



Zoning Ordinance

Adopted August 17, 2020

TABLE OF CONTENTS

- Article I Title, Purpose, and Scope 1-1
 - Section 390-1. Title..... 1-1
 - Section 390-2. Purpose..... 1-1
 - Section 390-3. Scope..... 1-1
 - Section 390-4. Effective date..... 1-2
 - Section 390-5. Legislative authority..... 1-2
- Article II Definitions 2-1
 - Section 390-6. Construction of language..... 2-1
 - Section 390-7. Definitions..... 2-2
 - Section 390-7.01. “A” 2-2
 - Section 390-7.02. “B” 2-4
 - Section 390-7.03. “C” 2-6
 - Section 390-7.04. “D” 2-7
 - Section 390-7.05. “E” 2-8
 - Section 390-7.06. “F” 2-9
 - Section 390-7.07. “G” 2-10
 - Section 390-7.08. “H” 2-10
 - Section 390-7.09. “I” 2-11
 - Section 390-7.10. “J”..... 2-11
 - Section 390-7.11. “K” 2-11
 - Section 390-7.12. “L” 2-11
 - Section 390-7.13. “M” 2-14
 - Section 390-7.14. “N” 2-15
 - Section 390-7.15. “O” 2-16
 - Section 390-7.16. “P” 2-16
 - Section 390-7.17. “Q” 2-19
 - Section 390-7.18. “R” 2-19
 - Section 390-7.19. “S” 2-19
 - Section 390-7.20. “T” 2-24
 - Section 390-7.21. “U” 2-24
 - Section 390-7.22. “V” 2-24
 - Section 390-7.23. “W” 2-24
 - Section 390-7.24. “X” 2-25

Section 390-7.25. “Y”	2-25
Section 390-7.26. “Z”	2-25
Article III General Provisions	3-1
Section 390-8. Area, height, use conditions, and exceptions.	3-1
Section 390-9. Projections into required yards.....	3-1
Section 390-10. Reserved.	3-3
Section 390-11. Fences, walls, and screens.....	3-3
Section 390-12. Street access.....	3-4
Section 390-13. Mechanical appurtenances.	3-5
Section 390-14. Essential public services.....	3-5
Section 390-15. Reserved.	3-6
Section 390-16. Recreational vehicle parking.....	3-6
Section 390-17. Storage and repair of vehicles.	3-7
Section 390-18. Reserved.	3-7
Section 390-19. Swimming pools.....	3-7
Section 390-20. Antennas and towers in residential zoning districts.....	3-8
Section 390-21. Principal use.....	3-8
Section 390-22. Accessory buildings and uses.....	3-9
Section 390-23. Regulations applicable to single family dwellings.....	3-9
Section 390-24. Private boat docks.....	3-11
Section 390-25. Nonconformities.....	3-11
Section 390-26. Permitted setback reductions.....	3-14
Section 390-27. Temporary buildings and structures.....	3-16
Section 390-28. Timely completion of construction required.....	3-16
Section 390-29. Keeping of animals.....	3-18
Section 390-30. Reserved.....	3-18
Section 390-31. Access Management.....	3-18
Section 390-32. Building demolition.....	3-20
Section 390-33. Reserved.....	3-21
Section 390-34. Site preparation and excavation.....	3-21
Section 390-35. Outdoor lighting.....	3-21
Section 390-36. Home occupations.....	3-24
Section 390-37. Funneling/keyholing.....	3-27
Article IV Sexually Oriented Business	4-1
Section 390-37. Purpose.....	4-1

Section 390-38. Definitions.....	4-1
Section 390-39. Zoning district.....	4-5
Section 390-40. Special land use approval requirements.....	4-5
Section 390-41. Application for special land use approval.....	4-6
Section 390-42. Hearing required.....	4-7
Section 390-43 Decision.....	4-7
Section 390-44. Appeals.....	4-7
Article V Reserved	5-1
Article VI Zoning Districts and Map	6-1
Section 390-50. Zoning districts.....	6-1
Section 390-51. Zoning map and boundaries.....	6-1
Section 390-52. Interpretation of zoning map.....	6-1
Section 390-53. Zoning of vacated areas.....	6-2
Section 390-54. Zoning of filled lands; uses on or over water.....	6-2
Section 390-55. Summary tables.....	6-2
Article VII Single-Family Residential District (SFR)	7-1
Section 390-56. Intent.....	7-1
Section 390-57. District summary.....	7-1
Article VIII Multiple Family Residential (MFR)	8-1
Section 390-58. Intent.....	8-1
Section 390-59. District summary.....	8-1
Article IX Community Commercial District (C)	9-1
Section 390-60. Intent.....	9-1
Section 390-61. District summary.....	9-1
Section 390-62. Design standards.....	9-3
Section 390-63. Exceptions.....	9-7
Article X Reserved	10-1
Article XI, Central Business District (CBD)	11-1
Section 390-69. Intent.....	11-1
Section 390-70. Permitted uses.....	11-1
Section 390-71. Design standards.....	11-3
Section 390-72. Exceptions.....	11-4
Article XII Planned Unit Development (PUD).....	12-1
Section 390-73. Intent.....	12-1
Section 390-74. Qualifying conditions.....	12-1

Section 390-75. Site development requirements.	12-2
Section 390-76. General application procedures.	12-3
Section 390-77. Pre-application conference.	12-3
Section 390-78. Preliminary development plan and rezoning request.....	12-4
Section 390-79. Appeals.....	12-7
Section 390-80. Standards for approval.....	12-8
Section 390-81. Planning Commission review of final site development plan.	12-8
Section 390-82. Performance guarantees.	12-9
Section 390-83. Changes to approved PUD.	12-10
Section 390-84. Time limit for approved PUD; extensions.	12-10
Article XIII Waterfront Overlay District (WOD)	13-1
Section 390-85. Intent.	13-1
Section 390-86. Permitted uses.....	13-1
Section 390-87. Design requirements for waterfront development.....	13-1
Section 390-88. District regulations.	13-2
Article XIV Landscaping & Screening.....	14-1
Section 390-89. Intent.	14-1
Section 390-90. Applicability.....	14-1
Section 390-91. Landscape plan.	14-1
Section 390-92. General requirements.	14-2
Section 390-93. Required landscaping.	14-5
Section 390-94. Screening and greenbelts.	14-7
Section 390-95. Minimum landscape material standards.	14-10
Article XV Signs	15-1
Section 390-96. Intent.	15-1
Section 390-97. Reserved.	15-1
Section 390-98. General standards for all signs.	15-1
Section 390-99. Sign permit required.....	15-3
Section 390-100. Exempt signs.	15-4
Section 390-101. Prohibited signs.	15-7
Section 390-102. Permitted signs.	15-8
Section 390-103-104. Reserved.	15-9
Section 390-105. Electronic message boards.....	15-9
Section 390-106. Standards for certain signs.	15-11
Section 390-107. Special purpose signs.....	15-14

Section 390-108. Existing nonconforming signs.	15-14
Article XVI, Parking Regulations	16-1
Section 390-109. Scope.	16-1
Section 390-110. Applicability.....	16-1
Section 390-111-112. Reserved.	16-1
Section 390-113. Procedure for approval.	16-1
Section 390-114. Location of parking.	16-2
Section 390-115. General requirements.	16-3
Section 390-116. Dimensional requirements for parking.....	16-7
Section 390-117. Parking design requirements.	16-8
Section 390-118. Reserved.	16-9
Section 390-119. Bicycle parking.....	16-9
Section 390-120. Required off-street loading and unloading spaces.	16-9
Article XVII, Site Plan Review	17-1
Section 390-121. Purpose.	17-1
Section 390-122. Required site plan review.....	17-1
Section 390-123. Application procedure.	17-1
Section 390-124. Required site plan contents.....	17-1
Section 390-125. Planning Commission review and action.....	17-4
Section 390-126. Site plan review standards.	17-4
Section 390-127. Construction in conformity with approved site plan required.....	17-5
Section 390-128. Time limit for approved site plans.....	17-5
Section 390-129. Changes to approved site plans.....	17-6
Section 390-130. Appeals.....	17-6
Article XVIII, Special Land Uses.....	18-1
Section 390-131. Purpose.	18-1
Section 390-132. Application procedures.	18-1
Section 390-133. Reserved.	18-3
Section 390-134. Standards for approval.....	18-3
Section 390-135. Approval term and expiration.	18-3
Section 390-136. Revocation of special land use approval.	18-4
Section 390-137. Requirements for specific special land uses	18-4
Section 390-137.01. Accessory Dwellings.....	18-4
Section 390-137.02. Adult foster care congregate facilities	18-5
Section 390-137.03. Adult foster care small and large group homes.....	18-6

Section 390-137.04. Assembly operations	18-6
Section 390-137.05. Automobile gasoline stations.....	18-6
Section 390-137.06. Automobile repair, minor and major.....	18-6
Section 390-137.07. Reserved.....	18-7
Section 390-137.08. Automobile wash.....	18-7
Section 390-137.09. Reserved.....	18-7
Section 390-137.10. Bed-and-breakfast establishments.....	18-7
Section 390-137.11. Community support facility.....	18-9
Section 390-137.12. Day-care, adult.....	18-10
Section 390-137.13. Day care, commercial.....	18-11
Section 390-137.14. Day care, group.....	18-11
Section 390-137.15-16. Reserved.....	18-12
Section 390-137.17. Financial institutions with drive-through facilities.....	18-12
Section 390-137.18. Reserved.....	18-12
Section 390-137.19. Foster-care group homes.....	18-12
Section 390-137.20. Funeral homes.....	18-12
Section 390-137.21. Reserved.....	18-13
Section 390-137.22. Hotels, motels.....	18-13
Section 390-137.23. Indoor recreation facilities.....	18-13
Section 390-137.24. Large places of public assembly.....	18-13
Section 390-137.25. Marinas.....	18-13
Section 390-137.26. Off-street parking lots.....	18-13
Section 390-137.27. Open air businesses.....	18-13
Section 390-137.28. Reserved.....	18-13
Section 390-137.29. Pharmacies with drive-through facilities.....	18-13
Section 390-137.30. Restaurants with drive-through facilities.....	18-14
Section 390-137.31. Senior assisted living facilities.....	18-14
Section 390-137.32. Short term rentals.....	18-14
Section 390-137.33. Tattoo or piercing parlors.....	18-15
Section 390-137.34. Veterinary hospitals.....	18-16
Section 390-137.35. Wholesale establishments and warehouses.....	18-16
Article XIX, Zoning Board of Appeals	19-1
Section 390-138. Creation and membership.....	19-1
Section 390-139. Composition.....	19-1
Section 390-140. Jurisdiction.....	19-1

Section 390-141. Granting of variances.....	19-2
Section 390-142. Application and hearing procedures.....	19-2
Section 390-143. Conditions of variance appeals.....	19-3
Section 390-144. Official record; findings of fact.....	19-3
Section 390-145. Decisions of Zoning Board of Appeals.....	19-3
Section 390-146. Stay of proceedings.....	19-4
Section 390-147. Appeal of decisions.....	19-4
Section 390-148. Reserved.....	19-4
Article XX, Administration and Enforcement.....	20-1
Section 390-149. Zoning Administrator.....	20-1
Section 390-150. Amendments.....	20-1
Section 390-151. Hearing and notice procedures.....	20-5
Section 390-152. Certificate of zoning compliance.....	20-6
Section 390-153. Performance guarantee.....	20-6
Section 390-154. Violations and penalties; enforcement.....	20-7
Section 390-155. Administrative liability.....	20-8
Section 390-156. Fees and escrow.....	20-8
Article XXI, Wireless Communication Towers.....	21-1
Section 390-157. Background.....	21-1
Section 390-158. Purpose and goals.....	21-1
Section 390-159. Definitions.....	21-1
Section 390-160. Applicability.....	21-2
Section 390-161. General requirements.....	21-2
Section 390-162. Permitted uses.....	21-4
Section 390-163. Special use permits.....	21-4
Section 390-164. Accessory utility buildings.....	21-10
Section 390-165. Removal of abandoned antennas and towers.....	21-10
Section 390-166. Expansion of nonconforming use.....	21-10
Article XXII, Private Roads.....	22-1
Section 390-167. Purpose.....	22-1
Section 390-168. Effect.....	22-1
Section 390-169. Definitions.....	22-1
Section 390-170. General regulations.....	22-1
Section 390-171. Private road construction permit.....	22-2
Section 390-172. Review and approval procedure.....	22-3

Section 390-173. Maintenance and repairs.	22-3
Section 390-174. Indemnity.	22-3
Section 390-175. Maintenance agreement.	22-4
Section 390-176. Certificate of compliance.	22-4
Section 390-177. Fees.	22-5
Section 390-178. Building permits for parcels on private roads.	22-5
Section 390-179. Approval by Road Authority.	22-5
Section 390-180. Performance guarantee.	22-5
Section 390-181. Miscellaneous provisions.	22-5
Section 390-182. Standards and requirements for private roads.	22-6
Article XXIII, Wind Energy Turbines (WETs)	23-1
Section 390-183. Purpose.	23-1
Section 390-184. Definitions.	23-1
Section 390-185. Applicability.	23-2
Section 390-186. Siting and design.	23-3
Section 390-187. Certificate of zoning compliance application requirements.	23-5
Section 390-188. Safety requirements.	23-5
Section 390-189. Decommissioning.	23-6
Section 390-190. Public inquiries and complaints.	23-7
Article XXIV, Miscellaneous Provisions	24-1
Section 390-191. Reserved.	24-1
Section 390-193. Repealer.	24-1

ARTICLE I TITLE, PURPOSE, AND SCOPE

Section 390-1. Title.

This Chapter shall be known and may be cited as "Spring Lake Village Zoning Ordinance."

Section 390-2. Purpose.

This Chapter is based on the Village of Spring Lake Master Land Use Plan and is intended and designed to regulate the use of land and structures, and to accomplish all of the following:

- A. to promote the public health, safety, and welfare;
- B. to ensure that the use of land shall be situated in appropriate locations and relationships;
- C. to limit the inappropriate overcrowding of land and congestion of population, transportation, and other public facilities;
- D. to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation and other public service and facility needs;
- E. to encourage the use of lands and natural resources in the Village in accordance with their character and adaptability;
- F. to limit the improper use of land;
- G. to provide for the orderly development of the Village; and
- H. to reduce hazards to life and property.

Section 390-3. Scope.

Where any provision of this Chapter imposes either greater or lesser restrictions, limitations, conditions, standards or requirements upon 1) the use of buildings, structures or land, 2) the height of buildings or structures, 3) lot coverage, 4) lot areas, 5) yards or other open spaces, or (6) any other use, activity or conduct which is regulated by this Chapter, than any comparable restriction, limitation, condition or requirement contained in any other provision of this Chapter or any other ordinance, law or regulation, the provision which is more restrictive or limiting, or which imposes the higher condition, standard or requirement shall govern.

- A. This Chapter shall not abrogate or annul any easement, covenant, or private agreement. Where any provision of this Chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Chapter shall govern.
- B. Zoning applies to every building, structure, or use. No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Chapter.
- C. The regulations herein established shall be the minimum regulations for promoting and protecting the public health, safety, and welfare.

Section 390-4. Effective date.

This Chapter was adopted by the Village Council on August 17, 2020 and is ordered to take effect upon the expiration of eight (8) days following publication of adoption in the Grand Haven Tribune, a newspaper having general circulation in the Village, under the provisions of 2006 Public Act 110, except as may be extended under the provisions of such Act.

Section 390-5. Legislative authority

This Chapter is enacted in accordance with the Zoning Enabling Act, PA 110 of 2006 (MCL 125.3101 et seq.), as amended.

ARTICLE II DEFINITIONS

Section 390-6. Construction of language.

The following rules of construction shall apply to the text of this Ordinance:

- A. Except with respect to the headings contained in Section 390-7, the headings which title an article, section, or subsection of this Ordinance are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.
- B. The illustrations contained within this Ordinance are intended to illustrate hypothetical applications of the provisions which refer to them, and shall not have the effect of enlarging or restricting the terms and provisions which refer to them, nor shall they be applicable to other provisions of this Ordinance which do not refer to them. In the event of any conflict between the provisions of the written text of this Ordinance and the illustrations, the written text shall govern.
- C. Unless the context clearly indicates to the contrary: (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- D. The word "shall" is always mandatory and not merely discretionary. The word "may" is permissive.
- E. The term "building", "structure," "premises" or any similar term, shall be interpreted to include any part of the building, structure, premises, or other similar term unless otherwise stated.
- F. The word "person" shall include a firm, association, partnership, joint venture, corporation, trust, municipal, or public entity, or equivalent entity or a combination of any of them as well as a natural person.
- G. The words "used" and "occupied," as applied to any land, building, or structure, shall be construed to include the phrases "intended," "arranged," or "designed to be used" or "occupied".
- H. The words "erected" or "erection" as applied to any building or structure, shall be construed to include the words "built," "constructed," "reconstructed," "moved upon" or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
- I. The particular shall control the general.
- J. The word "herein" means this Ordinance.
- K. The word "regulation" means the regulations of this Ordinance.
- L. Lists of examples prefaced by "including the following", "such as," or other similar preface shall not be construed as exclusive and shall not preclude an interpretation of the list including other similar examples which are not expressly mentioned.

M. The "village council," "zoning board of appeals," and "planning commission" are respectively the Village Council, Zoning Boards of Appeals, and Planning Commission of the Village of Spring Lake.

N. Terms not herein defined shall have the meanings customarily accepted.

Section 390-7. Definitions.

For the purpose of this Ordinance, the following terms and words are hereinafter defined:

Section 390-7.01. "A"

ACCESS PROPERTY. A property, parcel, or lot abutting a lake, and used or intended to be used, for providing access to a lake by pedestrian or vehicular traffic to and from offshore land regardless of whether said access to the water is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form or dedication or conveyance.

ACCESSORY, or ACCESSORY USE. A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces, or loading) located on the same zoning lot as the principal use to which it is related.

ACCESSORY BUILDING. A building, or a portion thereof, which is supplementary and/or subordinate to the principal building, or part of the principal building, on the same lot and occupied by or devoted exclusively to an accessory use. When an accessory building is attached to the main building in a substantial manner (such as a wall or roof), the accessory building shall be considered a part of the main building for setback purposes. Examples are private garages, carports, sheds, and gazebos.

ACCESSORY STRUCTURE. A structure which is clearly subordinate or incidental to a principal structure or principal use.

ADULT FOSTER CARE FACILITY. An establishment having as its principal function the receiving of adults for foster care as defined in Act 218 of 1979 (MCL 400.703 et seq.). It includes facilities and foster care Family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

- A. Nursing Homes licensed under Part 217 of Act 368 of the Public Acts of 1978, as amended;
- B. Hospitals for Persons with mental disabilities or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended;
- C. County infirmary operated by a County department of social services under section 55 of Act 280 of the Public Acts of 1939, as amended;
- D. A child care institution, children's camp, foster Family home, or foster Family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended, if the number of residents who become 18 years of age while residents, does not exceed statutory limits;

- E. Homes for the aged licensed under Part 213 of Act 368 of the Public Acts of 1978, as amended;
- F. Hospitals licensed under Part 215 of Act 368 of the Public Acts of 1978, as amended;
- G. Foster Family homes licensed or approved under Act 116 of the Public Acts of 1973 if a person 18 years of age or older is placed therein;
- H. Areas excluded by Section 17(3) of Act 448 of the Public Acts of 2014;
- I. Private residences with the capacity to receive at least (1) but not more than four (4) adults;
- J. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for Persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
- K. A veteran's facility created by Act 152 of the Public Acts of 1885, as amended.

ADULT FOSTER CARE FAMILY HOME. An adult foster care facility with the approved capacity to receive at least three (3) but not more than six (6) adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the facility.

ADULT FOSTER CARE SMALL GROUP HOME. An adult foster care facility with approved capacity to receive at least three (3) but not more than twelve (12) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

ADULT FOSTER CARE LARGE GROUP HOME. An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

ADULT FOSTER CARE CONGREGATE FACILITY. An adult foster care facility with the approved capacity to receive more than 20 adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

ASSEMBLY OPERATION. Buildings, structures, and premises used for the combining of parts into finished products and/or sub-assembly components for subsequent finishing on or off-site and for the packaging, repackaging, shipping, and receiving of previously manufactured components.

AUTOMOBILE GASOLINE STATION. Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels and convenience items; and which may include as an accessory use the minor repair of automobiles and the sale and installation of lubricants, tires, batteries, and similar vehicle accessories; but which does not include major automobile repair as defined herein.

AUTOMOBILE REPAIR, MINOR. A building and premises engaged in the general mechanical repair and maintenance of passenger automobiles and trucks weighing less than seven

thousand (7,000) pounds, where minor services may be rendered, including but not limited to oil change and general lubrication services, tire services, muffler repair, suspension and brake repair, retail and installation of batteries or other automobile supplies and accessories, and where other minor services may be rendered, not to include the following:

- A. Major mechanical and body work, such as straightening of body parts, painting, and refinishing;
- B. Storage of damaged automobiles not in operating condition, except those awaiting immediate service;
- C. Other work creating noise, glare, fumes, or smoke.

AUTOMOBILE REPAIR, MAJOR. A building or land used for caring for, servicing, repairing, refinishing, equipping, adjusting or otherwise working on vehicles for compensation, including, but not limited to, major mechanical and body work, storage of damaged or inoperable vehicles awaiting repair, and other vehicle repair work creating noise, glare, fumes or smoke, or used for the storage and impounding of vehicles, not including wrecking, junking or salvaging vehicle parts.

AUTOMOBILE WASH. A Building and equipment used for the commercial washing, waxing, and detailed cleaning of the interior and exterior of automobiles and trucks for the general public. Such facilities shall include self-wash, automated, and hand-wash facilities, as well as any combination thereof.

Section 390-7.02. "B"

BASEMENT. That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (Figure 2.2).

BED-AND-BREAKFAST. A single-family dwelling in which transient guests are provided a sleeping room, breakfast, and access to bathing and lavatory facilities in return for payment.

BOAT. A vehicle used or capable of being used as a means of transportation on water.

BOAT SLIP. A parking space for the parking or storage of a boat.

BUFFER AREA. A landscaped open space free of development, structures, parking, and buildings, but which may include an obscuring wall, plantings and berms used to physically separate and screen one use or property from another so as to visually shield or block noise, lights, and other nuisances.

