards, or storm water runoff problems.
 - 5) Suitability of the site. The site of the proposed temporary use shall be suitable for the temporary use, giving consideration to size of the site, vehicle and pedestrian access and circulation, parking, effects on adjacent land uses, and other related conditions.
 - 6) Building, electrical and other codes. The temporary use and all associated temporary improvements, including, but not limited to tents, stands, temporary electrical systems, temporary heating systems, and temporary lighting systems shall comply with all applicable provisions of the City's Building Code, Electrical Code, and other applicable codes adopted or amended from time to time.
- d) A temporary use shall be permitted only the minimum necessary period of time, given all of the circumstances. In no case shall a temporary use permit be issued for a period in excess of thirty (30) days during any twelve (12) month period, nor shall any property be used for a temporary use in excess of thirty (30) days during any twelve (12) month period.
 - e) The City may impose additional reasonable terms and conditions in connection with the approval of any temporary use.
 - f) The City may revoke or suspend a temporary use permit at any time upon the failure of the owner or any operator of the use to comply with the requirements of this Ordinance, the conditions imposed upon the issuance of any temporary use permit, or any other applicable provisions of State law or local Ordinance. [Ordinance No. 220, 12/20/04]

Section 3.300 Private Streets

- a) **Where Permitted.** Private streets are permitted in any zoning district within the City and are not permitted to serve fewer than three (3) lots.

- b) **Internal Drives Exempt.** These requirements shall not apply to internal driveways, internal access drives, parking areas, or other means of secondary access within an apartment complex, industrial park, business center, or similar unified development.
- c) **Site Condominium Developments.** Single-family site condominium developments shall be served by a public street, or by a private street meeting the requirements of this Section.
- d) **Site Plan Approval Required.** Private street applications shall be subject to final site plan approval in accordance with the requirements and procedures of Article 5. The private street plan shall contain the applicable information required for site plans by Article 5, including cross section drawings, which shall be drawn and sealed by a registered professional engineer.
- e) **Easement and Maintenance Agreement.** A private street easement and maintenance agreement shall be submitted in recordable form which meets the minimum standards:
 - 1) The City Attorney shall review and approve the easement and maintenance agreement for the street as submitted by the applicant. The responsibility for the ownership and maintenance of the street shall be of the property owner(s) served by the street. The agreement shall include provisions for a performance guarantee, if required, in accordance with f) below.
 - 2) The agreement shall contain a detailed legal description of the private street easement.
 - 3) The agreement shall bind the benefiting lots, parcels, and owners to the required maintenance of the private street, including all succeeding owners.
 - 4) Should the benefiting property owners fail to maintain and repair the private street, the agreement shall allow the City to make any repairs it deems necessary to ensure the street is in a condition suitable for travel, as determined by the City Public Works Supervisor, and passable for emergency vehicles, as determined by the City Fire Department, and charge the property owners served by the private street for the repairs. The City may collect unpaid charges via any method allowed by law.
 - 5) After recording the easements and maintenance agreements, a copy of the recorded documents shall be submitted to the Zoning Administrator.
- f) **General Requirements.** Private streets shall meet the following requirements:
 - 1) Private streets shall be designed, constructed, and maintained in accordance with the provisions of this Section. No site plan, site condominium, land division, special land use, or other zoning approval shall be granted unless the private street meets the requirements of this Section.
 - 2) The minimum width of traveled surface of a private street shall be at least eighteen (18) feet, unless otherwise recommended or required by the Planning Commission, City Fire Department, or City Engineer.
 - 3) The maximum length of any private street cul-de-sac shall not exceed one thousand three hundred and twenty (1,320) feet, unless it intersects with another conforming private street with access to an improved public street, or to another improved public street.