BUILDING. Any structure, either temporary or permanent, which is erected having a roof supported by columns or walls, which is used or erected for the shelter or enclosure of persons, animals, or personal property or for carrying on business activities or other similar uses.

BUILDING FOOTPRINT. The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios, decks, and steps, and of awnings and nonpermanent canopies (Figure 2.1).

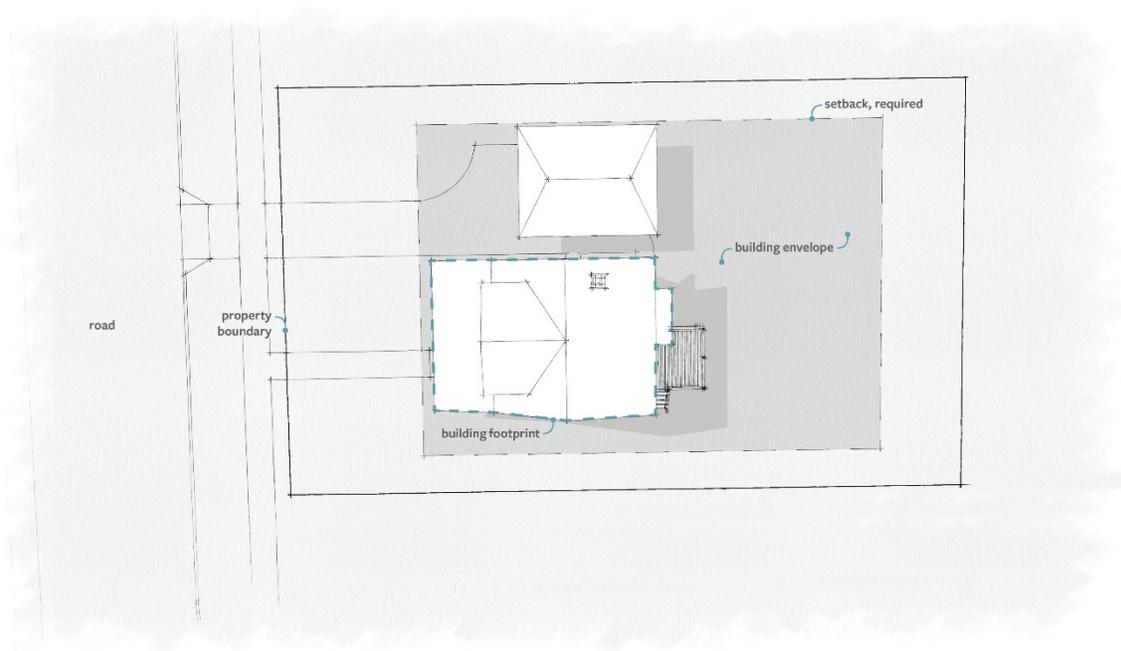


Figure 2.1 Building Envelope & Building Footprint

BUILDING FRONTAGE. That facade of the building that abuts the required front yard or corner front yard as stipulated in this Ordinance.

BUILDING HEIGHT. The vertical distance from the average level of the highest and lowest point of that portion of a lot covered by the building to the highest point of the roof surface, parapet wall, or other uppermost part. The highest and lowest point of the lot shall be measured from the existing natural grade prior to any site alteration, grading, or filling (Figure 2.2).

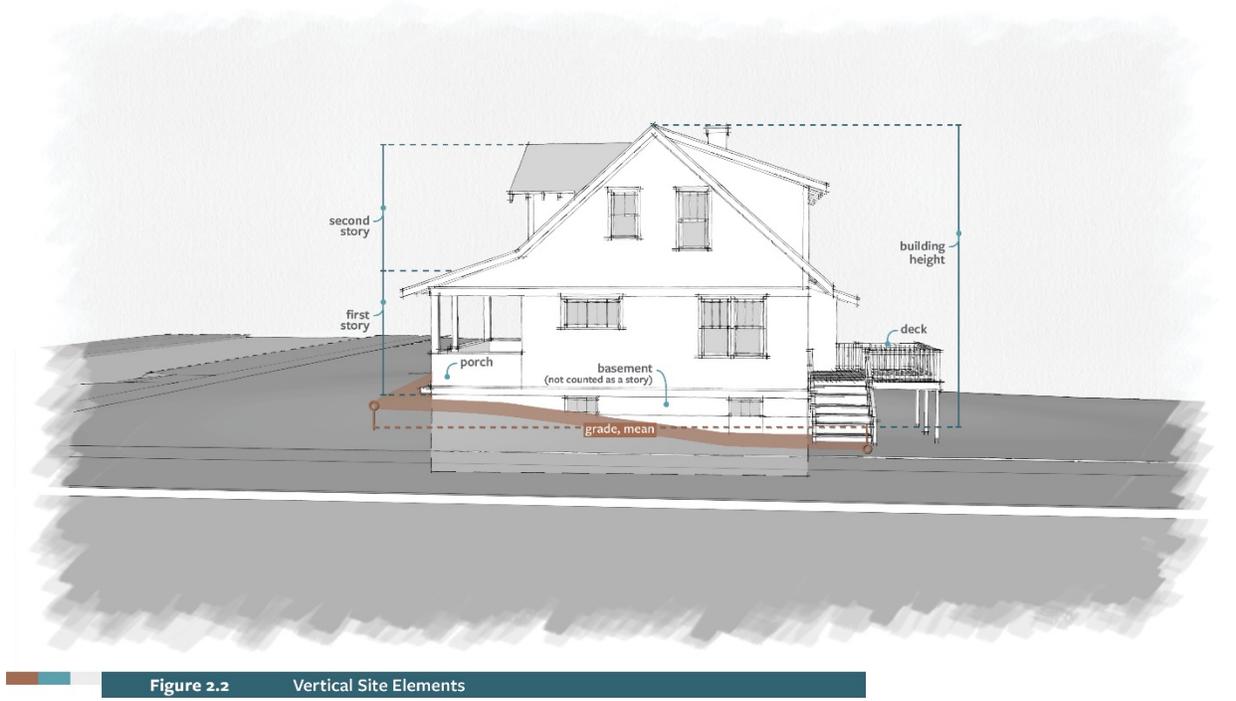


Figure 2.2 Vertical Site Elements

BUILDING OFFICIAL. The Person designated by the Village Council to administer and enforce the Building Code.

Section 390-7.03. “C”

CERTIFICATE OF ZONING COMPLIANCE. A permit issued by the zoning administrator pursuant to Section 390-152 of this ordinance.

CHURCH. See place of public assembly.

CLUB OR LODGE. An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

COMMUNITY SUPPORT FACILITY. A charitable facility, place, or building that provides temporary transitional housing, free food and clothing, or other similar services to those in need and may include the administration of such programs on site. Any temporary housing is provided in individual single-family units or may be part of a multifamily facility. "Community support facility" does not include the following:

- A. Sheltered housing such as a homeless shelter or women’s shelter;
- B. An establishment commonly described as a residential facility for persons released from or assigned to adult correctional institutions.

CONVENIENCE STORE. Any retail establishment containing less than 2,500 square feet of gross floor area that is designed and stocked to sell items such as prepackaged food products, household items, newspapers and magazines, sandwiches and other freshly prepared foods, such as salads, for off-site consumption.

CURB-CUT. The opening along a curb line at which point vehicles may enter or leave the street.

Section 390-7.04. "D"

DAY CARE, COMMERCIAL. A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

- A. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve-month period.
- B. A facility operated by a religious organization where children are cared for not more than three (3) hours while persons responsible for the children are attending religious services.

DAY CARE, ADULT. A facility, other than a private residence, that provides temporary care for periods less than twenty-four (24) hours for adults, over eighteen (18) years of age, who for reasons of age or physical and/or cognitive limitations are in need of supervised care. An adult day-care facility does not include adult foster care, nursing care facilities, or other facilities which require licensing from the State of Michigan.

DAY CARE, FAMILY. A single-family dwelling in which one (1) but less than seven (7) adults are received for care and supervision for periods of less than twenty-four (24) hours per day, or, in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related by blood, marriage or adoption to an adult member of the family occupying the single-family dwelling.

DAY CARE, GROUP. A single-family dwelling in which more than six (6) but less than twelve (12) adults are given care and supervision for periods of less than twenty-four (24) hours per day, or, in which more than six (6) but less than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian, except children related by blood, marriage or adoption to an adult member of the family occupying the single-family dwelling.

DECIBEL. A unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dBA weighted scale as defined by the American National Standards Institute.

DECIDUOUS TREE. A tree that provides shade during the growing season and sheds leaves seasonally or at certain life cycle stages.

DENSITY. The number of dwellings per unit of land.

DISTRICT. A part, zone, or geographic area within the village within which certain zoning or development regulations apply.

DOMESTICATED ANIMAL. Animals commonly domesticated and kept in homes, including, but not limited to dogs, cats, birds, fish, rabbits, small rodents, small reptiles, and similar animals that do not represent an unusual risk to persons or property.

DRIVE-THROUGH BUSINESS. A principal use or accessory use of a business establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in the vehicle.

DRIVEWAY. A private roadway providing access to a street.

DRIVEWAY, SHARED OR COMMON. A driveway serving two (2) or more structures or off-street parking areas, which are located on individual lots.

DUMPSTER. An accessory use of a property where trash or recyclable material, or other types of waste or refuse, is stored temporarily, having a capacity of at least one (1) cubic yard.

DWELLING. A building, or part thereof, that is used exclusively for human habitation and which provides complete living facilities, including permanent provisions for sleeping, cooking, eating, and sanitation, for exclusive use by one family, with no ingress or egress through any other dwelling unit.

DWELLING, ACCESSORY. A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an attached or detached extension to an existing single-family structure and located on the same parcel of land as an existing single-family structure.

DWELLING, MULTIPLE-FAMILY. A building or portion thereof, designed for exclusive use and occupancy by three (3) or more families living independently of each other in individual dwellings.

DWELLING OWNER. A person holding legal or equitable title to a dwelling.

DWELLING, SINGLE-FAMILY. A building containing one (1) dwelling that is designed for exclusive use and occupancy by one (1) family and that is not attached to any other dwelling by any means.

DWELLING, TWO-FAMILY. A building containing two (2) attached dwellings that are designed for exclusive use and occupancy by two (2) families and having separate living, cooking, and eating facilities for each family.

Section 390-7.05. "E"

EDUCATIONAL INSTITUTION. Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a preschool, elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.

EMPLOYEE. A person employed by another for wages or salary.

ERECTED. Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

EVERGREEN TREE OR CONIFEROUS TREE. A cone-bearing tree whose foliage remains green and functional through more than one growing season.

EXCAVATION. Any breaking of ground, except common household gardening and ground care.

ESSENTIAL PUBLIC SERVICES. The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, communication, electrical, steam, or water transmission or distribution systems; and collection, supply or waste disposal systems, including mains, drains, sewers, pipes, water pump stations, sewer lift stations, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment; and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions but not including buildings. Electric substations, natural gas regulator stations, radio broadcasting and receiving towers and equipment, or structures used in cellular telephone systems are specifically excluded from the definition of “essential public services.”

Section 390-7.06. “F”

FAMILY. A single individual or a number of individuals domiciled together whose relationship is of a continuing, non-transient, domestic character and who are cooking and living together as a single, nonprofit, housekeeping unit. This shall not include any society, club, fraternity, sorority, association, lodge, organization or group of students or other individuals whose relationship is of a transitory or seasonal nature, or for anticipated limited duration of school terms, or other similar determinable period of time.

FARMER’S MARKET. A market usually held out-of-doors where farmers can sell produce, plants, prepared food, crafts, and similar items to the public.

FENCE. A vertical barrier constructed for the purpose of enclosing space or separating lots.

FINANCIAL INSTITUTION. Commercial establishments such as banks, credit agencies, investment companies, brokers, and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

FLOODPLAIN. That area mapped by the National Flood Insurance Program having a flood elevation that has a one percent chance of being equaled or exceeded each year, and as determined by the Federal Emergency Management Agency.

FLOODWAY. That area of land adjoining a river or stream that will be inundated by a 100-year flood, which, for the purposes of this Ordinance, is taken to mean the floodplain area mapped by the National Flood Insurance Program, as determined by the Federal Emergency Management Agency.

FLOOR AREA, GROSS. The sum of the horizontal areas of each story of a building or structure, including a basement but excluding a porch or other similar unenclosed area, measured from the interior faces of the exterior walls, or from the centerline of a wall separating two (2) buildings, but excluding any space where the floor-to-ceiling height is less than six (6) feet (Figure 2.3).

FLOOR AREA, RESIDENTIAL. The sum of the horizontal areas of each story of a residential dwelling, measured from the interior faces of the exterior walls or from the centerline of walls separating two (2) dwellings, but excluding areas of basements, unfinished attics, garages, carports, breezeways and enclosed or unenclosed porches.

FOSTER CARE FAMILY HOME. A single-family dwelling used in whole or in part as living quarters for a household including one (1) but not more than four (4) minor children, placed by a licensed child placement agency, who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours per day, unattended by a parent or legal guardian

FOSTER CARE GROUP HOME. A single-family dwelling used in whole or in part as living quarters for a household in which more than four (4) but less than seven (7) minor children, placed by a licensed child placement agency, who are not related to an adult member of the family occupying the single-family dwelling by blood, marriage or adoption, are given care and supervision for twenty-four (24) hours per day, unattended by a parent or legal guardian.

FUNERAL HOME. A building or part thereof used for human funeral services and related activities such as embalming and the performance of other services used in the preparation of the deceased for burial; the storage of caskets, funeral urns, and other related funeral supplies; the storage of funeral vehicles; and facilities for cremation.

Section 390.7.07. "G"

GARAGE. An accessory building used primarily for the parking or storage of vehicles owned and operated by the residents thereof and other storage incidental to the permitted use of the principal building, and that is not a separate commercial enterprise available to the general public.

GRADE, FINISHED. A final elevation of the ground level after development.

GRADE, MEAN. The arithmetic mean of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure, or in the area between the foundation line and the lot line, in the case where the foundation line is less than five (5) feet from the lot line (Figure 2.2).

GREENBELT. A landscape area of definite width, height and location and containing plant materials of definite spacing designed and intended to serve as an obscuring device in carrying out the screening requirements of this Zoning Ordinance.

Section 390-7.08. "H"

HAZARDOUS SUBSTANCES. One or more of the following:

- A. A chemical, toxic substance, or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

- C. "Hazardous waste" as defined in Article II, Chapter 3, Part 111 of P.A. 451 of 1994, as amended, being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act.
- D. "Petroleum" as defined in Article II, Chapter 8, Part 213 of P.A. 451 of 1994, as amended, being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act.

HOME OCCUPATION. Any occupation, profession, or activity carried out for financial gain from a residential property as a use clearly incidental and secondary to the residential nature of the property, where no article is sold or personal services rendered except such as are produced or performed by the home occupation itself and which may involve business activities generally conducted at other locations, or the sale or exchange of services at the residential property.

HOTEL. Any establishment offering transient lodging accommodations to the general public with access from interior lobbies, and which may provide additional services, such as meals or restaurant service, meeting rooms, entertainment, and recreational facilities. A "hotel" shall not be considered or construed to be a multiple-family dwelling.

Section 390-7.09. "I"

IMPERVIOUS SURFACE. Any material that prevents the absorption of stormwater into the ground.

INDOOR RECREATION FACILITY. An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual or organized sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized events, including health and fitness club facilities, a swimming pool, retail sales of related sports, health, or fitness items, and other similar support facilities.

Section 390-7.10. "J" Reserved.

Section 390-7.11. "K" Reserved.

Section 390-7.12. "L"

LAND DIVISION. A land division as defined in the Land Division Act of the State of Michigan, being Public Act 288 of 1967, as amended.

LIBRARY. A public, nonprofit facility in which literary, musical, artistic, or reference materials such as, but not limited to, books, manuscripts, computers, recordings, or films, are kept for use by or loaning to patrons of the facility, but are not normally offered for sale.

LIVE/WORK. A building, or a part of a building used both as a dwelling and for any nonresidential use permitted in the zoning district in which the building is located.

LOADING SPACE. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT. An undivided portion of land occupied or intended for occupancy by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and accessory uses, together with such yards, open spaces, and parking areas as may be present or required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records.

LOT AREA. The total horizontal area within the lot lines of a lot.

LOT, CORNER. A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than 135°. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Zoning Ordinance if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two (2) points where the side lot lines meet the curve or the straight street line extended, form an interior angle of less than 135° (Figure 2.5).

LOT COVERAGE. A part or percent of a lot occupied by buildings or structures including accessory buildings and structures.

LOT DEPTH. The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the rear most point of the lot where there is no rear lot line.

LOT LINES. The lines bounding a lot as defined herein:

- A. FRONT LOT LINE. In the case of an interior lot, that line separating the lot from the public or private street. In the case of a corner lot or a through lot, that line separating the lot from either street. In the case of a waterfront lot, the lot line along the water shall be the front lot line (Figure 2.4).
- B. REAR LOT LINE. That lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line, at least ten (10) feet in length, lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, there shall be no rear lot line. In the case of a waterfront lot, the lot line separating the lot from the public or private street shall be the rear lot line (Figure 2.4).
- C. SIDE LOT LINE. Any lot line not a front or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line (Figure 2.4). In the case of a corner lot, the two lot lines opposite the front lot lines shall be considered side lot lines.

In the case where a lot has equal frontage on a right-of-way on two or more sides, or other case in which the above definitions do not apply, the Zoning Administrator shall designate front, rear and side lot lines, based on the following considerations:

1. Location and orientation of existing or proposed buildings on the lot in question, in relation to existing buildings on properties in the same general neighborhood.
2. Location and effect of vegetation, water, or other natural features affecting location of buildings or structures on the lot in question.
3. Traffic patterns and volumes on each street.

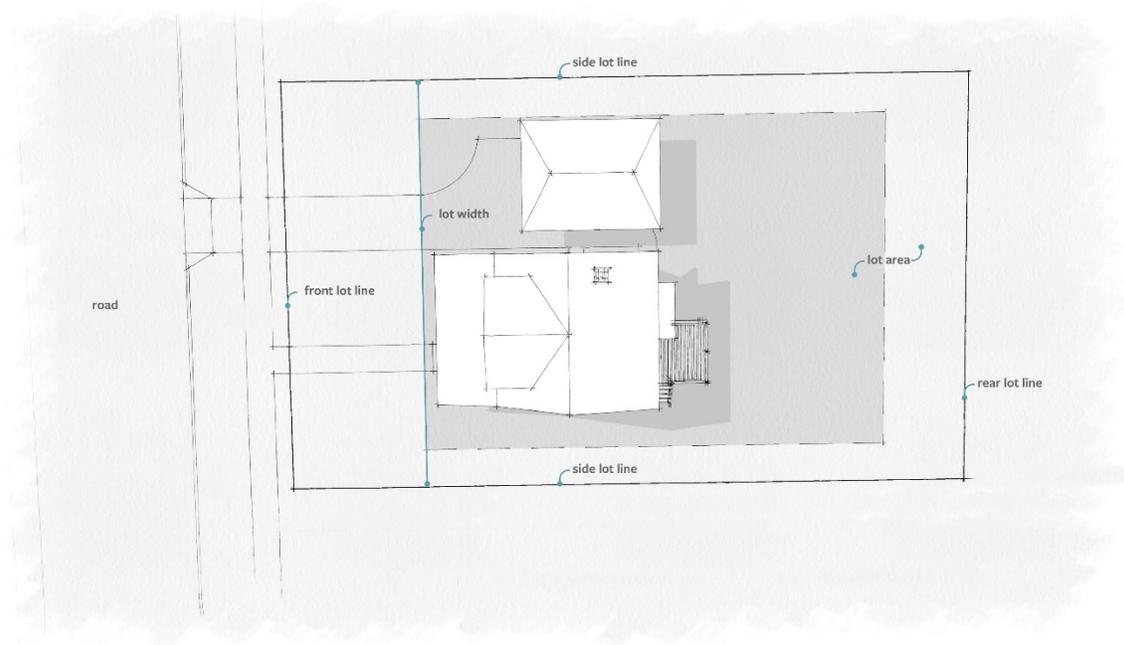


Figure 2.4 Lot Lines

LOT OF RECORD. A lot whose legal description is recorded in the office of the Registrar of Deeds for the County of Ottawa, State of Michigan, as a part of a plat or subdivision or by metes and bounds.

LOT, WATERFRONT. A lot or parcel that has frontage on the Grand River, Spring Lake, or another navigable body of water (Figure 2.5).

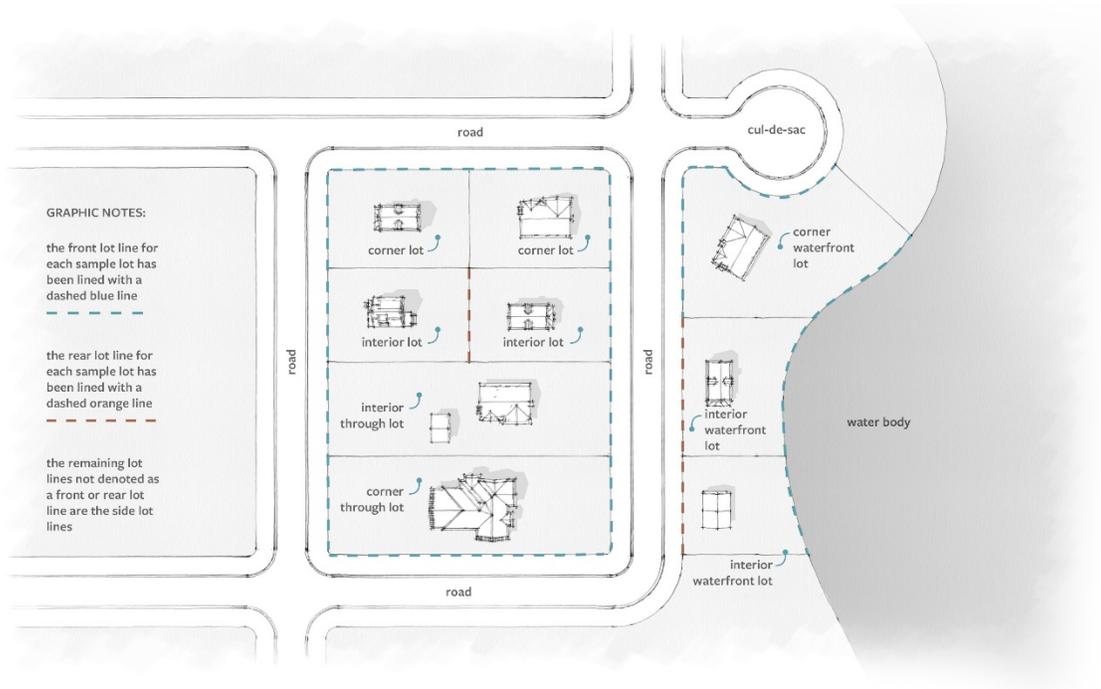


Figure 2.5 Lot Lines

LOT WIDTH. The horizontal straight-line distance between side lot lines, measured between the two (2) points where the minimum front setback line intersects the side lot lines (Figure 2.4).

Section 390-7.13. “M”

MANUFACTURED HOME. A factory-built, single-family structure that is manufactured or constructed under the authority of the National Manufactured Home Construction and Safety Standards Act, is wholly or substantially constructed at an off-site location, transportable in one or more sections, and is built on a permanent chassis, but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of deliver to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

MARIHUANA, also known as MARIJUANA, also known as CANNABIS. The term shall have the meaning given to it in section 7601 of the Michigan Public Health Code, 1978 PAS 368, MCL 333.7106, as referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this Chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or the General Rules of the Michigan Department of Community Health issued in connection with that Act.

MARINA. A facility, including three (3) or more waterfront boat slips, which provides for the servicing, storing, fueling, berthing, and securing of boats and that may include eating and retail facilities intended primarily for the owners, crews, and guests of boat owners using the marina.

MASTER PLAN. The comprehensive, long-range master plan intended to guide growth and development in the Village of Spring Lake, which includes recommendations on future land use,

economic development, housing, recreation, transportation, open space, and community facilities.

MEDICAL CLINIC. A facility for the medical or dental care, diagnosis, or treatment of sick, ailing, infirm and injured persons and those who are in need of medical, dental, or minor surgical care attention, but who are not kept on the premises for more than eight (8) hours, but not including the operation of a licensed primary caregiver pursuant to the Michigan Medical Marihuana Act.

MEDICAL USE OF MARIHUANA. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Medical Marihuana Act, PA 2008, initiated Law, MCL 333.26421 et seq.

MOTEL. An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MULTI-TENANT COMMERCIAL ESTABLISHMENT. A building that houses more than one (1) business operated under common management, or a unified grouping of individual businesses, served by a common circulation and parking lot.

MUNICIPAL USES – UTILITIES. The generation, transmission, and/or distribution of electricity, gas, steam, communications, and water; the collection and treatment of sewage, stormwater, and solid waste; and the provision of mass transportation; as provided by the village or an instrumentality of the village or other governmental unit, entity or collaborative of which the village is a member or to which the village has consented.

Section 390-7.14. “N”

NATURAL FEATURE. Physical characteristics of the subject property that are not manmade such as woodlands, wetlands, or streams.

NONCONFORMING LOT. A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the applicable zoning district or other zoning regulations.

NONCONFORMING BUILDING OR STRUCTURE. A building, structure, or portion thereof existing on the effective date of this Ordinance, or amendments thereto, which thereafter does not conform to the provisions of the zoning district in which it is located, pertaining to minimum lot area, minimum lot width, minimum residential floor area, required yards, or maximum building height.

NONCONFORMING USE. A use of a building, structure or land in existence on the effective date of this Ordinance, or amendments thereto, which no longer conforms to the use regulations of the zoning district in which it is located.

NURSING HOME. A residential care facility providing long-term care for elderly, infirm, terminally-ill, physically, emotionally and/or developmentally disabled persons, licensed in accord with Article 17 of Act 368 of 1978, as amended.

Section 390-7.15. “O”

OFFICE BUILDING. A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a coffee shop or child-care facilities.

OFF-STREET PARKING LOT. A facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

OPEN AIR BUSINESS. A permanent business including the sales and/or display of retail merchandise or services outside of a permanent structure, including but not limited to, new and used auto, boat, recreational vehicle, or manufacture home sales or rentals, nurseries, greenhouses, lawn and garden centers, and other similar uses.

OPEN SPACE. Any property or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for active or passive public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such Open Space, excluding easements for Streets or Private Roads.

ORDINARY HIGH WATER MARK. The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level.

OUTDOOR DINING. An area adjacent to or abutting space controlled by the user of a restaurant located within the sidewalk area, pedestrian plaza area of the public right-of-way, or rooftop, and used exclusively for dining, drinking, and pedestrian circulation.

Section 390-7.16. “P”

PARAPET ARTICULATION. A low wall or railing with architectural design which projects above the roof line (Figure 2.6).



Figure 2.6 Parapet Articulation

PARK OR PARKLAND. A tract of land, designated, maintained, and used by the public for active and/or passive recreation and which is owned and controlled by a public entity or unit of government, not including the use of motorized recreational vehicles or as a shooting range.

PARKING LOT. See “Off-Street Parking Lot.”

PARKING SPACE. An area of definite length and width, exclusive of drives, aisles, or entrances giving access thereto, and fully accessible for the parking of vehicles.

PATIO. A level, landscaped, and/or surfaced area at or within seven (7) inches of the finished grade and not covered by a permanent roof.

PET. See “Domesticated Animal.”

PERSONAL SERVICE ESTABLISHMENT. An establishment primarily engaged in providing services involving the care of a person or his or her goods or apparels, including but not limited to barbershops or beauty shops, health and fitness salons, nail salons, and photographic studios, but not including a tattoo or piercing parlor.

PLACE OF PUBLIC ASSEMBLY. Buildings, structures, and grounds, including theaters, churches, auditoriums, convention space, stadiums, sports arenas, concert halls, lecture halls and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship, or similar activities involving assembled groups of people numbering thirty (30) or more.

A. SMALL PLACES OF PUBLIC ASSEMBLY. A place of public assembly shall be considered a small facility if it has less than two thousand (2,000) square feet in gross floor area, and total

seating capacity of no more than one hundred (100) in the largest room or space intended for public assembly, and no capacity to expand to meet either of the preceding standards.

- B. **LARGE PLACES OF PUBLIC ASSEMBLY.** A place of public assembly shall be considered a large facility if it has either two thousand (2,000) square feet or more in gross floor area, total seating capacity of more than one hundred (100) in the largest room or space intended for public assembly, or the capability to expand to meet these standards in the future.

PLANNED UNIT DEVELOPMENT. A type of development, subject to review by the Planning Commission and approval by the Village Council, in which one or more of the applicable zoning district regulations pertaining to allowed uses, minimum lot area, minimum lot width, required yards, maximum building height, minimum residential floor area or other applicable zoning district requirements are waived in order to accomplish the intent of Article XII, Planned Unit Development, of this Chapter.

POND, DETENTION. A pond designed to temporarily detain stormwater runoff for a short period of time, gradually releasing it to the natural watercourse immediately after the peak volume of stormwater has dissipated.

POND, RETENTION. A pond designed and intended to hold water for a considerable length of time for aesthetic or consumptive purposes as well as for the collection and holding of stormwater runoff, the volume of which may never be totally discharged to a natural watercourse.

PORCH. A patio or deck that is either fully or partially enclosed with screening, glazing or other means of enclosure, whether or not it is heated or cooled by mechanical means.

PRIMARY CAREGIVER. A person who is at least twenty-one (21) years old and who has agreed to assist with a patient's medical use of marijuana and who has never been convicted of a felony involving illegal drugs.

PRINCIPAL BUILDING. A building in which is conducted the principal or main use of the lot on which it is located.

PRINCIPAL USE. The principal use to which a lot or structure on a lot are devoted and the primary or principal purpose for which the premises exist.

PRIVATE ROAD. A privately owned and maintained right-of-way which affords traffic circulation and principal means of access for more than one Lot or Site Condominium Unit; such a privately owned and maintained right-of-way shall be considered one (1) Private Road, regardless of any turns or changes in direction, until it intersects with a Street.

PROFESSIONAL SERVICE ESTABLISHMENT. An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, mailing, legal, engineering, consulting, employment agencies, data processing, and other similar services.

PUBLIC PLACE. Any real property or a building or structure that is owned or leased by the State of Michigan, any local unit of government of the State of Michigan, a public agency, or a college or university of the State of Michigan including a court, mall, park, or other area, feature, or element; shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed by any

agency of government or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

Section 390-7.17. “Q”

Section 390-7.18. “R”

RECREATIONAL VEHICLE, or RV. A vehicular unit, which is designed or constructed for the transportation of people, primarily for recreational purposes, and which may permit occupancy thereof as a dwelling or sleeping place, and which is self-propelled, mounted on, or pulled by another vehicle. Examples include, but are not limited to motor homes, camper trailers, pop-up tent trailers, boats, snowmobiles, off-road vehicles and other similar vehicles or trailers. The term "recreational vehicles" shall not include motorcycles or motorbikes or other similar means of transportation intended primarily for on-street use.

RENT or RENTAL. The permission, provision, or offering of possession or occupancy of a dwelling with some type of remuneration paid to the dwelling owner for a period of time by a person who is not the dwelling owner, pursuant to a written or verbal agreement.

RESIDENTIAL ABOVE RETAIL OR OFFICE. A mixture of land uses in which dwelling units are located on floors or stories above retail businesses or office uses.

RESTAURANT. An establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands, and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

RETAIL BUSINESS. An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAINING WALL. Any vertical assembly, with a horizontal length-to-thickness ratio greater than three (3), consisting of materials assembled and designed to resist the lateral load action of soil.

RIGHT-OF-WAY. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, sidewalk, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.

Section 390-7.19. “S”

SCREEN. A structure such as a fence, wall, earthen berm, landscape materials, or a combination of these elements which provide enclosure and a visual barrier between the area enclosed and the adjacent property.

SENIOR ASSISTED LIVING FACILITY. A special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of those who need help with activities of daily living, which may or may not include a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, and where the emphasis of the facility remains residential.

SENSITIVE AREA. An area not suitable or desirable for intense development due to environmental constraints or natural features, including, but not limited to, floodplains or floodway areas, wetlands, lakes, rivers, streams, and adjacent lands, significant vegetation, slopes, and habitat for animal and plant species of concern.

SETBACK. The measurement from the property line to the nearest point of the main wall of the building or structure, subject to certain yard encroachments.

SETBACK, WATERFRONT. The measurement from the Ordinary High Watermark of the Grand River, Spring Lake, or other navigable body of water to the nearest point of the main wall of the building or structure, subject to certain yard encroachments.

SEXUALLY ORIENTED BUSINESS. An establishment engaged in providing services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

SHELTERED HOUSING. A community service facility offering temporary refuge for persons in domestic transition living together as a group of individuals or families.

SHORT-TERM RENTAL. The rental of any dwelling for a term of less than twenty-eight (28) days; the definition does not include the use of campgrounds, hotel rooms, transitional housing operated by a non-profit entity, group homes such as nursing homes and adult foster care homes, hospitals, or housing provided by a substance-abuse rehabilitation clinic, mental-health facility, or other health-care related clinic.

SIDEWALK. A concrete facility for pedestrians that is physically separated by an open space buffer or physical barrier from the portion of a street or private road traveled by motor vehicles.

SIGN. Any object, device, display, structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, or direct or attract attention to an object, person, institution, organization, business, product, service, event, location, statement, concept, or anything else by any means, including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images and which is visible from a public right-of-way or public waterway. The following are definitions of sign types:

- A. **ABANDONED SIGN.** A sign pertaining to or associated with an event, business, or purpose which is no longer ongoing and which has been inactive or out of business for a period of ninety (90) consecutive days or longer; or a Sign which contains structural components but no display for a period of ninety (90) consecutive days or longer.
- B. **BANNER SIGN.** A temporary sign constructed of cloth, fabric, plastic, or other durable, flexible material of professional quality, with or without a structural frame. The term "banner" does not include pennants (Figure 2.7).
- C. Reserved.
- D. **ELECTRONIC MESSAGE BOARD.** A sign on which a fixed or changing display/message composed of a series of lights may be changed through electronic means.
- E. **FLAG SIGN.** A flag sign communicates information by means of a flag but does not include the flag of the United States of America, the State of Michigan Flag, or the Village of Spring Lake Flag.

- F. **FREESTANDING SIGN.** A sign structurally separate from and not attached to any building, which is attached directly to the ground surface in a permanent manner, or support by one or more uprights, poles or braces attached to the ground surface in a permanent manner.
- G. **GOVERNMENT SIGN:** A sign that is constructed, placed, or maintained by the federal, state, or local government, or a sign that is required by the federal, state, or local government.
- H. **MONUMENT SIGN.** A freestanding sign which is placed directly on the ground surface, without the use of uprights, poles or any other structure to elevate the sign face above the surrounding grade and which is up to six (6) feet in height (Figure 2.7).
- I. **PENNANT.** A series of small, often triangular, tapering flags made of lightweight plastic, fabric, or other similar material, suspended from a rope, wire, or string, often designed to move in the wind.
- J. **ILLEGAL SIGN.** A sign which does not meet the requirements of this Ordinance and which does not have a legal nonconforming status.
- K. **MARQUEE SIGN.** A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by this Ordinance (Figure 2.7).
- L. **OFF PREMISE SIGN.** A sign pertaining to entities, activities, services, events, or other such matters occurring on another lot, other than the lot where the sign is located.
- M. **PORTABLE SIGN.** A temporary sign which is designed to be moved easily from place to place, that is not permanently attached to the ground or to a building or other structure, that may be supported by wheels, a portable stand, or a chassis, and may have provision for towing behind a vehicle (Figure 2.7).
- N. **PROJECTING SIGN.** A sign attached to the wall of a building, with the face of the sign bearing a message in plane approximately perpendicular to the plane of such wall and which projects more than twelve (12) inches from such building (Figure 2.7).
- O. **ROOF SIGN.** A sign attached to and projecting from the roof surface of a building (Figure 2.7).
- P. **SANDWICH BOARD SIGN.** A movable sign not secured or attached to the ground surface, constructed in such a manner as to form an “A” or tent-like shape.
- Q. **TEMPORARY SIGN.** A sign that is not permanently affixed to the ground and is designed, constructed, or intended for use for a limited period of time.
- R. **VEHICULAR SIGN.** Any sign attached or applied to or painted on a vehicle for the primary purpose of directing attention of viewers, but does not include words, graphics, or other communication that serves to identify the vehicle as one ordinarily and routinely used and operated in the course of the operations or activities conducted by the owner or operator of the vehicle.
- S. **WALL SIGN.** A sign attached to or painted on the wall of a building or structure, with the face of the sign bearing a message in a plane approximately parallel to the plane of such wall and not projecting from the wall more than six (6) inches. A sign attached to or displayed upon an awning, marquee or canopy is also considered to be a wall sign, except that an entity’s logo or name not exceeding six (6) square feet in area attached to or

displayed upon such awning, marquee or canopy shall not be considered a sign (Figure 2.7).

- T. WAYFINDING SIGN. An off-premises sign that is part of a village-sponsored and coordinated program for the purpose of facilitating pedestrian and vehicular transit to local destinations as designated and recognized by the village’s wayfinding sign program.
- U. WINDOW SIGN. A sign which is applied or attached to, or located within, three feet (3) of the interior of a window on a structure which can be seen through or from the window of the structure (Figure 2.7).
- V. YARD SIGN. A sign of relatively impermanent construction, intended for temporary use, manually placed in a yard.

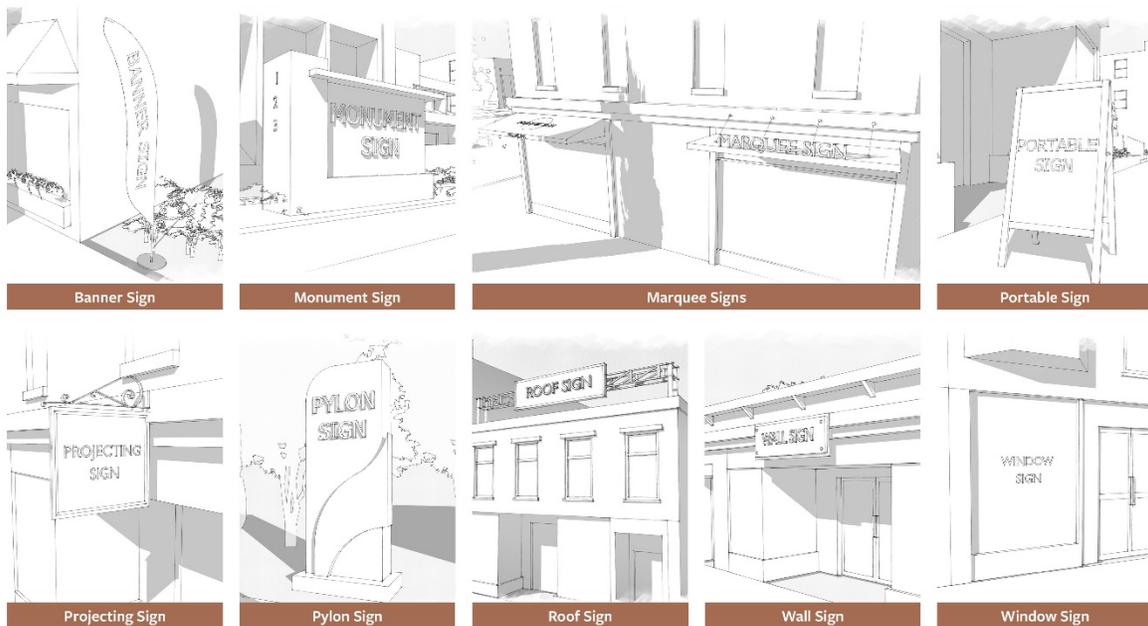


Figure 2.7 Sign Types

SIGN AREA. The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure (Figure 2.8).

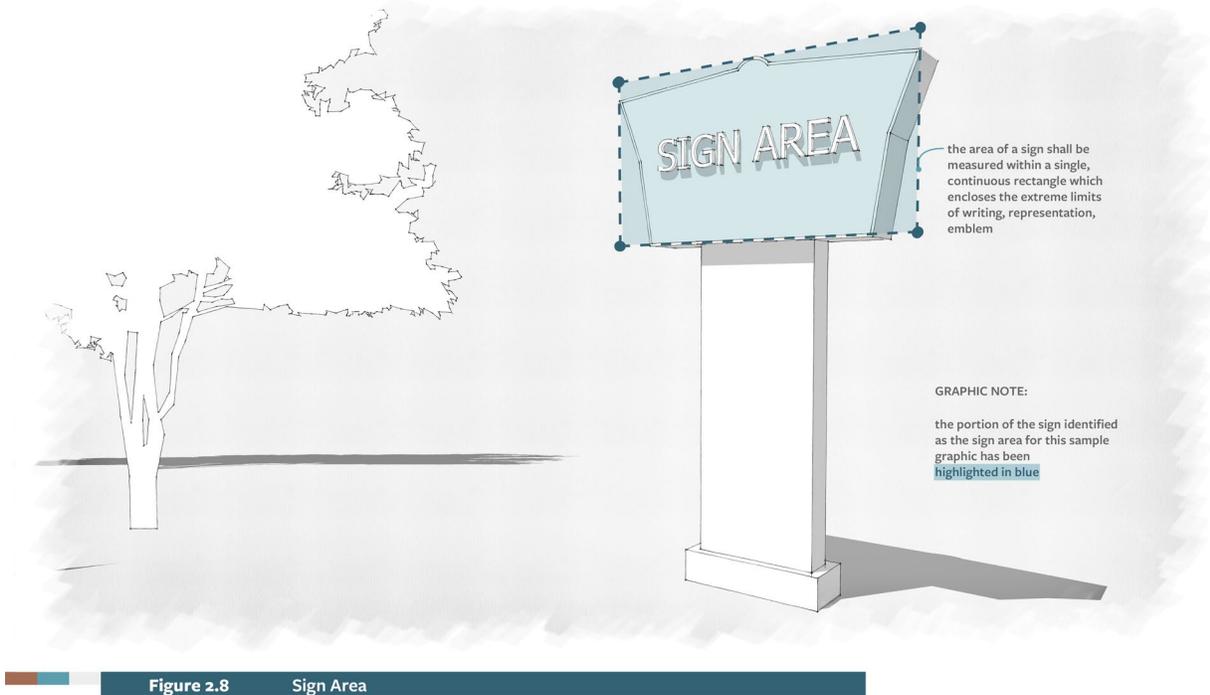


Figure 2.8 Sign Area

SITE CONDOMINIUM. A method of subdivision where the sale and ownership of sites is regulated by the Condominium Act (P.A. 59 of 1978), as amended.

SITE PLAN. The development plan for one (1) or more lots on which is shown the existing and proposed conditions of the lot as required by Article XVII of this Ordinance.

STORY. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. A basement shall not be counted as a story (Figure 2.2).

STREET. A dedicated public right-of-way, other than an alley, which affords the principal means of access to abutting property.

- A. **LOCAL.** A street of limited continuity used primarily for access to abutting residential properties.
- B. **MAJOR.** A street which is intended to serve as a large volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, roadway, parkway, freeway, expressway or equivalent.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground; including, but not limited to buildings, radio and television towers, sheds, signs, and fences.

SUBSTANTIAL CONSTRUCTION. The placing of construction materials in a permanent position and fastened in a permanent manner; except that where demolition or removal of an

existing building has been substantially begun preparatory to reconstruction, such demolition or removal shall be deemed substantial construction.

SWIMMING POOL. An artificially constructed structure erected in connection with or appurtenant to one or more private residences, either above or below or partly above and partly below grade, located either in part or wholly outside of a permanently enclosed and roofed building, designed to hold water to a depth of greater than two (2) feet when filled to capacity, and intended to be used for recreational purposes.

Section 390-7.20. “T”

TEMPORARY BUILDING OR STRUCTURE. A structure that lacks a permanent foundation and is affixed to the earth and/or an existing structure with non-permanent fasteners.

Section 390-7.21. “U” Reserved.

Section 390-7.22. “V”

VARIANCE. Permission granted by the Zoning Board of Appeals pursuant to Article XIX to depart from the literal requirements of this Ordinance.

VEHICLE. Any device in, upon, or by which any person or property is or may be transported or drawn upon any street, excepting devices exclusively propelled by human power or used exclusively upon stationary rails or tracks.