- 4) All private streets shall be paved with either asphalt or concrete and constructed to according to Ottawa County Standards.
 - 5) The private street easement shall not be less than sixty-six (66) feet in width. Below ground utilities shall be permitted to be located within the private street easement. All private streets shall be designed to form a safe and efficient street network.
 - 6) Private streets shall be maintained in a condition suitable for travel, as determined by the City Public Works Supervisor, and passable for emergency vehicles, as determined by the City Fire Department.
 - 7) Whenever possible, streets shall be designed to connect or be extended to planned or anticipated future developments.
 - 8) No private street shall serve more than ten (10) lots, parcels, or dwelling units, unless a secondary means of access is provided to a public street.
 - 9) The private street shall be given a name that is not the same or similar to any other street name in the City. A street sign meeting City standards as to design, location, and maintenance shall be erected and maintained wherever a private street intersects any other public or private street.
- g) **Zoning District Requirements.**
- 1) Any lot created on a private street, along with accompanying buildings, shall comply with all site development standards applicable to the zoning district in which it is located.
 - 2) All lots on a private street shall have the minimum required lot width on the private street, except cul-de-sac lots shall have a minimum of fifty (50) feet of street frontage, and shall meet the minimum lot width measured at the required front setback.
 - 3) The easement for the private street shall not be included in the required minimum lot area or lot width calculation.
- h) **Performance Guarantee.** To assure completion and maintenance of a private street in accordance with the requirements set forth herein, the City may require the applicant to provide a performance guarantee in accordance with the requirements of Section 12.60.
- i) **As-Built Drawings.** Upon completion of the private street, the applicant shall submit to the City two (2) complete sets of “as built” drawings, certified by the applicant's engineer, for final acceptance.
- j) **Emergency Access.** Private streets may not be gated or otherwise be constructed so as to prevent or hinder access by emergency vehicles.
- k) **Existing Private Streets:**
- 1) An existing private street that is nonconforming may not be extended to include additional lands not taking access from the private street as of the date of this Ordinance, unless the entire private street is upgraded to meet the requirements of this Section.
 - 2) A structure may be constructed upon a vacant lot of record that takes its primary access from an existing nonconforming private street, provided that the structure and all other development thereon meets the requirements of this Ordinance.

- 3) Existing lots of record with their primary access on an existing nonconforming private street may be divided in accordance with the dimensional requirements of this Ordinance, the City of Ferrysburg land division requirements and the Land Division Act (PA 288 of 1967, as amended); however, no more than one (1) additional parcel may be created from any existing lot of record.
- 4) Existing private streets which are nonconforming due to inadequate easement width may be improved without requiring the existing easement to be made conforming to the width requirements, provided that the pavement and any other improvements meet the requirements of this Section, and that the width of the easement is not further reduced.
- 5) Plans to improve an existing private street shall be reviewed in the same manner as a new private street.

[Ordinance No. 242, 12/03/07]

Section 3.310 Wind Energy Conversion Systems

- a) Purpose: This subsection establishes standards and procedures by which the installation and operation of an On-Site Service WECS shall be governed within the City of Ferrysburg.
- b) Definitions:
 - 1) Wind Energy Conversion System (WECS): Shall mean a combination of:
 - a. A surface area (typically a blade, rotor, or similar device), either variable or fixed, for utilizing the wind for electrical power; and
 - b. A shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity-producing device; and
 - c. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy, generally housed in a nacelle; and
 - d. The tower, pylon, building mount or other structure upon which any, all, or some combination of the above are mounted.
 - e. Other components not listed above but associated with the normal construction, operation, and maintenance of a WECS.
 - 2) WECS Height: The distance measured between the ground (at normal grade) and the highest point of a WECS (for a horizontal axis WECS, the measurement shall be to the tip of the rotor blade when the blade is in the full vertical position).
 - 3) On-site Service WECS : A single WECS placed upon a lot or parcel with the primary intent to service the energy needs of only the structures and uses on the same lot or parcel.
- c) Only On-site Service WECS shall be allowed. A WECS with the primary purpose of providing power to the utility grid is not permitted.
- d) On-site Service WECS General Requirements:

- 1) Except as may otherwise be required by this Ordinance, an On-Site Service WECS shall be allowed as an accessory use in any zoning district, subject to the requirements of this Section.
- 2) Review Requirements
 - a. For a WECS that does not exceed fifty (50) feet in height, review shall be according the Site Plan Review requirements of Article 5.
 - b. For any WECS exceeding fifty (50) feet in height, Article 4, Special Land Uses, shall apply.
- 3) Power rating of the WECS turbine shall not be greater than 50 kW.
- 4) The WECS shall provide energy only to the structures and uses on the same property upon which the tower is located and must be owned or leased by the owner of the same property; however, this does not prevent the distribution to the local utility company of any power that is generated beyond the needs of the structures or uses on the property. Except for the local utility company, power generated by the WECS may not be provided to any other property or entity.
- 5) No sound attributed to the WECS in excess of 55 dB(A) shall be discernible at the property line.
- 6) There shall be no signs on the WECS other than the name of the manufacturer, which may only be affixed to the base of the tower or to the nacelle. No sign shall exceed three (3) square feet in area.
- 7) There shall be no lighting on or directed to the WECS, unless a beacon is required by the Federal Aviation Administration.
- 8) The WECS shall be painted in a neutral matte color, such as gray or light blue, to blend into the background. A building mounted WECS may be painted in similar colors to those on the building.
- 9) A WECS shall have an automatic braking, governing, or feathering system to prevent uncontrolled rotation or over speeding.
- 10) A WECS shall not be installed in any location where its proximity to existing fixed broadcast, re-transmission or reception antenna for radio, television or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception.
- 11) The applicant shall provide written evidence that the WECS complies with all applicable federal, state and county requirements, in addition to City ordinances.
- 12) All WECS installations shall comply with applicable ANSI (American National Standards Institute) standards.
- 13) A WECS shall be removed when the device or equipment is no longer operating or when it has been abandoned. A WECS shall be deemed abandoned when it has not produced electrical energy for twelve (12) consecutive months.
- 14) An existing and approved WECS may be repaired and maintained; however, a WECS may only be replaced with a new WECS upon approval of the Zoning Administrator, provided that the new WECS is of the same height, rotor diameter, setback, etc. as the WECS it replaces. For the purposes of this paragraph, a “new