VETERINARY HOSPITAL. A facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the clinic use.

VIEWSHED. A visually attractive, aesthetic, or significant area, such as the Grand River, Spring Lake, or Lake Michigan that is visible from a defined observation point.

Section 390-7.23. “W”

WALL, OBSCURING. A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this zoning ordinance.

WAREHOUSE. A building used primarily for the storage of goods and materials.

WATERFRONT DEVELOPMENT. The erection, construction, reconstruction, alteration, expansion or enlargement of a building or other structure located in the Waterfront Overlay District, or the establishment of a new use or change of use of any land, building or other structure in the Waterfront Overlay District.

WETLAND. Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, Wetland Vegetation or Aquatic Life, and is commonly referred to as a bog, swamp, or marsh.

WHOLESALE FACILITY. An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Section 390-7.24. “X”

Section 390-7.25. “Y”

YARDS. The open spaces that lie between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in this Ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Ordinance.

- A. **FRONT YARD.** An open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building (Figure 2.9).
- B. **REAR YARD.** An open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building (Figure 2.9).
- C. **SIDE YARD.** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the principal building (Figure 2.9).
- D. **WATERFRONT YARD.** In the case of a waterfront lot, the yard on the street side shall be the rear yard and the waterfront yard shall be the front yard (Figure 2.5).

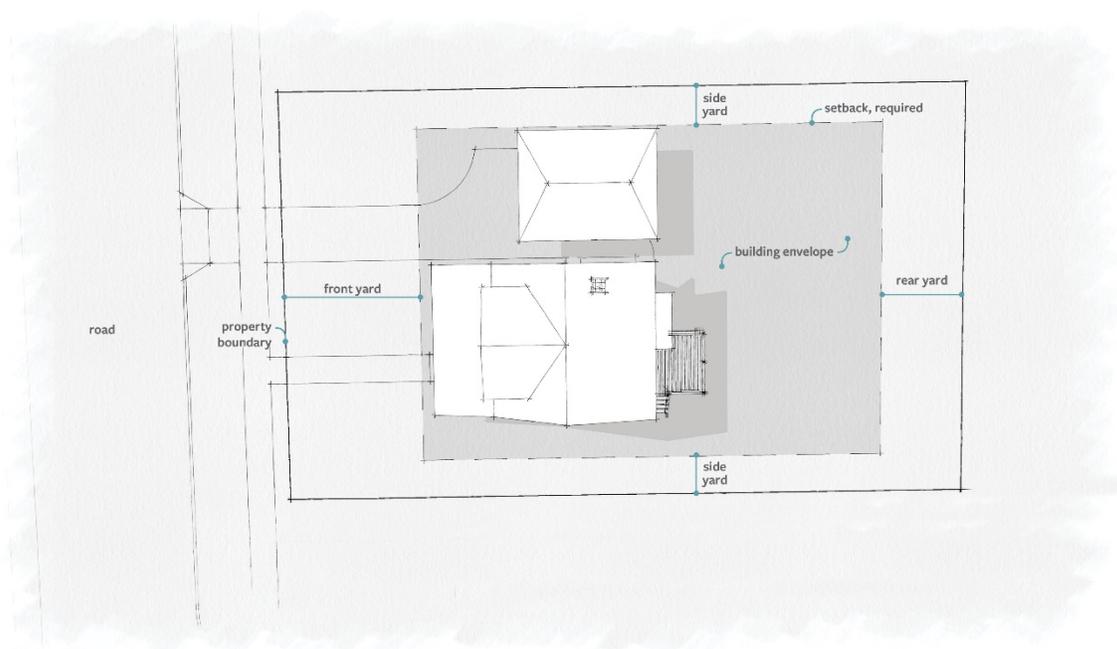


Figure 2.9 Yards

Section 390-7.26. “Z”

ZONING ADMINISTRATOR. The Village of Spring Lake Zoning Administrator as established in Section 390-149 of this Ordinance.

ZONING ENABLING ACT. The Michigan Zoning Enabling Act, PA 110 of 2006 (MCL 125.3101 et seq.), as amended.

ARTICLE III GENERAL PROVISIONS

Section 390-8. Area, height, use conditions, and exceptions.

No lot, adjacent lots in common ownership, required yard, parking area, or other required open space shall be split, created, divided, or reduced in dimensions or area below the minimum requirements of this Chapter. If already less than the minimum requirements of this Chapter, a lot or adjacent lots in common ownership or a required yard, parking area, or other open space shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this Chapter. Lots or yards created after the effective date of this Chapter shall comply with the requirements of this Chapter.

- A. Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages attached to a dwelling unit or other main building in a substantial manner, such as by a wall or roof, shall be deemed a part of such main building for the purpose of determining compliance with the provisions of this Chapter concerning required yards.
- B. No building, structure, or use shall be constructed, expanded, renovated, or established except in conformance with this Chapter and the Spring Lake Village Code of Ordinances.
- C. The continuing maintenance of required spatial relationships and physical requirements of this Chapter for a use, structure, building, and/or lot shall be the obligation of the owner of the use, structure, building, and lot.
- D. Required setback distances shall be measured perpendicular to and from the property line or edge of right-of-way or ordinary high water mark toward the center of the lot. For non-platted lots, where the front lot line is the roadway centerline, setbacks shall be measured from the edge of the right-of-way. Building setback lines shall parallel the lot line from which they are measured.
- E. Land filling and other contour changes to create a buildable area in preparation of development shall not be undertaken, except in conformance with the requirements of this Chapter and applicable state and federal requirements. No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use or structure which requires approval of a site plan until the proposed use or structure is authorized by a certificate of zoning compliance per Section 390-152.
- F. Unless otherwise permitted by Section 390-13, the building height restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers and scenery lofts, water tanks, public monuments, church spires, penthouses or roof structures housing necessary mechanical appurtenances.

Section 390-9. Projections into required yards.

- A. Projections into required front yards.
 - 1. No porches, decks, or similar structures, whether enclosed or not, may project into a required front yard. However, stoops or steps not exceeding five (5) feet in width and five (5) feet in depth may encroach up to five (5) feet into the required front yard setback.

2. Architectural features such as fireplaces, bay windows, and ornamentation may project into the required front yard setback by not more than two (2) feet, provided no projection shall comprise more than twenty-five (25) percent of the wall surface from which it projects. Eaves may project two (2) feet into a required front yard (Figure 3.1).

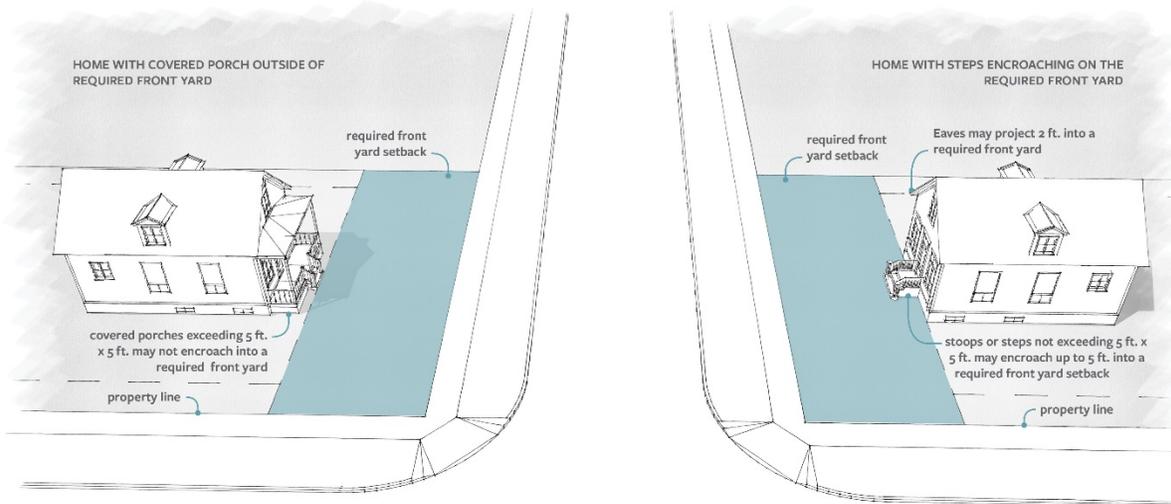


Figure 3.1 Projections into Required Front Yards

B. Projections into required side and rear yards.

1. Architectural features including, but not limited to fireplaces and bay windows, may extend or project into a required side or rear yard not more than two (2) inches for each one foot of width of such yard, but may not extend into any required yard more than three (3) feet. No projection shall comprise more than twenty-five (25) percent of the wall surface from which it projects and in no instance shall any such projection extend closer than three (3) feet to a side or rear lot line. Eaves may project not more than two (2) feet into a required side or rear yard.
2. Open, unenclosed and uncovered attached or detached porches, decks, and paved terraces no more than seven (7) inches in height above finished grade may extend into a required side or rear yard. Attached or detached porches, decks and paved terraces, any portion of which is more than seven (7) inches above finished grade, shall not extend into a required side or rear yard, unless otherwise permitted by this ordinance.

C. Steps and ramps.

1. Steps or ramps which are designed to be an integral part of a deck, porch or terrace, and which are fully contained within the setback requirements for the district may extend across the full width and length of a deck, porch or terrace as an architectural feature and may be of any width or length provided the rise between steps or access platforms, meets local building codes.

- Steps or ramp which cannot be contained within the setback requirements of the district and which are necessary to provide access to a deck, porch or terrace, may extend beyond the setback requirements through any yard to the property line, provided they do not exceed the minimum width, length, riser height or slope ratio as set forth in the building code for a conventional staircase or ramp way.

Section 390-10. Reserved.

Section 390-11. Fences, walls, and screens.

Unless otherwise stated in this section, fences, walls, and screens shall require a certificate of zoning compliance issued by the Zoning Administrator.

- In all zoning districts, fences, walls, and screens must comply with the following requirements:
 - No fence, wall, or screen shall be erected within any public right-of-way.
 - No fence, wall, screen, or planting of any material shall be erected or maintained in such a way as to obstruct the vision of vehicle drivers 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 (Figure 3.2).

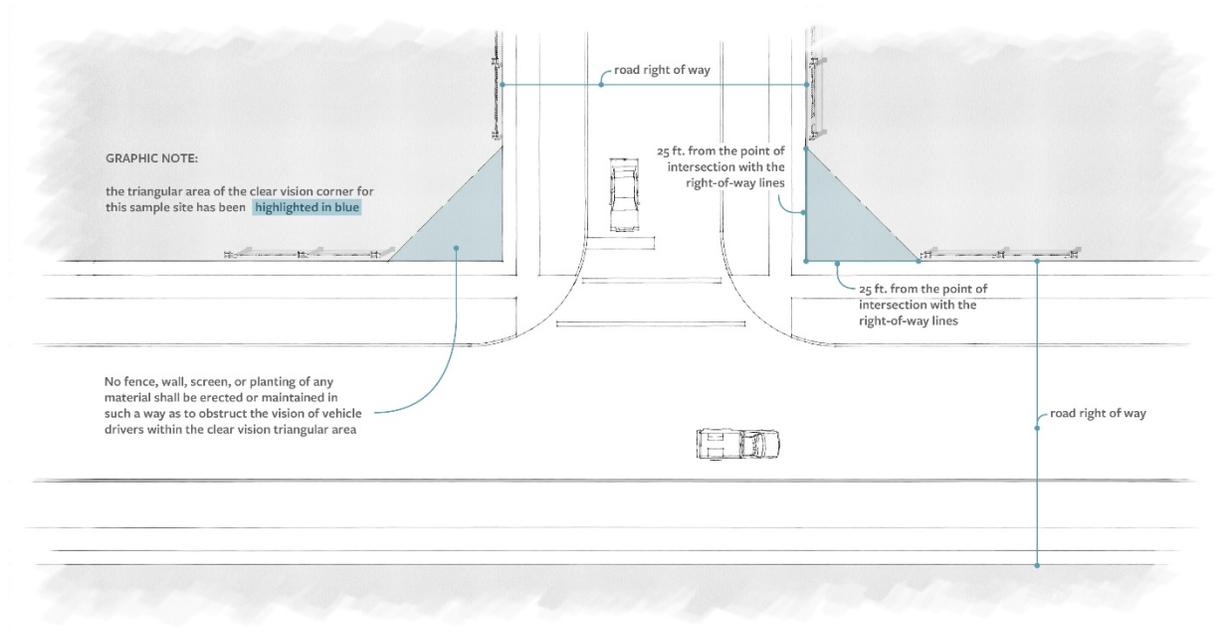


Figure 3.2 Clear Vision Corners

- The use of electric current or charge on any fence or part thereof is prohibited.
- No fence shall have any spikes or sharp points.

5. Unless otherwise approved by the Planning Commission, all fences shall be constructed of typical or traditional fencing materials, including, but not limited to, wood or composite wood planks, aluminum, wrought iron, chain link, and polyvinyl.
 6. Any lot that abuts or is directly adjacent to the water shall not have a fence, wall, or screen located within the required side yard or required front yard exceeding a height of four (4) feet. Moreover, no such fence, wall, or screen shall be a solid barrier which completely obstructs view; rather, any such fence, wall, or screen shall allow at least seventy-five (75) percent visibility through the fence, wall, or screen.
 7. Unless specifically authorized elsewhere in this ordinance, a fence, wall, or screen located within the required side yard or required rear yard in any zoning district shall not exceed a height of six (6) feet measured from the grade to the top of the fence. Posts may extend a maximum of six (6) inches above the fence.
 8. The height of a fence, wall, or screen shall be measured from the grade to the top of the fence. The artificial raising of land to increase the functional height of the fence beyond the limitations of this section is prohibited.
- B. Unless specifically authorized elsewhere in this Chapter, no fence, wall, or screen located within the required front yard of a property in the SFR or MFR district shall exceed a height of three and one-half (3 ½) feet, or be more than fifty (50) percent solid or impervious.
- C. Fences within the C and CBD zoning districts shall have an ornamental character as well as a utilitarian function. All fences in the C and CBD districts shall comply with the following requirements:
1. Fencing is only permitted for the screening of parking areas and to accent or define landscaped areas. In all cases, fencing is only permitted when adjacent to at least five feet of landscaped area.
 2. Unless specifically authorized elsewhere in this Chapter, no fence, wall, or screen located within any yard shall exceed a height of four (4) feet or be more than fifty (50) percent solid or impervious.
 3. Where a commercial district abuts a residential district, a six (6) foot tall solid fence may be permitted when located along a shared side and/or rear lot line.
 4. Unless otherwise approved by the Village, fences within the C and CBD districts shall be constructed of wood, composite wood, rigid vinyl, wrought iron, or aluminum. Chain-link fences are prohibited.

Section 390-12. Street access.

- A. Any lot created after the effective date of this Chapter shall have frontage upon a street right-of-way or legally recorded private road easement at least twenty-four (24) feet in width.
- B. Access driveways located on access easements or on a flagpole portion of a lot shall be surfaced with a durable pavement having an asphalt or cement binder and be constructed in width according to the following table:

Driveways serving	Required pavement width
1 to 8 dwelling units	15 feet
9 or more dwelling units	Roadways shall be constructed in accordance with Ottawa County Road Commission specifications for local streets
Commercial lot or use	20 feet
Industrial lot or use	24 feet

- C. Where possible, access driveways on opposite sides of a street shall either be directly aligned, or offset a minimum of one hundred fifty (150) feet, measured between driveway center lines.
- D. Separation distance between driveways and between driveways and street intersections shall be maximized. At a minimum, driveway-to-driveway spacing of at least thirty-five (35) feet shall be provided, measured between driveway throats at their narrowest point. Driveway-to-intersection spacing of at least ten (10) feet shall be provided, measured from the edge of the driveway throat to its narrowest point, to the right-of-way of the intersecting street.

Section 390-13. Mechanical appurtenances.

- A. Except in the CBD (Central Business) Zoning District, mechanical appurtenances, such as blowers, ventilating fans, and air-conditioning units, shall be placed not closer than twelve (12) feet to any lot line.
- B. Any mechanical appurtenances, including elevator housings, stairways, tanks, heating, ventilation, and air-conditioning equipment, and other similar apparatus, located on the roof of any building shall comply with the following standards:
 1. Such apparatus shall be enclosed in a screening structure having walls constructed of material compatible in appearance with the main building to which it is attached.
 2. The apparatus and enclosure shall not exceed a height of ten (10) feet above the surrounding roof surface, and shall not occupy greater than fifteen (15) percent of the total area of the roof of the building on which it is placed, unless otherwise permitted in Section 390-8(F).

Section 390-14. Essential public services.

The erection, construction, alteration, or maintenance of essential public services as defined herein shall be permitted in any zoning district. It is the intention thereof to exempt such erection, construction, alteration, or maintenance from the application of this Chapter, provided that the Zoning Administrator finds that there will be no adverse effect upon surrounding adjacent property. Significant structures associated with essential services and proposed within

a residential district may be referred to the planning commission as to architecture, landscaping, and screening suitable to the neighborhood.

Section 390-15. Reserved.

Section 390-16. Recreational vehicle parking.

- A. Parking of recreational vehicles may be permitted in the required front yard provided the following restrictions are met (Figure 3.3):
 - 1. Unless parked or stored in a completely enclosed garage, all recreational vehicles shall be stored or parked so that they are no closer than seventeen (17) feet to the edge of the traveled portion of any street.
 - 2. Notwithstanding the requirements of Subsection A(1), above, no recreational vehicle shall be parked so as to block any sidewalk.
 - 3. Recreational vehicles parked or stored in a front yard shall be parked or stored in a designated driveway, the width of which shall not exceed at any point one-third (1/3) of the lot width, or twenty (20) feet, whichever is greater.
- B. In the case of a waterfront lot, recreational vehicles shall be parked or stored no closer than twenty (20) feet to the shoreline.
- C. Recreational vehicles parked in the side yard or rear yard shall be placed at least three feet from the lot line.
- D. Recreational vehicles, camping trailers, or tents may be used for living purposes when accessory to an existing single- or two-family dwelling unit. Such use shall only be permitted for a seven-day period and for no more than one such period in any thirty (30) consecutive days.
- E. Not more than two (2) recreational vehicles shall be stored on a lot at any one time.

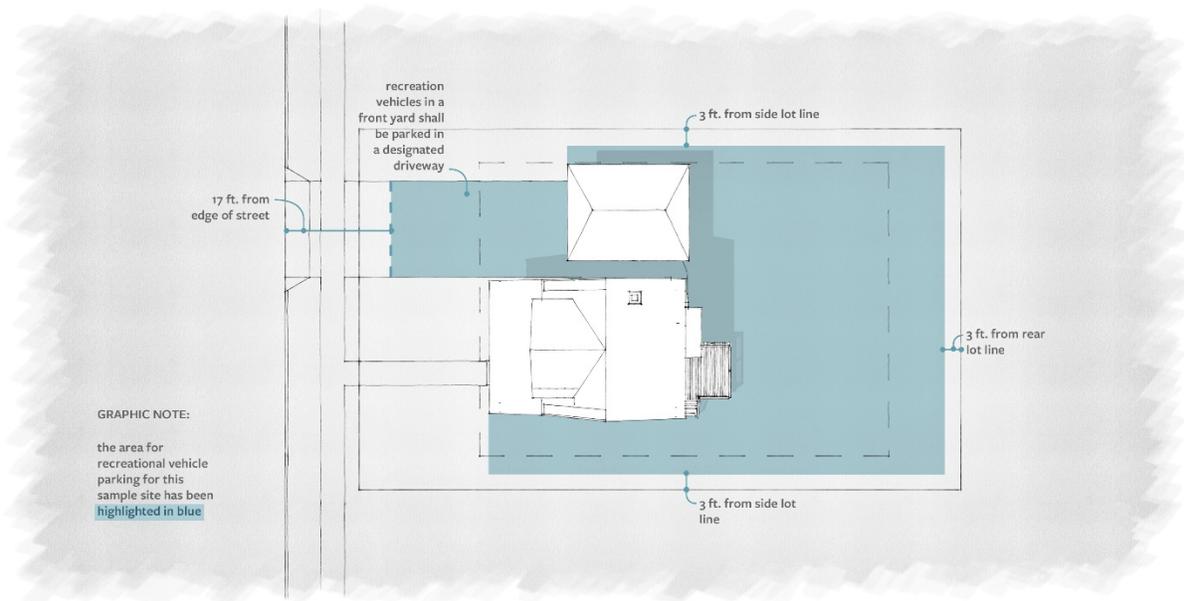


Figure 3.3 Recreational Vehicle Parking

Section 390-17. Storage and repair of vehicles.

- A. The carrying out of repair, restoration, and maintenance procedure or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:
1. Procedures or projects exceeding 48 hours in duration or which require the vehicle to be immobile or inoperable for more than 48 hours shall be carried out within a garage.
 2. Inoperable vehicles and vehicle parts shall be stored inside a building.
- B. It shall be unlawful for the owner, tenant, or lessee of any lot in any residential zoning district to permit the open storage or parking outside of a building of semi-tractor trucks and/or semitrailers, bulldozers, earth carriers, cranes, fire trucks, ambulances, buses, or any other similar equipment or machinery, unless parked thereon while in use in construction being conducted on such lot.

Section 390-18. Reserved.

Section 390-19. Swimming pools.

- A. Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or aboveground) which contains 24 inches or more of water in depth at any point, shall erect and maintain thereon a fence or enclosure approved by the Building Official surrounding the device sufficient to make such device inaccessible to small children, except under the conditions of subsection B below. Such fence or enclosure, including the gates, shall not be less than four feet or greater than six feet above grade. All

gates shall be self-latching with latches placed no less than four feet above grade or otherwise made inaccessible from the outside to small children.

- B. Where spas or hot tubs are equipped with a lockable safety cover complying with ASTM F1346 and swimming pools are equipped with a powered safety cover that complies with ASTM F1346, the areas where those spas, hot tubs, or pools are located shall not be required to comply with Section 390-19 A above.
- C. Swimming pools, spas, hot tubs, and similar devices two feet or less above grade at any point shall not be located less than four feet from any lot line.
- D. Swimming pools, spas, hot tubs, and similar devices in excess of two feet above grade at any point shall not be located less than 10 feet from any lot line.
- E. Swimming pools, spas, hot tubs, and similar devices shall not be located in any front yard.

Section 390-20. Antennas and towers in residential zoning districts.

Radio or television antennas or towers, including transmission or reception antennas below three-hundred (300) watts of output, erected or installed in any residential zoning district shall comply with the following requirements:

A. Placement.

- 1. An antenna or tower shall be located only in a side or rear yard.
- 2. No portion of an antenna shall be located closer than five (5) feet, measured on a horizontal plane, from any side or rear lot line.

B. Height.

- 1. The height of an antenna shall not exceed fifty (50) feet above mean grade.
- 2. An amateur radio service station antenna may be erected at heights and dimensions necessary to accommodate amateur radio service communications.

C. General provisions.

- 1. The installation of an antenna shall require the issuance of a building permit prior to erection.
- 2. No advertising or identification display shall be placed on any portion of an antenna or tower.
- 3. No more than one antenna shall be located on the same lot as a principal building. Antennas are permitted only in connection with, incidental to, and on the same lot as a principal use or building.

Section 390-21. Principal use.

No lot may contain more than one principal building or use; provided that multiple-tenant or multiple-occupant commercial, industrial, or mixed use developments, including developments consistent of more than one building, residential above retail or office uses, and live/work structures may be regarded as single uses if deemed as such by the Zoning Administrator and if approved pursuant to the standards of this Chapter.

Section 390-22. Accessory buildings and uses.

- A. Accessory uses and buildings are permitted only in connection with, incidental to, and on the same lot as a principal use or building which is permitted in the particular zoning district.
- B. An accessory use or building must be in the same zoning district as the principal use on a lot.
- C. No accessory use or building shall be occupied or utilized unless the principal structure to which it is accessory is occupied or utilized. No accessory building or use may be placed on a lot without a principal use or building.
- D. No accessory building shall be constructed within any front yard.
- E. No detached accessory building shall be located closer than three (3) feet to any principal building, or any side or rear lot line. For accessory building on the street side of waterfront lots, an accessory building must set back at least twenty (20) feet from the street right of way.
- F. Accessory buildings shall be constructed with durable, hard-sided materials, such as wood, metal, or pre-manufactured siding that are weather and rust-resistant. Accessory buildings that consist of construction materials such as a plastic tarp or other type of flexible fabric or similar material, stretched over a frame of poles or similar objects or devices, are prohibited.
- G. Accessory buildings shall be regularly maintained so that they reasonably retain their original appearance and are free from mechanical or structural defects.
- H. When the principal building on a lot includes an attached garage, the following provisions shall apply:
 - 1. No more than two (2) detached accessory buildings shall be permitted.
 - 2. The total gross floor area of all detached accessory buildings shall not exceed three-hundred (300) square feet.
- I. When the principal building on a lot does not include an attached garage, the following provisions shall apply:
 - 1. No more than three (3) detached accessory buildings shall be permitted.
 - 2. The total gross floor area of all detached accessory buildings, exclusive of one detached garage, shall not exceed three-hundred (300) square feet.
 - 3. The gross floor area of any single detached accessory building, exclusive of one detached garage, shall not exceed one-hundred and fifty (150) square feet.
 - 4. No detached garage shall exceed six-hundred and fifty (650) square feet in gross floor area.
- J. Unless otherwise permitted by this Chapter, the maximum building height of any detached accessory building shall be fourteen (14) feet.

Section 390-23. Regulations applicable to single family dwellings.

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

- A. All buildings used or proposed to be used as a dwelling shall comply with all applicable building, electrical, plumbing, fire, energy, and other similar codes as adopted by the Village, and all state and federal standards or regulations. Where such state or federal standards or regulations are different from those imposed by the Village codes, the more restrictive standards or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Official.
- B. The dwelling unit shall comply with all restrictions and requirements of this Chapter, including, without limitation, lot area, lot width, residential floor area, required yard, and building height requirements for the zoning district in which it is located.
- C. The dwelling unit shall be firmly attached to a permanent continuous foundation constructed on the building site, which has a wall of the same perimeter dimensions as the dwelling unit and is constructed of such materials and type as required by the building code for on-site constructed single-family dwellings.
- D. The dwelling unit shall have a minimum horizontal dimension across any front, side, or rear elevation of at least twenty (20) feet.
- E. A storage area within a building with an area of no less than one hundred and twenty (120) square feet shall be provided. This storage area may consist of a basement, closet area, attic, or attached garage in a principal building, or in a detached accessory building that complies with all other applicable provisions of this Chapter pertaining to accessory buildings.
- F. Permanently attached steps or porch areas at least three feet in width shall be provided where there is an elevation difference of greater than eight (8) inches between the first-floor entry of the dwelling unit and the adjacent grade.
- G. The exterior finish of the dwelling unit shall not cause reflection that is greater than that from siding coated with clean, white, gloss exterior enamel.
- H. The dwelling unit shall have no less than two (2) exterior doors, with one being in either the rear or side of the dwelling unit.
- I. The use of any portion of the basement of a partially completed building or accessory building for dwelling or sleeping purposes in any zoning district is prohibited.
- J. Manufactured Homes. If the dwelling unit is a manufactured or mobile home, the following standards shall also apply:
 1. Dwellings located in a mobile home park regulated pursuant to Act 96 of 1987 (The Mobile Home Commission Act), as amended, shall comply with the terms of this Ordinance as applicable and the terms of that Act and all rules promulgated under it.
 2. If the mobile home is new, it must be certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the United States Department of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated; or
 3. If the mobile home is used, it must be certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in Subsection J(1) above, and found, on inspection by the Building Official or his designee, to be in excellent condition and safe and fit for residential occupancy.

4. The mobile home shall be installed with the wheels removed.
5. The mobile home shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the building site by an anchoring system or device complying with the rules and regulations, as amended, of the Michigan Mobile Home Commission, or any similar or successor agency having regulatory responsibility for mobile home parks.
6. The foundation or skirting of a mobile home shall fully enclose the chassis, undercarriage, and towing mechanism.

Section 390-24. Private boat docks.

- A. No more than one dock per dwelling unit shall be permitted for single-family dwellings and two-family dwellings.
- B. No more than one boat slip per dwelling unit shall be permitted for multiple-family dwellings.
- C. Boat docks and boat slips shall be used only by persons residing on the premises or their guests, and shall not be leased, rented or otherwise used for compensation except in conjunction with the lease or rental of the dwelling unit on the same lot, unless approved as a marina as a special land use, pursuant to Article XVIII.

Section 390-25. Nonconformities.

- A. Intent. Upon the adoption of this Chapter or subsequent amendments, there may exist lots, structures, and uses of land and structures which were lawful prior to the adoption of this Chapter, or amendment thereto, but which are not in conformance with the provisions of this Chapter, or amendment thereto. It is the intent of this Section to permit these nonconforming lots, structures, and uses to continue, but not to encourage their prolonged existence. Because nonconforming lots, structures, and uses, so long as they exist, prevent the full realization of the goals and objectives of the Village of Spring Lake Master Plan, the spirit of this Chapter is to reduce, rather than increase, such nonconformance.
- B. Nonconforming lots.
 1. Lots of record. Any platted and/or recorded lot of record, which does not abut any other lot or lots of record in the same ownership, existing as the effective date of this Chapter may be used for any principal use permitted in the district in which the lot is located whether or not such lot complies with the lot area and/or width requirements of this Chapter. Such use may be made provided that the lot is in compliance with all other requirements of the zoning ordinance.
 2. Combining nonconforming lots. If two (2) or more abutting lots of record in single ownership individually do not meet the requirements for lot area and/or lot width of the zoning district in which the lots are located, such lots shall be combined and considered as one lot for the purposes of this Chapter.
- C. Nonconforming buildings and structures. Buildings and Structures that are lawfully in existence on the effective date of adoption this Chapter, or amendment thereto, which do not meet the requirements of this Chapter may be continued even though such building or structure does not conform with the provisions of this Chapter, so long as it remains otherwise lawful, subject to the following provisions:

1. Nonconforming buildings or structures may only be expanded, enlarged, or altered in a way that does not increase the degree of its nonconformance.
 2. Nonconforming buildings or structures may be expanded, enlarged, or altered in a way that increases the degree of its nonconformance only if approved by the Planning Commission as a special land use pursuant to Article XVIII. To approve such a special land use, the standards of Section 390-134 must be met, along with the following additional standards:
 - a. Whether the proposed expansion, enlargement, or alteration of the nonconformity would have an adverse impact on adjoining properties or the general welfare of the Village.
 - b. Whether there are reasonable alternative means to achieving the desired expansion, enlargement, or alteration in a manner that does not increase the degree of nonconformance.
 3. Except as elsewhere provided in this Chapter, in the event any nonconforming building or structure is damaged or destroyed by fire, wind or an act of God or the public enemy, it may be rebuilt or restored provided the cost of restoration does not exceed fifty (50) percent of the replacement value as determined by the Building Official. If the cost of restoration exceeds fifty (50) percent of the replacement value as determined by the Building Official, the Building or Structure shall only be rebuilt in conformance with all provisions of this Ordinance.
 4. If the cost of restoration does not exceed fifty (50) percent of the replacement value as determined by the Building Official, it may be reconstructed or restored to its prior nonconforming condition, provided that a building permit for such reconstruction or restoration is issued within one (1) year of the occurrence of such damage.
 5. If any nonconforming building or structure is altered or modified to eliminate, remove, or reduce any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.
- D. Nonconforming uses of land and structures. Where, at the effective date of adoption or amendment of this Chapter, a lawful use of any land or structure exists that is made no longer permissible under the terms of this Chapter as adopted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
1. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective date of adoption of this Chapter, or amendment thereto, but no such use shall be extended to occupy any land outside such building.
 2. No such nonconforming use shall be enlarged, increased, constructed, reconstructed, moved, structurally altered, nor extended to occupy a greater area of land than was occupied on the effective date of this Chapter, or amendment thereto, except in changing the use to a use permitted in the zoning district in which it is located.
 3. No such nonconforming use shall be moved in whole or in part to any other portion of the lot occupied by such use on the effective date of adoption of this Chapter, or amendment thereto, unless so doing shall make the use less nonconforming.

4. If any such nonconforming use of land or structure ceases for any reason for a period of more than six (6) months, then any subsequent use of such land or structure shall conform to the requirements of this Chapter. Seasonal uses of land, such as boat storage, shall be exempt from this provision.
5. Removal, discontinuation, or abandonment.
 - a. If a nonconforming use of any land or structure is terminated and replaced by a permitted use, such nonconforming use shall not be later reestablished.
 - b. When a nonconforming use of land, a structure, or a structure and land in combination, is discontinued or abandoned for six (6) consecutive months, any subsequent use of such land, structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of this Chapter. Structures occupied by seasonal uses shall be exempt from this provision.
 - c. Nonconforming Use shall be determined by the Zoning Administrator to be abandoned if one (1) or more of the following conditions exists:
 - 1) Utilities, such as water, gas, and electricity to the property, have been disconnected.
 - 2) The property, buildings, and grounds, have fallen into disrepair.
 - 3) Signs or other indications of the existence of the nonconforming use have been removed.
 - 4) Removal of equipment or fixtures that is necessary for the operation of the nonconforming use.
 - 5) Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
 - d. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

E. Repairs and maintenance.

1. On any nonconforming building or structure, or any building or structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the structure, provided that the structure is not enlarged, extended, moved, or structurally altered.
2. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

- F. Structures under construction. Any structure on which substantial construction as defined, herein, was lawfully begun prior to the effective date of this Chapter, or amendment thereto, shall be considered existing and lawful. Nothing in this Article shall be deemed to require any change in the plans, construction, or use of such structure.

G. Change of Ownership. A change of tenancy, ownership or management of any existing nonconforming lots, uses of land, buildings or structures, or of lots, uses of land, buildings or structures in combination, shall be permitted.

Section 390-26. Permitted setback reductions

A. Front Yard Setbacks.

1. Where the front yards for existing principal buildings in the vicinity of, and in the same zoning district as a subject lot are less than the required front yard for the zoning district of the subject lot, the required front yard for the subject lot shall be the average front yard of existing main buildings on the same side of the street and entirely or partially within two-hundred (200) feet of the side lot lines of the subject lot, subject to Subsections B and C, below (Figure 3.4).

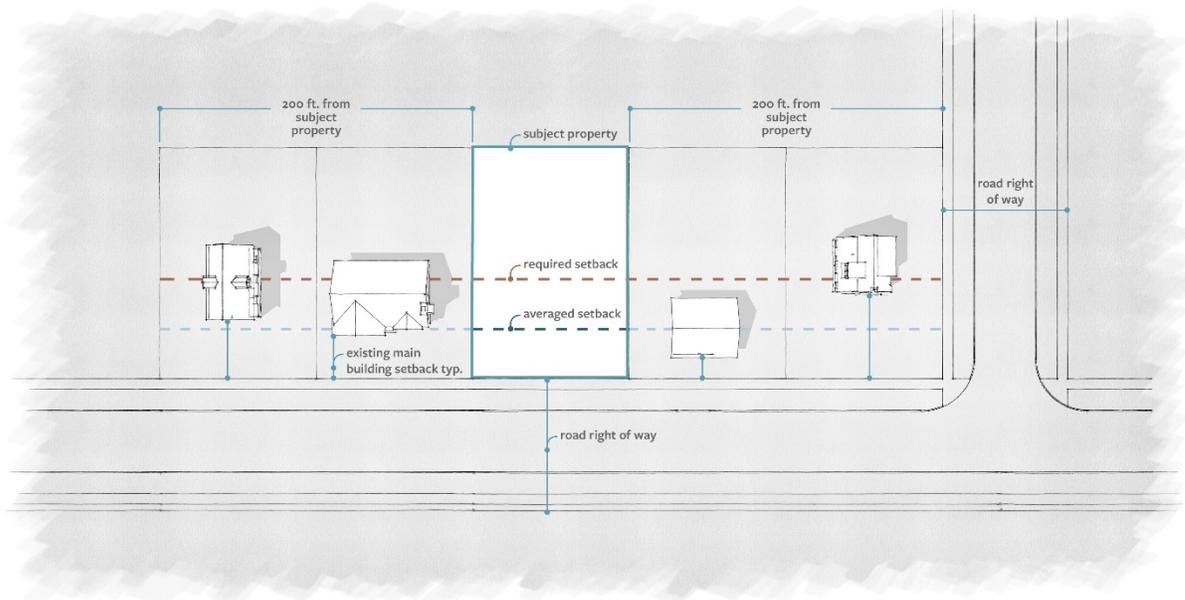


Figure 3.4 Permitted Front Yard Setback Reductions

2. The front yard reduction shall only be permitted if there are two or more lots occupied by main buildings within the area described above for computing the average front yard.

B. Side Yard Setbacks.

1. For parcels in existence as of the effective date of this ordinance that do not meet the lot width standards for the underlying zoning district, the Zoning Administrator may approve a reduction of three (3) inches in each of the minimum required side yards for each one foot of reduced lot width, provided that in no instance shall any such reduced side yard be less than three (3) feet.

C. Waterfront Setbacks.

1. The following requirements shall apply to Waterfront Lots to protect and retain waterfront views. In any SFR or MFR zoning district where the average depth of the two (2) front yards of existing adjacent Lots is greater than the minimum front yard setback required, then the required front setback shall be modified to be no less than the average depth of the existing adjacent front yards as measured from the closest point of the foundation of the principal building, not including unenclosed decks and patios, to the Ordinary High Watermark (Figure 3.5).

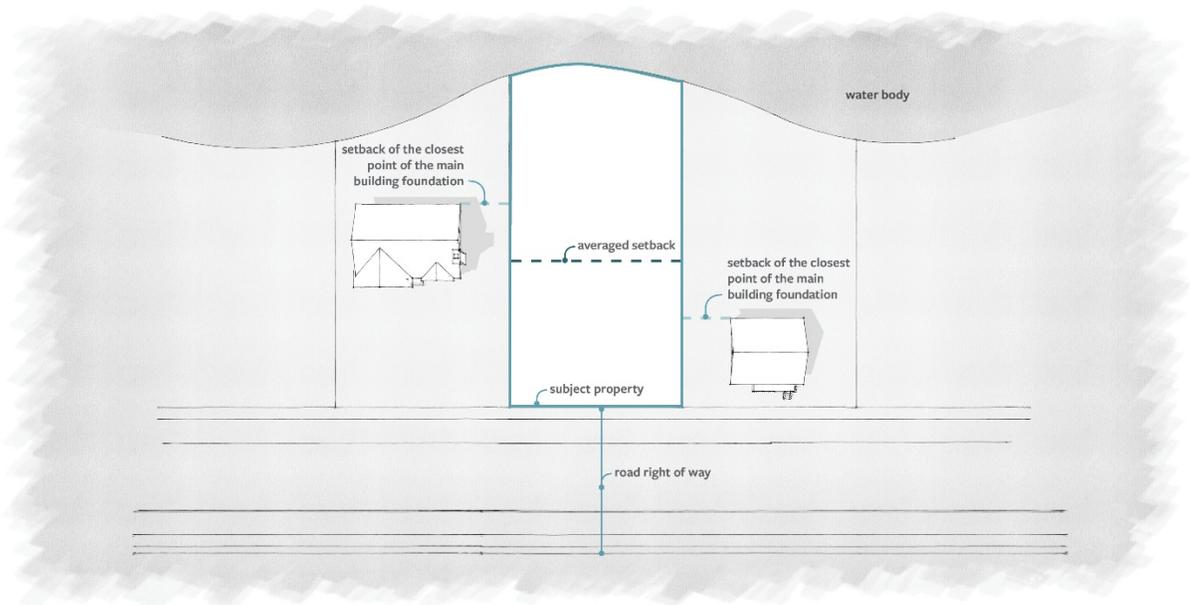


Figure 3.5 Permitted Waterfront Setback Modifications

2. All structures exceeding a height of three (3) feet above the floor of the first floor above grade, and all structures with fixed or attached accessories or extensions (including, but not limited to, pergolas, retractable awnings and trellises) that exceed a height of three (3) feet above the floor of the first floor above grade, shall comply with the average depth calculated in subsection (1) above, or the required front yard setback for that zoning district, whichever is greater.
3. If the Zoning Administrator determines that there is an unusual shoreline configuration, unusual topographical problem or unusual circumstance, then the matter shall be referred to the Zoning Board of Appeals for interpretation. In establishing such Setback requirements, the Zoning Board of Appeals shall consider the following standards:
 - a. The location of Buildings on adjoining properties;
 - b. The effect of construction on the Lot in question on the view from adjoining properties;
 - c. The potential effect of erosion and flooding from high water on the Lot in question;
 - d. The effect, if any, of the proposed Building and any related improvements on existing sea wall or other flood control or erosion devices located on adjoining properties;

- e. The relative proximity of the proposed Building to adjoining properties specifically including proximity to occupied Dwellings; and
 - f. The effect of the proposed Building on adjoining properties and the surrounding neighborhood
4. Structures that measure three (3) feet in height or less that project beyond the setback average may not project more than fifteen (15) feet into the required front (waterfront) yard. Decks and patios without railings below seven (7) inches above grade, docks, boat hoists, shore stations, and similar structures are exempt from this requirement.

Section 390-27. Temporary buildings, structures, and uses.

A. Temporary Buildings and Structures.

- 1. 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 facilities, related to construction activity on the same lot. No temporary building or structure shall be used as a dwelling unit.
- 2. The placement of temporary buildings and structures shall be in conformance with the requirements of this ordinance. Fabric or plastic covered framework or metal roofed temporary buildings or structures shall be prohibited. A certificate of zoning compliance shall be required prior to installation of a temporary building or structure.
- 3. Temporary buildings and structures shall be removed from the lot within 15 days after an occupancy permit is issued by the Building Official for the permanent structure on such lot, or within 15 days after the expiration of a building permit issued for construction on such lot.

B. Temporary Uses.

- 1. *Registry.* The zoning administrator shall maintain a registry of authorized temporary uses as provided herein.
- 2. *Temporary sales.* Sidewalk, tent or seasonal sales of goods are permitted in accordance with the following restrictions:
 - a. Temporary sales shall be permitted in the C and CBD districts only
 - b. *Registration:* Any person, organization, or business desiring to utilize property for a use authorized by this section shall first register with the zoning administrator, on a form to be provided, and shall pay a fee for registration in an amount as established by the village council. The registration form shall be accompanied by a sketch plan identifying:
 - 1) The shape, location and dimensions of the lot, including the shape, size and location of all existing buildings or other structures on the lot, off-street parking layout, and the location of any designated fire lanes.
 - 2) The shape, size and location of all buildings or structures to be erected or moved onto the lot, including tents, tables, stands or display racks.
 - 3) Registration for a temporary tent or sidewalk sale related to a permitted principal use otherwise occurring on the lot shall be effective for no longer than seven (7)

days. There shall be a minimum seven-day gap between subsequent sales. No more than three (3) such temporary uses may occur on a particular lot within a single calendar year. Temporary tent or sidewalk sales may not occur on a lot for consecutive time periods.

- 4) Registration for a seasonal sale of goods, not related to a permitted principal use otherwise occurring on the lot (e.g., t-shirts, Christmas trees, sunglasses or fireworks) shall be effective for no longer than thirty (30) days. No more than one such seasonal sale shall be permitted on a lot within a single calendar year or at a time.
- 5) A temporary tent or sidewalk sale permitted in accordance with this section shall comply with all applicable requirements for the zoning district in which it is to be located.
- 6) Sidewalk sales shall not be situated so as to obstruct the flow of pedestrian traffic. A minimum width of at least 8 feet shall be maintained at all times.
- 7) A temporary structure used in conjunction with such use may be located in a front yard, but no closer than one-half ($\frac{1}{2}$) the distance between the right-of-way and the principal building.
- 8) When a seasonal sale of goods is to be conducted on an otherwise vacant or unused lot, the use shall comply with all applicable zoning regulations for the district in which it is to be located, including all requirements pertaining to lot size, height, setback, open space ratio, maximum percentage of covered lot area and off-street parking.
- 9) The village council may issue permits for the temporary use and occupancy of property for uses not otherwise provided for in this ordinance (carnivals, special events, flea markets, environmental testing devices) and which do not require the erection of any structures requiring foundations or connection to public water or sewer. For the purpose of this section, a temporary activity shall not extend for more than six (6) weeks in any year. There shall be no minimum duration for a temporary activity.
- 10) Private garage sales, yard sales, or estate sales, sales of personal items from a private residence or church, or civil organization events such as car washes shall not require a temporary activity permit or temporary use registration if such activity or event does not extend for more than three (3) days in any ninety-day period or occur more than once in any ninety-day period.