or replacement WECS” shall mean all of the WECS, excluding the tower or support structure.

e) Ground-Mounted On-Site Service WECS (see Figure 3-12)

- 1) The WECS shall be located on the property so that it is set back from all property lines a distance equal to the WECS height. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic). No part of a single WECS (including guy wire anchors) shall be located within or above any required setback.
- 2) The WECS height shall be limited by available setbacks as required in paragraph 1) above; however, no WECS height shall exceed fifty (50) feet on a property less than 12,000 square feet in area; seventy-five (75) feet on a property at least 12,000 square feet but less than one (1) acre in area; or one hundred (100) feet on a property one (1) acre in area or greater. Any WECS over fifty (50) feet high is subject to Special Land Use review, regardless of lot size.
- 3) The minimum rotor blade tip clearance from grade shall be twenty (20) feet.
- 4) The minimum rotor blade tip clearance from any structure shall be twenty (20) feet.

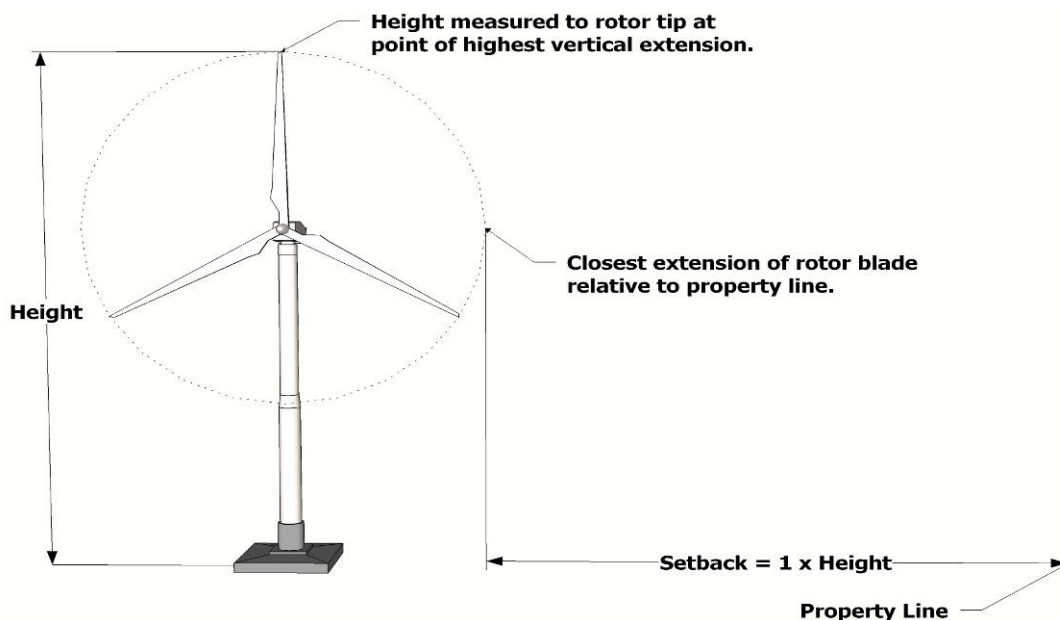


Figure 3-12: Ground Mounted On-Site Service WECS

- 5) The diameter of the rotor shall be dependent upon maximum WECS height and rotor blade tip clearance, but in no case shall it exceed fifty (50) feet.
 - 6) The tower used to support a WECS shall be adequately anchored meeting ANSI standards, as certified by an engineer.
- f) Building Mounted On-Site Service WECS (see Figure 3-13)
- 1) The diameter of the rotor shall not exceed twenty (20) feet.