Section 390-28. Timely completion of construction required.

Following the initiation of the construction, erection, reconstruction, modification, expansion or enlargement of any building or other structure authorized under the provisions of this Chapter, completion of such work shall be diligently pursued and completed in a timely manner. Unless otherwise specified as a condition of approval of a site plan, special land use, planned unit development, or other development by the Planning Commission or Council, any construction authorized under the provisions of this Chapter shall be completed within one year from the date of issuance of a building permit for such construction.

Section 390-29. Keeping of animals.

- A. The keeping of domesticated animals is permitted as an accessory use in any residential zoning district. However, no more than three dogs or cats, six months of age or older, in any combination thereof, shall be kept or housed in or at one dwelling unit.
- B. The keeping of animals not normally considered to be domesticated animals, including but not limited to, horses, pigs, sheep, cattle, horses, and wild or exotic animals, is prohibited in all zoning districts.
- C. The keeping of up to six (6) chickens is permitted in the SFR district only, and is subject to the following requirements:
 - 1. The minimum lot area is two (2) acres.
 - 2. Roosters shall not be permitted.
 - 3. The slaughtering of any chicken is prohibited.
 - 4. Chickens must be provided with and kept within a covered enclosure at all times. Chickens shall not be allowed to roam the lot or any other property.
 - 5. The enclosed area where the chickens are kept shall be located within the rear yard and shall be setback at least twenty (20) feet from any side or rear lot line.
 - 6. The enclosed area where the chickens are kept shall be maintained in a clean and neat manner at all times.
 - 7. Materials used to construct the enclosed area shall exclude tarps, plastic, fabric, rubber, paper cardboard, or other non-traditional building materials.
 - 8. Chicken feed must be kept in rodent-proof, sealed containers.
- D. The keeping of bees (apiaries) is permitted in the SFR district only, and is to the following requirements:
 - 1. The minimum lot area shall be (2) acres.
 - 2. Not more than two (2) hives shall be permitted per lot.
 - 3. A constant supply of water shall be provided for all hives
 - 4. All hives shall be located at least thirty five (35) feet from any dwelling on a neighboring property and at least twenty five (25) feet from any property line.
 - 5. For hives within one hundred (100) feet of the property line, a hedge, shrubbery, solid fencing or other device at least six (6) feet in height suitable to cause bees to maintain a sufficiently high flight path so as to be above the head of an average human being when exiting and entering their hives shall be provided.
 - 6. Hives shall not be located in a front yard.

Section 390-30. Reserved.

Section 390-31. Access Management.

- A. The standards of this section shall apply to all uses for which site plan review and approval is required according to Article XVII.

B. In reviewing a site plan, the Village may:

1. Require service drives;
2. Limit the number of driveways for a lot;
3. Require that parking areas on adjacent lots be connected;
4. Require driveways for adjacent lots be shared;
5. Require driveways on opposite sides of a street be directly aligned or have proper offsets; and
6. Require the closing, relocation, or redesign of a driveway or access point.

C. Number of Driveways.

1. General Access: Unless otherwise warranted or required in the opinion of the Village, access to any street or for an individual Lot, or access to any street from contiguous lots under the same ownership, shall be limited to a single two-way driveway.
 - a. Additional Driveways: For a lot with frontage on a street of more than three hundred (300) feet, an additional driveway may be allowed for each additional three hundred (300) feet frontage, provided that driveways meet the spacing standards of this section.
 - b. Dual Frontage: Where Lots have dual frontage on both a higher and lower classification of roadway (i.e. Savidge Street and another village street) access shall be provided from the lower classification roadway. If the Lot has a minimum of three hundred (300) feet of frontage, additional access may be allowed if the access meets the spacing standards of this section.

D. Shared Driveways.

1. In cases where shared driveways are proposed or required, the shared driveway shall be constructed as nearly as practical to straddle the common property line. A written easement and maintenance agreement, to be approved by the Village, shall be provided and legally recorded with the Ottawa County Register of Deeds that allows traffic to travel across one (1) lot to access another, and to access the street.

E. Service Drives and Parking Lot Connections.

1. Where a proposed parking lot is adjacent to an existing parking lot, there shall be a vehicular connection between the two parking lots where possible, as determined by the Village.
2. Lots may be required to include a rear yard service drive, especially where connection to a second street is available.
3. If a Lot with an established commercial use is divided to allow for an additional commercial use, an additional driveway for that use will only be permitted if the driveway spacing requirements of this section are met. The original and the additional commercial use shall have adjoining connected parking lots and may be required to construct a connecting rear yard service drive.

F. Construction of Service Drives.

1. Service drives shall have a minimum width of twenty four (24) feet, measured from face to face of the curb, with an approach approved by the Village engineer.
2. The geometrics of rear yard or front yard service drive intersections with streets shall be approved by the Village or MDOT, as applicable.
3. Service drives shall have a minimum of fifty (50) feet of stacking space or throat length for entering and exiting vehicles at the intersection of the service drive and the street.
4. Parking shall generally be prohibited along service drives. However, one (1) way or two (2) way service drives designed with additional width for parallel parking may be allowed if such traffic studies demonstrate that such parking will not significantly affect their safety or operation. Perpendicular or angled parking along either side of a designated service drive shall be prohibited.
5. Directional Signs and pavement markings may be required to help promote safe and efficient circulation. The property owner(s) shall be required to maintain all pavement markings and signs. All directional signs and pavement markings shall conform to the standards contained in the current "Michigan Manual of Uniform Traffic Control Devices."

G. Curb Radii.

1. Driveways shall be designed with at least twenty five (25) feet radii where primarily passenger vehicle traffic is expected.
2. Driveways shall be designed with at least thirty five (35) feet radii where primarily truck vehicle traffic is expected.
3. Where necessary, a site plan shall illustrate proposed circulation patterns on a site to ensure safe movement of vehicular traffic, trucks, and delivery vehicles.

H. Acceleration, Deceleration and Bypass Lanes.

1. Acceleration, deceleration, and/or left turn bypass lanes may be required, as determined by the Village or MDOT.

Section 390-32. Building demolition.

- A. No building shall be demolished until a permit has been obtained from the Building Official who shall be authorized to require a performance bond in an amount not to exceed \$1,000 for each 1,000 square feet or fraction thereof of floor area of the building to be demolished. That bond shall be conditioned on the applicant completing the demolition within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Official may prescribe, from time to time, including filling of excavations and proper termination of utility connections.
- B. Utility disconnections shall be completed prior to the issuance of a permit.
- C. If the building is safely demolished and the site cleaned as specified in the permit, then the bond shall be returned within 30 days of completion of the demolition. If the demolition is not accomplished according to the terms of the approval, then the Village shall access the performance bond and use the money to restore the site to a safe and stable condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid in a timely fashion.

- D. Structures shall be demolished in such a manner as to avoid hazards to persons and property, interference with the use of adjacent buildings, and interruption of free passage to and from such buildings.
- E. During the demolition of any building or structure the work shall be kept thoroughly wetted down to prevent the spread of dust. The owner or contractor shall provide water and necessary connections therefore. The Building Official may require construction of a suitable fence around the work site where conditions indicate that the safety of the public requires such fence.
- F. All buildings and structures to be demolished shall be completely razed and all materials shall be removed from the site and disposed of in accordance with all applicable laws and regulations. All materials, including, without limitation, every installation, part of a building or accessory building or other improvement on the premises, whether above or below grade, shall be completely removed from the site. No part of any basement or infrastructure below grade, including any underground storage tanks, shall remain.
- G. The premises shall be cleared of all debris and components of the building or structure, and the site filled, leveled and seeded within seven days of completion of the demolition.

Section 390-33. Reserved.

Section 390-34. Site preparation and excavation.

- A. Land filling, mining, and other landform contour changes to create a buildable area or to remove or stockpile topsoil, sand or earth shall not be undertaken, except in conformance with the requirements of this Chapter and applicable county, state, and federal requirements. No person shall undertake any activity such as grading, clearing, cutting, and filling, excavating, or tree removal in preparation for a use or structure which requires site plan review and approval until the proposed use or structure is authorized by the Village.
- B. Any excavation or foundation to be left open overnight and/or for more than 24 hours must be fenced to prevent endangerment of life or property.

Section 390-35. Outdoor lighting.

- A. Intent and purpose: To create and maintain safe nighttime environments for both pedestrians and drivers on public and privately owned roadways and rights-of-way, by minimizing brightly lit surfaces and lighting glare, to preserve the restful quality of nighttime, by eliminating intrusive, artificial light and lighting that unnecessarily contributes to "sky glow," and to reduce light pollution from lighting luminaires and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission, Planner, and/or Zoning Administrator in the review of all site plans submitted for approval under the terms of this Chapter.
- B. General standards.
 - 1. Regulated lighting. All exterior lighting shall be regulated by this section, including, but not limited to the following types:
 - a. Parking lot lighting and site lighting for commercial, industrial, and institutional developments.

- b. Canopy lighting.
 - c. Multiple-family development parking lot lighting and site lighting.
 - d. Privately owned roadway lighting.
 - e. Building facade lighting.
 - f. Residential yard lights.
 - g. Other forms of outdoor lighting which, in the judgment of the Zoning Administrator, or, at his discretion, the Planning Commission, are similar in character, luminosity and/or glare to the foregoing.
2. Lighting plan. The following information must be included for all site plan submissions and where site plan approval is not required, some or all of the items may be required by the Zoning Administrator prior to lighting installation:
- a. A site plan drawn to a scale of one inch equaling no more than 30 feet showing the buildings, landscaping, parking and service areas, and location and type of all proposed outdoor lighting.
 - b. Analyses and luminance level diagrams showing that the proposed installation conforms to the lighting level standards in this section. Diagrams shall indicate illumination levels at ground level based on no greater than a twenty-five-foot on-center grid and shall project 25 feet onto adjacent properties or to the setback limit line, whichever is greater. Illumination levels should also be measured for all surrounding streets at the public right-of-way.
 - c. Specifications for all proposed lighting fixtures, including mounting heights, photometric data, designation as Illumination Engineering Society of North America (IESNA) "cutoff" fixtures, Color Rendering Index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures.
 - d. The lighting plan shall provide a design for illuminations in accordance with this section.
3. Standards. All exterior lighting, including freestanding, canopy, pole and building-mounted, shall be fully shielded and directed downward to prevent off-site glare. Lighting shall be designed and constructed to meet the following standards (Figure 3.6):
- a. Lighting design shall ensure that direct or directly reflected light is confined to the development site and pedestrian pathways.
 - b. Lamps and luminaires shall be shielded, hooded and/or louvered to provide a glare-free area beyond the property line and beyond any public right-of-way, and so the light source is not directly visible from beyond the boundary of the site.
 - c. Canopy lighting shall be fully recessed.
 - d. The light from any illuminated source shall be designed so that the light intensity or brightness shall not exceed 10 footcandles within any part of the site and one footcandle at any property line, except where the property abuts a residential district or use where a maximum of 0.5 footcandle is permitted.

- e. All light fixtures, including building-mounted fixtures, shall be full cutoff fixtures as defined by IESNA and shall have one-hundred-percent cutoff above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane.
- f. No light fixture may be mounted higher than 20 feet above the average grade of the site, except for approved outdoor recreation area lighting.
- g. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at a sufficient height and properly equipped with baffling, glare guards or lenses to meet the requirements of this section. Outdoor recreation area lighting requires site plan approval by the Planning Commission.
- h. There shall be no lighting of a blinking, flashing, or fluttering nature, including changes in light intensity, brightness, or color.
- i. Beacon, strobe, and search lights, laser light sources or any similar high-intensity lights for outdoor advertisement or entertainment are prohibited.
- j. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
- k. On-site lighting shall be the minimum necessary to comply with Michigan Building Code requirements for safe egress. Parking lot lighting shall not be operational after business hours. Limited security lighting is permitted.
- l. Unshielded floodlights are prohibited.

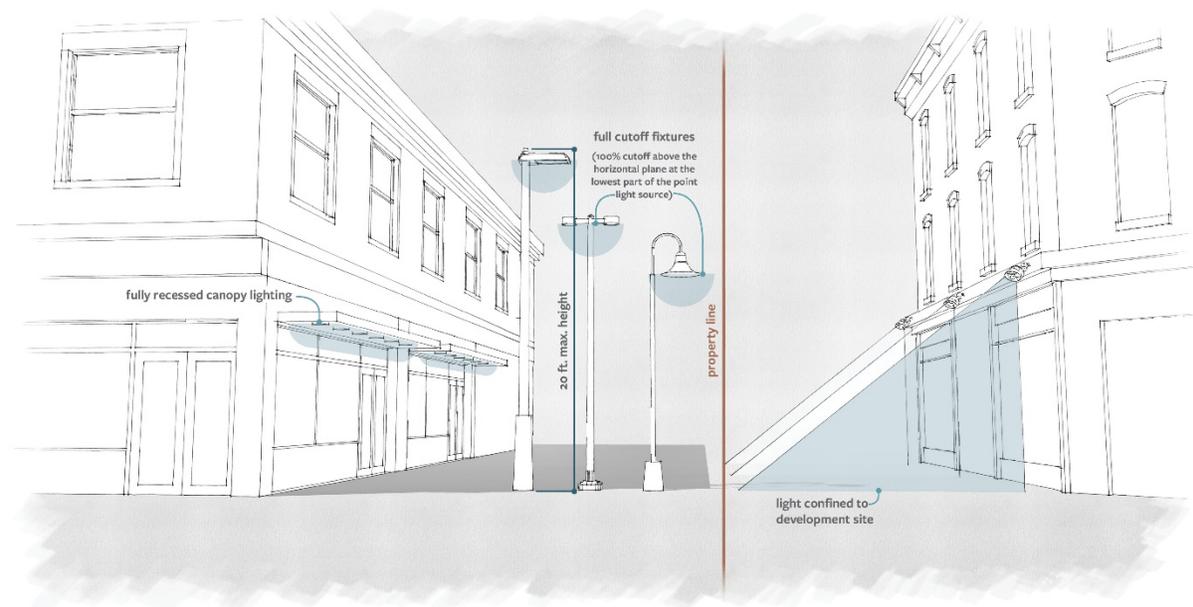


Figure 3.6 Exterior Lighting Standards

4. Exempted areas and types. The following types of outdoor lighting are exempt from the provisions of this section, provided that such lighting uses a one-hundred-watt or less incandescent bulb and except where such lighting creates a hazard or nuisance from glare or spill light:
 - a. Residential decorative lighting such as porch lights, low-level lawn lights and special seasonal lights such as Christmas decorations and similar lighting associated with single-family detached housing.
 - b. Sign lighting as regulated in Article XV hereof.
 - c. Lighting necessary for road or utility construction or emergencies.
 - d. Streetlights located within a public right-of-way.
 - e. Lighting for a permitted temporary event such as a circus, fair, carnival, or civic event.

Section 390-36. Home occupations.

- A. Purpose. The purpose and intent of this section is to establish regulations intended to ensure that home occupations remain subordinate to the residential use, that the residential viability of the dwelling is maintained, and to ensure that home occupations shall not be a detriment to the character and livability of the surrounding neighborhood. It is recognized that excessive commercial activity, such as traffic, odors, deliveries, and signage may undermine the residential character of a neighborhood. Therefore, a home occupation shall meet the standards set forth in this section, and shall be located and constructed so that the average neighbor, under normal circumstances, will not be aware of its existence.
- B. Requirements.
 1. All home occupations shall be registered with the Zoning Administrator on forms provided by the Village and may require a fee as determined by Village Council. The registration form shall be accompanied by such information as is necessary to demonstrate compliance with this section.
 2. Home occupations must be conducted entirely within the confines of a residential building, an accessory structure, or a rental dwelling unit. The home occupation must not be evident in any way from the street or from any neighboring premises. For all home occupations that will be conducted in a rental dwelling unit, the operator of the home occupation shall provide a signed statement from the property owner which states that the property owner knows the type and scope of the home occupation to be conducted on their property and granting the tenant permission to operate the home occupation.
 3. There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home occupation, including, but not limited to, exterior alterations, or construction features not customary in dwellings or new external entrances to the space devoted to the home occupation.
 4. The operator of the home occupation shall make the dwelling unit within which the home occupation is conducted his/her legal and primary residence, where all activities such as sleeping, eating, entertaining and other functions and activities normally associated with home life are conducted.

5. The home occupation shall use only mechanical and electrical equipment which is similar in power and type to that used for household purposes and hobbies.
6. No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, or odors detectable to the normal senses off of the premises on which the home occupation is located. In addition, no equipment or process shall be used in the home occupation which causes visual or audible interference in any radio, television, cellular, or wireless service off the premises or causes fluctuation in the line voltage off the premises.
7. No person, other than members of the family residing in the dwelling, shall be engaged in the conduct of the home occupation.
8. The home occupation shall not devote more than twenty (20) percent of the principal building and accessory buildings to such home occupation.
9. The home occupation shall not require parking in excess of two (2) spaces, located in the driveway or on the street directly adjacent to the property. Suitable off-street parking shall be located without utilizing any portion of any required yard.
10. The home occupation shall not generate traffic in a greater volume than would normally be expected in a residential neighborhood, or in any case no more than 10 vehicular trips per day.
11. On-site sale of merchandise shall be limited to:
 - a. Items commonly traded or collected or occasionally bought and sold by hobbyists such as stamps, coins, comics, etc., but not including motor vehicles or firearms.
 - b. Crafts and artistic products produced on site.
12. No outdoor storage or display of materials, equipment, merchandise, or products shall be permitted.
13. No sign is permitted for a home occupation.
14. No more than two (2) customers, clients, students, or patients shall be on the premises in which a home occupation is located at any one time.
15. Visits by customers, clients, students, or patients to the premises in which a home occupation is located shall be limited to the hours of 7:00 a.m. to 8:00 p.m.
16. Home occupations shall at all times comply with all federal, state and local laws including, but not limited to, building, housing, property maintenance, fire and other codes and ordinances.
17. Primary Caregivers. A home occupation shall include an individual's ability to operate as a registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133 (the General Rules), the Michigan Medical Marihuana Act, PA 2008, Initiated Law, MCL 333.26421 et seq. (the "Act") and the requirements of this section. Nothing in this section, or in any companion regulatory provision, adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of marihuana not in strict compliance with that Act and the General Rules.

Also, since federal law is not affected by that Act or the General Rules, nothing in this section, or in any companion regulatory provision, adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution under federal law. The Act does not protect users, caregivers, or owners of the properties on which the medical use of marihuana is occurring under the Federal Controlled Substances Act. The following additional requirements for a registered primary caregiver shall apply:

- a. The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
- b. A registered primary caregiver must be located outside of a one-thousand-foot radius from any school, or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended MCL 333.7410, to ensure community compliance with federal "Drug- Free School Zone" requirements.
- c. Not more than one (1) primary caregiver shall be permitted to service qualifying patients per dwelling unit.
- d. No qualified patient, other than one qualified patient who resides on the premises with the primary caregiver, shall be served on the premises of the licensed primary caregiver.
- e. At no time shall more than one (1) qualified patient and one licensed primary caregiver be present on any property in the Village.
- f. All medical marihuana shall be grown, processed, and contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the Village of Spring Lake Zoning Administrator and the law enforcement agency serving the Village. Marihuana plants grown on the premises as part of the home occupation shall not be visible outside of the enclosed, locked facility in which they are grown.
- g. All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting and/or watering devices that support the cultivation, growing or harvesting of marihuana are located.
- h. If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. to 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
- i. The outdoor growth and/or cultivation of medical marihuana plants is prohibited.
- j. Nothing in this section shall be construed to encourage or condone violations of state or federal law.
- k. A licensed primary caregiver shall be permitted as a home occupation in the Village of Spring Lake only as long as the Michigan Medical Marihuana Act permits the

activity. Changes to the Michigan Medical Marihuana Act may invalidate the home occupation permit. Because the state Act is not under the control of the Village of Spring Lake, the home occupation permit for a licensed primary caregiver does not grant the operator of the home occupation any vested property rights or nonconforming use rights that would serve as a basis for failing to comply with this Chapter or any amendment to this Chapter.

- I. Based on the interpretation of the Michigan Department of Community Health, no "marihuana dispensary," "growing cooperative" or "compassion club," as these terms are commonly used in reference to the use and dispensation of medical marihuana, shall be permitted anywhere in the Village of Spring Lake.

Section 390-37. Funneling/keyholing.

It is the intent of this section to promote the integrity of the lakes within the Village of Spring Lake while preserving the quality of recreational use of the lakes and rivers; to protect the quality of the lakes by limiting excess use; to promote the ecological balance of the water by limiting incompatible land use of the wetlands associated with the lakes; and maintain the natural beauty of the lakes by minimizing man-made adjustments to the established shorelines. Nothing in this ordinance shall be construed to limit lake or waterway access to the general public by way of a public park or public access site provided or maintained by any unit of state, county, or local government.

- A. In any zoning district, waterfront lots may only be used for the purposes listed below if the standards of this section are met:
 1. as common open space held in common by a subdivision, condominium or site condominium association, planned unit development or associations or similar agencies; or
 2. held in common by virtue of the terms of a plat of record; or
 3. common use under deed restrictions of record; or
 4. access by owners of those residing in two or more dwelling units located away from the waterfront; or
 5. as a residential development for one or more dwelling units as permitted in the Township zoning ordinance; or
 6. by easement, park, common fee ownership, single-fee ownership, condominium arrangement, license, or lease; or
 7. any combination of the above.
- B. Waterfront lots used for the purposes listed above shall contain a minimum of five thousand (5,000) square feet; fifty (50) lineal feet of water frontage for each individual dwelling unit or each single family unit to which such privileges are extended or dedicated, and a minimum depth of one hundred (100) feet. Frontage shall be measured by straight line which intersects each side lot line at the ordinary high water mark.
- C. Waterfront lots used for the purposes listed above shall not consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS map, or have otherwise been determined to be

wetland by the Michigan Department of environment, Great Lakes, and Energy (EGLE). In no event shall a swamp, marsh, or bog be altered by dredging, the addition of earth or fill material or by the drainage of water for the purpose of increasing the water frontage required by this Section.

- D. Waterfront lots used for the purposes listed above shall not abut a man-made canal or channel for purposes of funneling non-riparian owners onto a lake. Where said lot(s) contain dwelling units, then the fifty (50) linear feet of water frontage shall apply for each individual dwelling unit. In no case shall such canal or channel be excavated for the purpose of increasing the water frontage required by this regulation.
- E. Waterfront lots used for the purposes listed above shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure(s), or for any commercial use.
- F. Piers or docks may be constructed on waterfront lots used for the purposes listed above, provided that the following standards are met:
 - 1. Piers or docks shall not be closer than fifty (50) feet from another pier or dock
 - 2. Piers or docks shall not be longer than the average of the four (4) adjacent residential lot piers or docks on either side of the access property, or fifty (50) feet, whichever is less.
- G. In any district in which accesses have been established before the effective date of this section or subsequent amendment thereto, such accesses shall retain historic uses. It is the intent of this section to permit such lawful non-conformance to continue, but not to encourage additional uses and sites.

ARTICLE IV SEXUALLY ORIENTED BUSINESS

Section 390-37. Purpose.

The purpose and intent of this article is to minimize the negative secondary effects associated with sexually oriented businesses through regulating, but not excluding, the location and operation of sexually oriented businesses within the Village. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private land uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not adversely impact the health, safety, and general welfare of Village residents, nor contribute to the blighting or downgrading of surrounding areas. The provisions of this article are to not intended: i) to violate the guarantees of the First Amendment to the United States Constitution or Article I, Section 5 of the Michigan Constitution of 1963; ii) to deny adults access to sexually oriented businesses and their products; iii) to deny sexually oriented businesses access to their intended market; or iv) to legitimize activities which are prohibited by Village ordinance, state or federal law. The Village further states that it would have passed and adopted what might remain of this article following the removal, reduction, or revision of any portion of this article found to be invalid or unconstitutional.

Section 390-38. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article only, unless otherwise specifically stated:

ADULT ARCADE. A commercial establishment that offers coin-operated (or for any other form of consideration) electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, video or laser disc players, or other image-producing devices to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting of specified anatomical areas or specified sexual activities.

ADULT BOOKSTORE or ADULT VIDEO STORE.

- A. A commercial establishment that has as a substantial or significant portion of its stock-in-trade, and as one of its principal business purposes offers for sale or rental for any form of consideration, any one or more of the items set forth in Subsection A(1) or (2) of this definition.
1. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides, or any other visual representations or media which depict or describe specified anatomical areas or specified sexual activities; or
 2. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

3. A commercial establishment may have other principal business purposes that do not involve offering for sale or rental the material identified in Subsection A(1) and (2), above, and still be categorized as an adult bookstore or adult video store.

ADULT CABARET. A nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- C. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified anatomical areas or specified sexual activities; or
- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT ENTERTAINMENT BOOKING AGENCY. A business engaged in for financial remuneration, either directly or indirectly, wherein the owner, operator or agent books performances for dancers, comedians, musicians, entertainers or burlesque performers, taking a fee, commission or percentage of any money from the patron or performer for services rendered, when the performances are characterized by exposure of specified anatomical areas or by specified sexual activities.

ADULT MOTEL. A hotel, motel or similar commercial establishment that does any of the following:

- A. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of specified anatomical areas or specified sexual activities and has a sign visible from the public right-of-way that advertises the availability of any of the above;
- B. Offers a sleeping room for rent for a period of time that is less than 12 hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 12 hours.

ADULT MOTION-PICTURE THEATER. A commercial establishment that, for any form of consideration, regularly shows films, motion pictures, video cassettes, slides, other photographic reproductions or visual media, that are characterized by the depiction or description of specified anatomical areas or specified sexual activities.

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of specified anatomical areas or by specified sexual activities.

DATING SERVICE. A business engaged in for financial remuneration, either directly or indirectly, where arrangements are made to match a person of the same or opposite sex to a

patron or patrons, for social or entertainment purposes, either on or off the premises of the dating service.

ESCORT. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business who furnishes, offers to furnish, or advertises the furnishing of escorts for a fee, tip, or other consideration.

MASSAGE. The performance of manipulative exercises upon the human body of another by rubbing, kneading, stroking or tapping with the hand or hands, or with any mechanical or bathing device, with or without supplementary aids, for nontherapeutic purposes. The systematic and scientific manipulation of the soft tissues of the human body by a state- licensed health care professional for therapeutic and/or rehabilitative purposes shall be considered a therapeutic massage and not restricted by this article.

MASSAGE PARLOR. Any commercial establishment where nontherapeutic massage is made available for any form of consideration.

MASSAGE SCHOOL. Any place, establishment or facility which provides instruction in the theory, method and practice of nontherapeutic massage.

NUDE MODEL STUDIO. Any place where a person who displays specified anatomical areas is provided in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include:

- A. An educational institution funded, chartered, licensed or recognized by the State of Michigan; or
- B. A private artist's studio where the private artist employs or contracts with the model to be observed and depicted solely by the private artist.

NUDITY or A STATE OF NUDITY. Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. "Public nudity" does not include:

- A. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
- B. Material as defined in Section 2 of Michigan Act 343 of 1984, as amended, or any similar successor statute; or
- C. Sexually explicit visual material as defined in Section 3 of Michigan Act 33 of 1978, as amended, or any similar successor statute.

PUBLIC PLACE. Any real property or an appurtenance to real property that is owned or leased by the State of Michigan, any local unit of government of the State of Michigan, a public agency,

or by a college or university of the State of Michigan and may include a structure, enclosure, facility, or complex, including a court, mall, park, or other area, feature, or element; a "public place" shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed by any agency of government or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

SEXUAL ENCOUNTER CENTER. A commercial establishment that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

SEXUALLY ORIENTED BUSINESS. Any of the following:

- A. Adult arcade;
- B. Adult bookstore or adult video store;
- C. Adult entertainment booking agency;
- D. Adult cabaret;
- E. Adult motel;
- F. Adult motion-picture theater;
- G. Adult theater;
- H. Dating service;
- I. Escort agency;
- J. Massage parlor;
- K. Massage school;
- L. Nude model studio; and
- M. Sexual encounter center.

SPECIFIED ANATOMICAL AREAS. Are defined as follows:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus and female breast below a point immediately above the top of the areola; or
- B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Are defined to include any of the following:

- A. The erotic fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, sodomy, and/or masturbation;

- C. Sexual arousal or gratification using animals or violence, actual or simulated;
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C of this definition, above.

Section 390-39. Zoning district.

Notwithstanding any provisions of this Chapter to the contrary, sexually oriented businesses shall be permitted only as a special land use subject to Planning Commission approval within the Waterfront Overlay District.

Section 390-40. Special land use approval requirements.

Special land use approval shall not be granted to any sexually oriented business unless it meets all of the following enumerated requirements. Any sexually oriented business granted special land use approval shall continue to comply with all of the requirements of this section at all times while the business is operational.

- A. No sexually oriented businesses shall be located on a parcel that is within 500 feet of another sexually oriented business.
- B. No sexually oriented business shall be located on a parcel that is within 350 feet of the boundary of any land zoned residential, or approved as a planned unit development for residential purposes.
- C. No sexually oriented business shall be located on a parcel that is within 350 feet of any single- or multiple-family residence, any Village, county or state park, any school, library, licensed child-care facility, playground, church or place of worship.
- D. For purposes of subsection A-C above, the distance shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed sexually oriented business is to be located to the nearest property line of the existing sensitive use.
- E. No sexually oriented business shall be located within any principal or accessory building or structure already containing a sexually oriented business.
- F. The proposed use shall conform to all requirements of the zoning district in which it is located.
- G. The proposed use shall be in compliance with all other ordinances of the Village and with all statutes, laws, rules and regulations of the county, state and federal government and, to the extent required, all governmental approvals have been obtained.
- H. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from the neighboring properties or the adjacent right-of-way of a public street or private road.
- I. Any sign or signs proposed for the sexually oriented business shall comply with the provisions of Article XV, Signs, of this Chapter, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of specified anatomical areas, specified sexual activities or obscene representations of the human form, and may not include animated or flashing illumination. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls, in a location clearly visible to those

entering and exiting the business, and using clearly marked lettering no less than two inches in height stating that:

1. "Persons under the age of 18 are not permitted to enter the premises"; and
 2. "No alcoholic beverages of any type are permitted within these premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."
- J. No product or service for sale or gift, or any picture or other representation of any product or service for sale or gift, shall be displayed so as to be visible by a person of normal visual acuity from the nearest adjoining right-of-way of a street or private road or a neighboring property.
- K. Hours of operation shall be limited to 10:00 a.m. to 10:00 p.m., Monday through Saturday. All sexually oriented businesses shall remain closed on Sundays and legal holidays.
- L. All off-street parking areas shall comply with Article XVI, Parking Regulations, of this Chapter and shall be illuminated after sunset during all hours of operation of the sexually oriented business, and until one hour after the business closes. The illumination shall be designed to provide a minimum level of brightness of one footcandle, with a 3:1 uniformity ratio. The illumination shall not reflect on and shall be screened from adjoining properties.
- M. Any booth, room or cubicle available in any sexually oriented business, except an adult motel, that is used by patrons for the viewing of any entertainment characterized by the showing of specified anatomical areas or specified sexual activities shall:
1. Be handicap accessible to the extent required by the law;
 2. Be unobstructed by any floor, lock or other entrance and exit control device;
 3. Have at least one side totally open to a public, lighted aisle so that there is an unobstructed view of any occupant at all times from the adjoining aisle;
 4. Be illuminated such that a person of normal visual acuity can, by looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle, clearly determine the number of people within; and
 5. Have no holes or openings in any side or rear walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code authority.

Section 390-41. Application for special land use approval.

Notwithstanding any provisions of this Chapter to the contrary, applications for special land use permits and site plan approval submitted by sexually oriented businesses will be governed by this article.

- A. An application for a special land use permit provided under this article for a sexually oriented business shall be filed with the Zoning Administrator on the proper forms supplied by the Village. An application shall not be deemed complete until all required information and necessary documentation have been provided to the Village by the applicant or the applicant's agents and representatives.

- B. The application shall be accompanied by 12 copies of a site plan as required by and provided for in Article XVII, Site Plan Review, and any other data required by the Zoning Administrator indicating how the proposed sexually oriented business will conform with this article.
- C. The application shall be accompanied by a legal description of the property, either by metes and bounds or by subdivision lot and block, and a street address.
- D. The application shall be accompanied by a fee to be established by resolution of the Village Council to cover the expense of considering and making a decision on the application.

Section 390-42. Hearing required.

Notwithstanding any provisions of this Chapter to the contrary, the Planning Commission shall hold a public hearing on the proposed special land use pursuant to Section 390-151 hereof.

Section 390-43 Decision.

- A. Notwithstanding any provisions of this Chapter to the contrary, a final decision on the special land use application and site plan approval shall be made by the Planning Commission within a reasonable time of the receipt of the completed application by the Zoning Administrator along with any other materials deemed necessary. The Planning Commission shall base its decision upon the applicant's compliance with the requirements set forth in this article and the special land use standards of Section 390-134. The decision on the site plan approval shall be made according to the standards set forth in Section 390-126.
- B. The Planning Commission may impose reasonable conditions in conjunction with the approval of a special land use permit for a sexually oriented business. The conditions imposed shall be limited to conditions necessary to ensure that the sexually oriented business will not be unreasonably detrimental to the public health, safety, or general welfare of the Village; nor unreasonably injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted; nor unreasonably impede the normal and orderly development and improvement of the surrounding property for uses permitted under this Chapter.
- C. The Planning Commission shall incorporate its decision in a written statement containing the conclusions that specify the basis of the decision and any conditions imposed.

Section 390-44. Appeals.

The decision of the Planning Commission shall be final. Notwithstanding any provisions of this Chapter to the contrary, in the event the Planning Commission denies an application for special land use permit for a sexually oriented business, the applicant shall not be allowed to appeal the Planning Commission's decision to the Village Council nor the Zoning Board of Appeals. The applicant shall be entitled to judicial review of the Planning Commission's decision in any court of competent jurisdiction.

ARTICLE V RESERVED

ARTICLE VI ZONING DISTRICTS AND MAP

Section 390-50. Zoning districts.

For the purposes of this Chapter, the Village of Spring Lake is hereby divided into the following zoning districts as shown on the official zoning map:

A. The following districts are commonly referred to as the residential districts of the Village:

SFR	Single-family Residential
MFR	Multiple-family Residential

B. The following districts are commonly referred to as the nonresidential districts of the Village:

C	Community Commercial
CBD	Central Business District
WOD	Waterfront Overlay District

Section 390-51. Zoning map and boundaries.

- A. The locations and boundaries of the above zoning districts are hereby established as shown on the Zoning Map, as the same may be amended from time to time, and shall be as much a part of this Chapter as if fully described herein.
- B. The Zoning Map shall be kept on display in the Village Hall and descriptions accompanying enacted amendments to the Zoning Map shall be displayed adjacent to the map until such time as the map is corrected. The Zoning Map shall be the final authority as to the current zoning status in the Village.

Section 390-52. Interpretation of zoning map.

Where due to scale, lack of detail or illegibility of the Zoning Map there is uncertainty, contradiction or conflict as to the intended location of any zoning district boundary, the exact location of such boundary shall be determined by the Zoning Administrator. In making such determination, the Zoning Administrator shall consider and apply the following rules of interpretation:

- A. Where the boundaries are indicated as approximately following streets, alleys or highways, the center lines of said streets, alleys or highways or such lines extended shall be construed to be such boundaries.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following Village boundary lines shall be construed as following such Village boundaries.
- D. Boundaries indicated as approximately following railroad lines shall be construed as following the center line of the railroad right-of-way.

- E. Boundaries indicated as approximately parallel to the center lines of streets shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of scale shown on the Zoning Map.
- F. Boundaries following the shoreline of a river, lake, bayou or other body of water shall be construed to follow such shorelines, and in the event of a change in the shoreline shall be construed as moving with the actual shoreline.
- G. Boundaries indicated as approximately following the center lines of rivers, lakes, bayous or other bodies of water shall be construed to follow such center lines.
- H. In every case where land has not been specifically included with a zoning district, the same is hereby declared to be in the SFR District.

Section 390-53. Zoning of vacated areas.

Whenever any street, alley or other public way within the Village is vacated by official governmental action and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, alley or public way, such lands shall automatically and without further governmental action acquire and be subjected to the same zoning regulations as are applicable to the lands to which same shall attach.

Section 390-54. Zoning of filled lands; uses on or over water.

- A. Whenever any fill is placed in any river, lake, bayou or any other body of water, the land thus created shall automatically and without further governmental action thenceforth acquire and be subjected to the same zoning regulations and be used for the same purposes as are permitted under this Chapter for such adjoining lands. No use of the surface of any lake or stream shall be permitted for any purpose not permitted on the land from which the use emanates.
- B. Any use which is located on or over the surface of any river, lake, bayou or other body of water shall be subject to the same zoning regulations and be used for the same purposes as are permitted under this Chapter for the land from which the use emanates.

Section 390-55. Summary tables

- A. Table 390-55.01, Table of Land Uses summarizes the applicable regulatory standards for the land uses governed under this Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail.
- B. Table 390-55.02, Schedule of District Regulations provides an overview of the dimensional requirements of this Ordinance. It is provided for expeditious reference. However, it should not be substituted for careful reference to the specific language of this Ordinance. In the event of a discrepancy between the table and the text of the Ordinance, the text shall prevail.

- C. Additional standards. All uses shall conform to all applicable general provisions, as well as Article XVII, Site Plan Review; Article XIV, Landscaping and Screening, Article XV, Signs, and Article XVI, Parking Regulations.

Table 390-55.01. Permitted and Special Land Uses

Land Use	SFR	MFR	CC	CBD
Accessory dwellings	S	S		
Adult foster care congregate facilities		S	S	
Adult foster care family homes	R	R		
Adult foster care small or large group homes	S	S		
Assembly operations			S	
Automobile gasoline stations			S	
Automobile repairs, major			S	S
Automobile repairs, minor			R	S
Automobile wash			S	S
Bed and breakfast establishments	S	S	S	
Clubs or lodges			R	
Community support facilities	S			
Convenience stores			R	R
Day care, adult	S			
Day care, commercial			S	
Day care, family	R	R		
Day care, group	S	S		
Educational institutions	R			
Farmer's markets				S
Financial institutions with drive-through facilities			S	S
Financial institutions, without drive-through facilities			R	R
Funeral homes	S		S	S
Home occupations	R	R		
Hotels and motels				S
Indoor recreation facilities			S	S
Large places of public assembly	S			
Live/Work			R	
Marinas	S			S
Medical clinics			R	R

Land Use	SFR	MFR	CC	CBD
Motels and Motels			S	
Office buildings	S		R	R
Open air business			S	S
Parks and public facilities	R	R	R	R
Personal service establishments			R	R
Professional service establishments			R	R
Residential above retail or offices			R	R
Restaurants with drive-through facilities.			S	
Restaurants without drive-through facilities			R	R
Retail businesses			R	R
Senior assisted living facilities		S	S	
Short-term rentals	S	S	S	
Single family dwellings, excluding manufactured homes		R		
Single-family dwellings, including manufactured homes	R			
Small places of public assembly	R			
Tattoo or piercing parlor				S
Two-family dwellings		R		
Two-family dwellings, only on corner lots	R			
Veterinary hospitals			S	S
Wholesale establishments and warehouses			S	

Table 390-55.02. Schedule of District Regulations

Zoning District	Required Setbacks			Minimum Lot Area	Minimum Lot Width	Maximum Lot Coverage	Maximum Building Height
	Front	Side	Rear				
Single Family Residential (SFR)	25 ft	8 ft	25 ft	8,000 sq ft	66 ft	50%	35 ft
Multiple Family Residential (MFR)	25 ft	5 ft	25 ft	8,000 sq ft	66 ft	60%	35 ft
Community Commercial (CC)	25 ft	0 ft	25 ft	10,000 sq ft	75 ft	75%	35 ft
Central Business District (CBD)	none	none	none	none	none	none	45 feet

- A. For complete dimensional standards for the SFR district, see Section 390-57, C.
- B. For complete dimensional standards for the MFR district, see Section 390-59, C.
- C. For complete dimensional standards for the CC district, see Section 390-61, C.
- D. For complete dimensional standards for the CBD district, see Section 390-70, C.

ARTICLE VII SINGLE-FAMILY RESIDENTIAL DISTRICT (SFR)

Section 390-56. Intent.

The intent of this district is to provide for a sound and stable environment for relatively low-density single-family dwellings and other compatible, related uses. Uses and requirements for this district should foster improvement of the living environment for the residents of the Village and ensure quality development. Neighborhoods should be quiet and free of unrelated traffic, although limited, low-impact residentially related land uses may be permitted as described below. Residential streets should be scaled for compatibility between pedestrians and automobiles.

Section 390-57. District summary.

- A. Land, buildings and other structures in this zoning district may only be used for the following purposes by right:
 - 1. Adult foster care family homes
 - 2. Day care, family
 - 3. Educational institutions
 - 4. Home occupations
 - 5. Parks and public facilities
 - 6. Single-family dwellings, including manufactured homes
 - 7. Small places of public assembly
 - 8. Two-family dwellings, only on corner lots
- B. The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Article XVIII:
 - 1. Accessory dwellings
 - 2. Adult foster care small or large group homes
 - 3. Bed and breakfast establishments
 - 4. Community support facilities
 - 5. Day care, group
 - 6. Day care, adult
 - 7. Funeral homes
 - 8. Large places of public assembly
 - 9. Marinas
 - 10. Office buildings
 - 11. Short-term rentals
- C. Site and building placement standards (Figure 7.1):

Minimum Lot Area	8,000 sq. ft.
Minimum Lot Width	66 ft.
Minimum Setbacks	
Front	25 ft.
Side	8 ft.
Rear	25 ft.
Minimum Floor Area	832 sq. ft.
Maximum Building Height	35 feet
Maximum Lot Coverage	50%

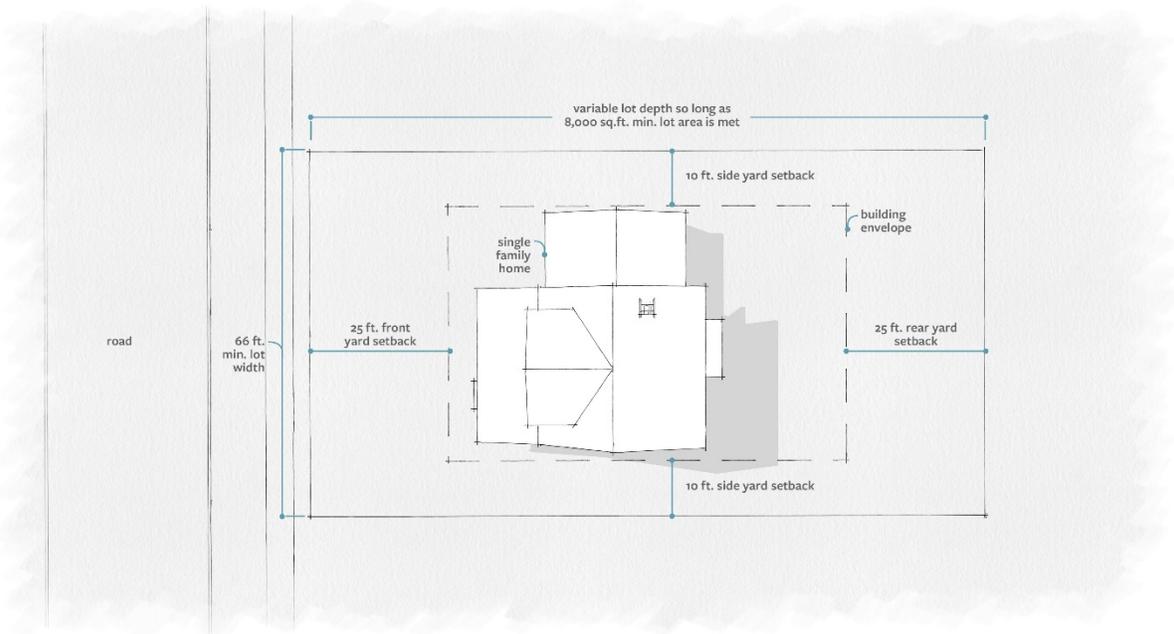


Figure 7.1 Single Family Residential Site and Building Placement Standards

ARTICLE VIII MULTIPLE FAMILY RESIDENTIAL (MFR)

Section 390-58. Intent.