- 2) The WECS height shall not exceed the maximum height for principal buildings in the district, plus fifteen (15) feet.
 - 3) The WECS shall be mounted so that it is set back from adjoining property lines a distance equal to the combined height of the WECS and the height of the portion of the structure on which it is mounted. The setback shall be measured from the property line (considered as a plane extending from the ground to the highest point of the WECS) to the closest extension of the rotor relative to the property line (see graphic).
 - 4) A building mounted WECS shall not be mounted to the vertical face of a gable end or dormer that is visible from the street.
 - 5) The mount and the structure used to support a building mounted WECS shall meet ANSI standards, as certified by an engineer.
- g) Review Procedure.
- 1) An application for a WECS that qualifies for site plan review shall be reviewed in accordance with the requirements of Article 5.
 - 2) An application for a WECS that requires Special Land Use approval shall be reviewed in accordance with the requirements of Article 4.
- h) Discretionary Conditions: The Planning Commission, or in the case of a Special Land Use, the City Council, may impose other terms and conditions regulating the construction, installation, use, maintenance, repair and removal of any WECS. Other terms and conditions may include, but are not limited to, the following:

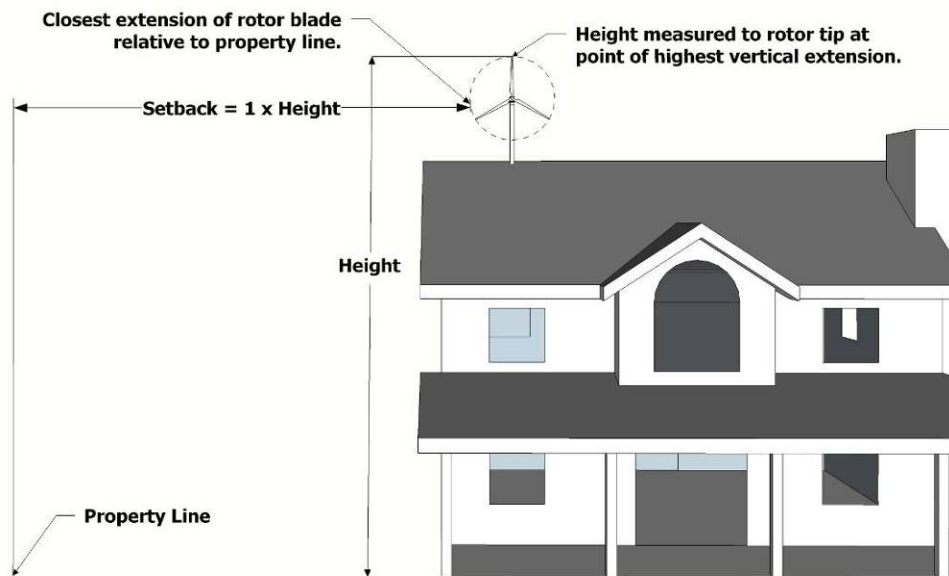


Figure 3-13: Building Mounted On-Site Service WECS

- 1) The preservation of existing trees and other existing vegetation not required to be removed for installation of a WECS.
- 2) The reasonable replacement of trees or other vegetation removed or destroyed during the construction or installation of a WECS.

- 3) Altering the location of the WECS to prevent impacts on neighboring properties, provided that all other requirements of this Section are met.
- 4) Requiring a performance bond or letter of credit, in favor of the City, and conditioned upon the timely and faithful performance of all required conditions of the special land use, including but not limited to the timely and complete removal of a WECS, regulated under the terms of the section, when required. The performance bond or letter of credit shall remain in effect during and after the operation of a WECS until its operations have ceased and it has been removed.

[Ordinance No. 250, 05/18/09]

Section 3.320 Certain Large Scale Residential Developments.

Certain large scale residential developments, being those which include twelve (12) or more lots, parcels, site condominium units or multiple family dwelling units in the RD, RG-1, R-2 or RG-3 districts, shall be developed only as planned unit developments (“PUD”) in accordance with Article 8 of this Ordinance. The regulating of such development on a PUD basis will enable the City to control and moderate the size, scope and impact of the development, in accordance with the Master Plan and the purposes of the Ordinance. The requirements of this section shall apply whether the development involves simple land divisions, platted subdivisions, site condominium units or any other type of land division, conveyance or development resulting in twelve (12) or more lots, parcels, site condominium units or other land divisions, or any multiple family development resulting in twelve (12) or more dwelling units.

[Ordinance No. 258, 08/03/09]