The intent of this district is to provide for a variety of housing types and compatible, related uses at a moderate to high density of residential development. The primary housing form is multi-unit dwellings. These types of dwellings typically provide common open space and provide housing options with certain accessory uses such as parks, laundry facilities, and garages, among others. Housing developed within this district should have the same degree of living quality expected from any other residential district. Uses within this district should be sensitive to adjacent uses. Building size and form should be compatible to the size and form of neighboring districts and adjacent buildings, so as to enhance the available housing options of local residents without disrupting the continuity and character of existing neighborhoods. This district should be well-integrated into the surrounding community, functioning as a transitional zone between single-family residential uses and higher intensity uses.

Section 390-59. District summary.

- A. Land, buildings and other structures in this zoning district may only be used for the following purposes by right:
 - 1. Adult foster care family homes
 - 2. Day care, family
 - 3. Home occupations
 - 4. Multiple-family dwellings
 - 5. Single-family dwellings
 - 6. Two-family dwellings
 - 7. Parks and public facilities
- B. The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Article XVIII:
 - 1. Accessory dwellings
 - 2. Adult foster care small and large group homes
 - 3. Adult foster care congregate facilities
 - 4. Bed and breakfast establishments
 - 5. Day care, group
 - 6. Senior assisted living facilities
 - 7. Short-term rentals

C. Site and building placement standards (Figure 8.1):

Minimum Lot Area	8,000 sq. ft.
Minimum Lot Width	66 ft.
Minimum Setbacks	
Front:	25 ft.
Side:	5 ft.
Rear:	25 ft.
Minimum Dwelling Unit Floor Area	832 sq. ft. per unit for single-family and two-family dwellings 570 sq. ft. per unit for multi-family dwellings
Maximum Building Height	35 ft.
Maximum Lot Coverage	60%
Maximum Residential Density	8 units per acre

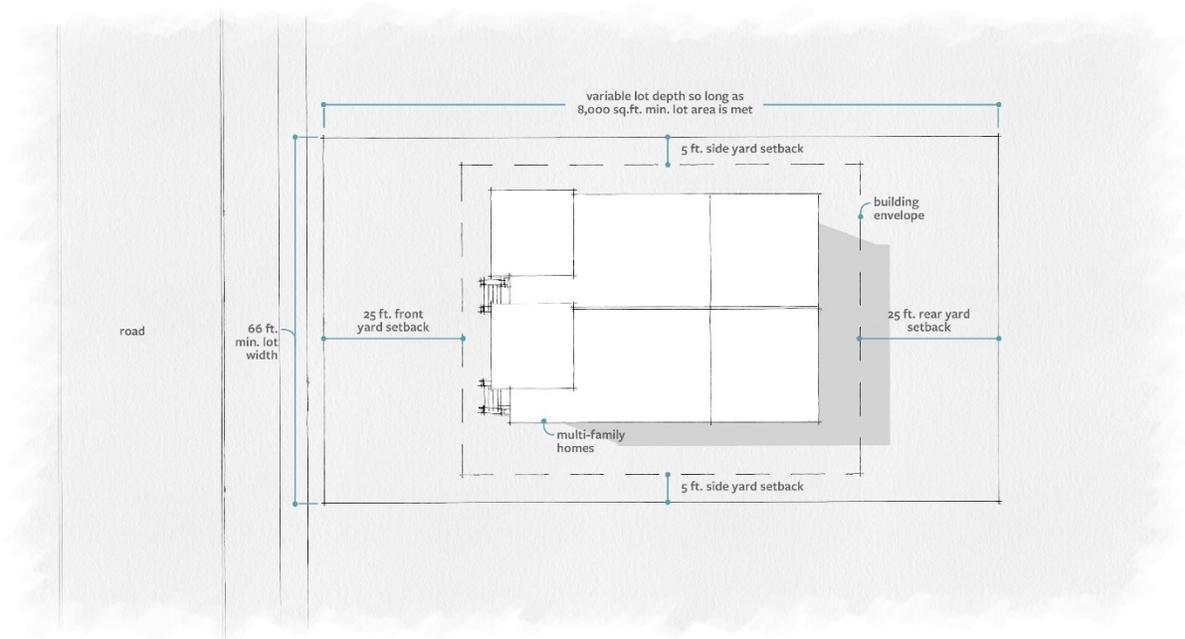


Figure 8.1 Multiple Family Residential Site and Building Placement Standards

D. Additional Standards.

1. There shall be maintained a minimum distance between adjacent buildings on the same lot of at least fifteen (15) feet.
2. All lots shall be served by public sanitary sewer and water.

ARTICLE IX COMMUNITY COMMERCIAL DISTRICT (C)

Section 390-60. Intent.

It is the intent of the Community Commercial District to encourage the quaint character of the Village through complementary uses that promote the Village's character and favor pedestrian activity. Properties in this district are established to promote the environment for businesses, protect the integrity of surrounding residential uses, and support a healthy economy by providing a vibrant mix of uses. Careful consideration is given to design elements that enhance the character of the Village and encourage a sense of place in the Village. The uses established in this district are intended to complement one another to provide a concentration of specialty retail and service uses with cultural and social activities that support a high level of nonmotorized activity, but also accommodate vehicular traffic. It is the intent of the design elements to deemphasize the negative impacts of strip commercial development and to strike a balance between the needs of the car and pedestrian by creating pleasant and safe surroundings for pedestrians and adjacent residential uses.

Section 390-61. District summary.

- A. Land, buildings and other structures in this zoning district may only be used for the following purposes by right:
 - 1. Automobile repairs, minor
 - 2. Convenience stores
 - 3. Clubs or lodges
 - 4. Financial institutions, without drive-through facilities
 - 5. Live/Work
 - 6. Medical clinics
 - 7. Office buildings
 - 8. Parks and public facilities
 - 9. Personal service establishments
 - 10. Professional service establishments
 - 11. Residential above retail or offices
 - 12. Restaurants without drive-through facilities
 - 13. Retail businesses
- B. The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Article XVIII:
 - 1. Adult foster care congregate facilities
 - 2. Automobile wash
 - 3. Automobile gasoline stations
 - 4. Automobile repairs, major

5. Assembly operations
6. Bed and breakfast establishments
7. Day care, commercial
8. Funeral homes
9. Financial institutions with drive-through facilities
10. Hotels and Motels
11. Indoor recreation facilities
12. Open air businesses
13. Restaurants with drive-through facilities.
14. Senior assisted living facilities
15. Short term rentals of permitted dwelling units.
16. Veterinary hospitals
17. Wholesale establishments and warehouses

C. Site and building placement standards (Figure 9.1):

Minimum Lot Area	10,000 sq. ft.
Minimum Lot Width	75 ft.
Minimum Setbacks	
Front:	25 ft.
Side:	0 ft., subject to Section 390-62 C (9) below
Rear:	25 ft.
Minimum Floor Area	N/A
Maximum Building Height	35 ft.
Maximum Lot Coverage	75%

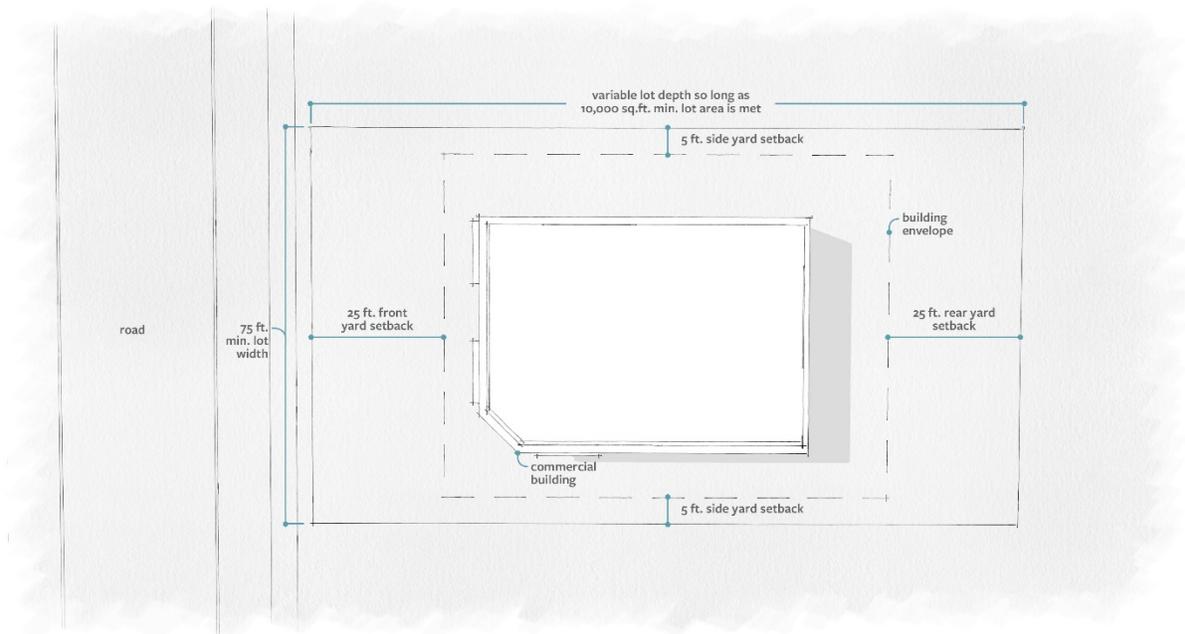


Figure 9.1 Community Commercial District Site and Building Placement Standards

Section 390-62. Design standards.

- A. Sidewalk and buffer area. Immediately adjacent to the road right-of-way, the following shall be provided (Figure 9.2):
1. A five-foot-wide sidewalk placed on the outermost edge of the public right-of-way to optimize green space between the roadway and a pedestrian, constructed in accordance with Village standards.
 2. One street tree for each thirty (30) feet of frontage, consistent with the provisions of Article XIV.
 3. Wrought iron fence with brick pier accents shall be provided along the front lot line of any new development or substantially redeveloped property.

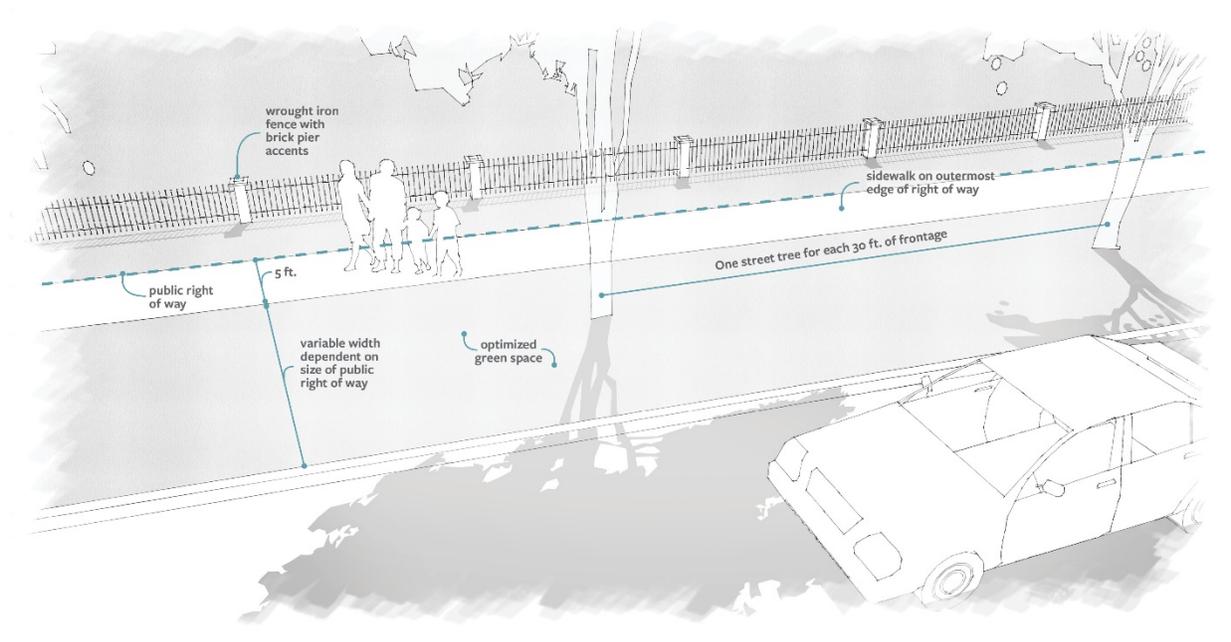


Figure 9.2 Community Commercial District Sidewalk and Buffer Area

B. Parking and access.

1. Only one (1) row of parking may be provided in the front setback and only if there is sufficient space for parking after the required landscape buffer areas are provided.
2. Additional required parking shall be provided in side yards (behind the front building line) or in the rear yard.
3. Driveway improvements, including but not limited to drive consolidation, relocation, drive sharing and cross-access easements, may be required as part of the site plan review process.
4. If the village, MDOT, or a traffic study determines that traffic calming improvements are needed, an application shall be tabled or denied until such time the improvements can be completed.
5. Where property depth permits, a rear access drive shall be provided with cross-access easements or agreements granted to adjacent properties to facilitate movement between properties.

C. Site and building standards. All new structures, major exterior structural renovations, and additions to structures, shall adhere to the following design standards (Figure 9.3):

1. Existing site trees of over ten (10) inches in diameter shall remain on site as much as practical. Building and parking lot placement shall minimize tree loss. The Planning Commission may require a performance guarantee for tree preservation and/or replacement.
2. All new structures shall incorporate the following design elements:

- a. Between forty (40) and sixty (60) percent of the exterior building wall of any principal building fronting a street shall consist of transparent windows.
 - b. Windows shall be provided on one side elevation but are not required on rear elevations.
3. Blank walls shall not face a street. For building facades exceeding seventy-five (75) feet in length which face streets, rights-of-way and/or parks, no more than thirty (30) feet of horizontal distance of wall shall be provided without articulation or architectural design variations to assure that the building is not monotonous in appearance and to give buildings the appearance of small individual storefronts.
 - a. Acceptable variations include, but are not limited to:
 - 1) Recesses and projections along the building facade; variations in depth must be a minimum of eighteen (18) inches.
 - 2) Architectural details or features such as arches; changes in vertical elements such as towers, cupolas, or changes in roof design; contrasting bases, masonry courses, or molding; pilasters and columns; stone accents; colonnades; or porches.
 - 3) Enhanced ornamentation around building entryways; ornamentation may include, but is not limited to, canopies, paving treatments, change in roofline, porticos, larger door openings and display windows, accent colors, arches, arcades, distinctive door pulls, decorative lighting and planters.
 - b. The thirty (30) foot requirement may be modified by the Planning Commission by up to five (5) feet depending on actual building design, entry placement, and other factors that make the thirty (30) foot requirement impractical.
4. The adaptive reuse of existing structures is preferred over demolition of existing structures.
5. Building materials for front and side elevations shall only consist of the following:
 - a. Brick or composite mimicking brick.
 - b. Stone or composite mimicking stone.
 - c. Nonreflective glass.
 - d. Horizontal clapboard siding.
 - e. Commercial-grade horizontal vinyl siding mimicking wood (at least 0.44 inch thickness).
6. Window awnings shall be consistent with designs depicted in the Village Design Manual insofar as practicable. High-gloss or bubble awnings are prohibited.
7. In no case shall vertical siding, cinder blocks, or sheet metal be considered an acceptable building cover.
8. All sides of a building shall be finished with complimentary color and materials as the major facade containing the principal customer service entrance.

9. Zero (0) lot line may be permitted on one (1) side yard, provided there is a minimum distance of ten (10) feet between structures. Shared walls may be permitted with adjacent properties, provided the separation wall is properly fire-rated.
10. In addition to a sidewalk, the Planning Commission may require pedestrian ties between properties and to adjacent neighborhoods, parks, and/or nonmotorized trails.
11. Sidewalk and trail accents that carry on the theme of brick pavers or textured and contrasting materials currently found in the district are strongly encouraged.
12. The Planning Commission may require, during the site plan review process, on-site public amenities along street frontages, including but not limited to trash receptacles, bike racks, seating areas and similar facilities where appropriate.
13. Special provision is made for applying the standards of this article to developed sites which existed prior to the adoption of this article. Therefore, when an existing site is undergoing improvement or expansion, the objective of this article is to gradually transition the existing site into compliance with the minimum standards of this article in relation to the extent of the expansion or change on the site.
 - a. Additions to existing buildings which are twenty (20) percent or less of the existing building square footage may be permitted to continue the existing roofline and siding materials where the existing roof and siding materials are in very good condition and unlikely to need upgrading or replacement in the near future.
 - b. Alterations to existing buildings, the cost of which is less than half (1/2) the value of the building, as determined by the most recent assessment for purposes of taxation, exclusive of the market value of the land, may be permitted to match existing exterior materials and design, provided the structure is in good condition at the time of the alterations.
 - c. In the case of a building addition or alteration which meets the criteria established in (a) and (b) above, the design standards in Section 390-62 may be modified by the Village, provided that the overall purpose and intent of this Article is fulfilled to the greatest extent feasible.

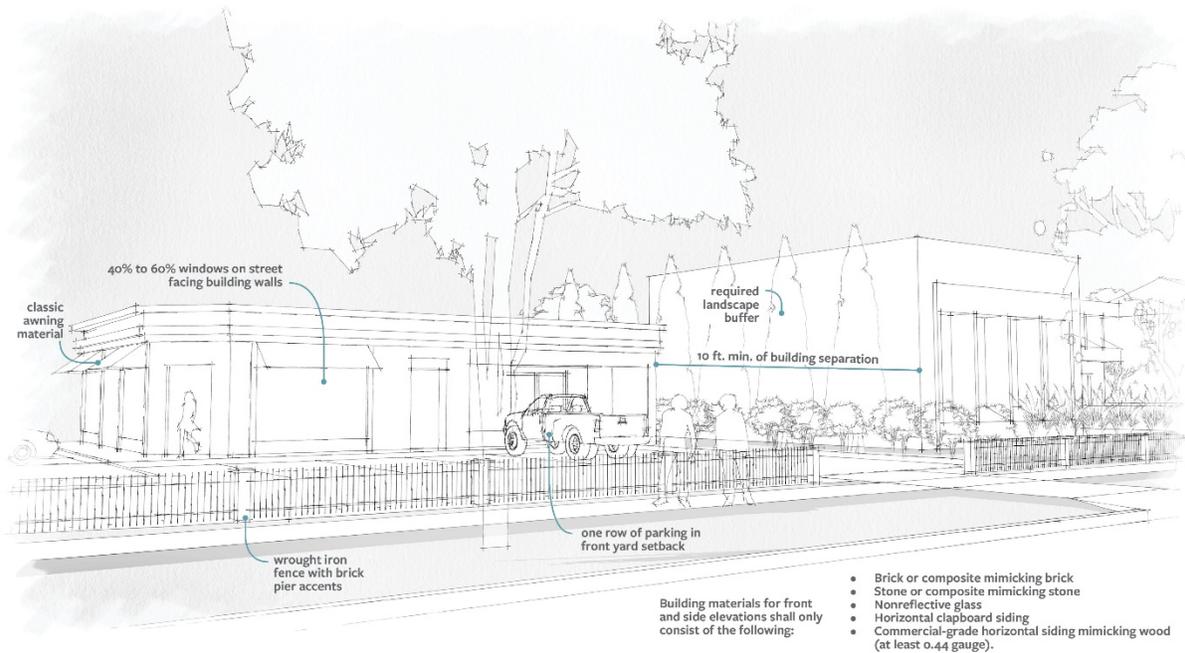


Figure 9.3 Community Commercial District Design Standards

Section 390-63. Exceptions.

- A. For the purpose of this section, an "exception" is defined as a modification of one (1) or more of the requirements of this article.
- B. Exceptions. Exceptions from the requirements of Section 390-62 may be granted by the Planning Commission as part of the site plan review process if the following criteria are met:
 1. The proposed construction is consistent with the overall intent of these minimum design standards and requirements;
 2. The applicant proves a practical difficulty in complying fully with the provisions of this article, owing to conditions peculiar to the land or structure and not the result of the action of the applicant, would result from strict adherence to these standards and requirements;
 3. That the exception is no more than what is necessary to relieve the applicant's practical difficulty; and
 4. That the site plan otherwise meets the requirements of this Chapter.

ARTICLE X RESERVED

ARTICLE XI, CENTRAL BUSINESS DISTRICT (CBD)

Section 390-69. Intent.

It is the intent of this district to provide a central shopping and service area within a traditional downtown atmosphere which favors pedestrian activity and the consolidated design concepts of a traditional downtown main street. The uses established in this district are intended to complement one another to provide for the needs of these shoppers, along with cultural and social activities that support a high level of nonmotorized activity. The district is further established to improve the sense of place in the Village, improve the environment for business, to support a healthy economy by providing a vibrant mix of uses, and to strike a balance between the needs of the car and pedestrian by creating pleasant and safe surroundings.

Section 390-70. District summary.

- A. Land, buildings and other structures in this zoning district may only be used for the following purposes by right:
 - 1. Convenience stores
 - 2. Financial institutions without drive-through facilities
 - 3. Medical clinics
 - 4. Office buildings
 - 5. Personal service establishments
 - 6. Professional service establishments
 - 7. Parks and public facilities
 - 8. Residential above retail or offices
 - 9. Restaurants without drive-through facilities
 - 10. Retail businesses
 - 11. Short term rentals of permitted dwelling units.
- B. The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Article XVIII:
 - 1. Automobile gasoline stations
 - 2. Automobile repairs, minor
 - 3. Automobile repairs, major
 - 4. Automobile wash
 - 5. Farmer's markets
 - 6. Financial institutions, with drive-through facilities.
 - 7. Funeral homes
 - 8. Hotels and motels
 - 9. Indoor recreation facilities

- 10. Marinas
- 11. Open air business
- 12. Restaurants with drive-through facilities
- 13. Tattoo or piercing parlor
- 14. Veterinary hospitals

C. Site and building placement standards (Figure 11.1):

Minimum Lot Area	None
Minimum Lot Width	None
Minimum Setbacks	
Front:	None
Side:	None
Rear:	None
Minimum Floor Area	None
Maximum Building Height	45 feet
Maximum Lot Coverage	None

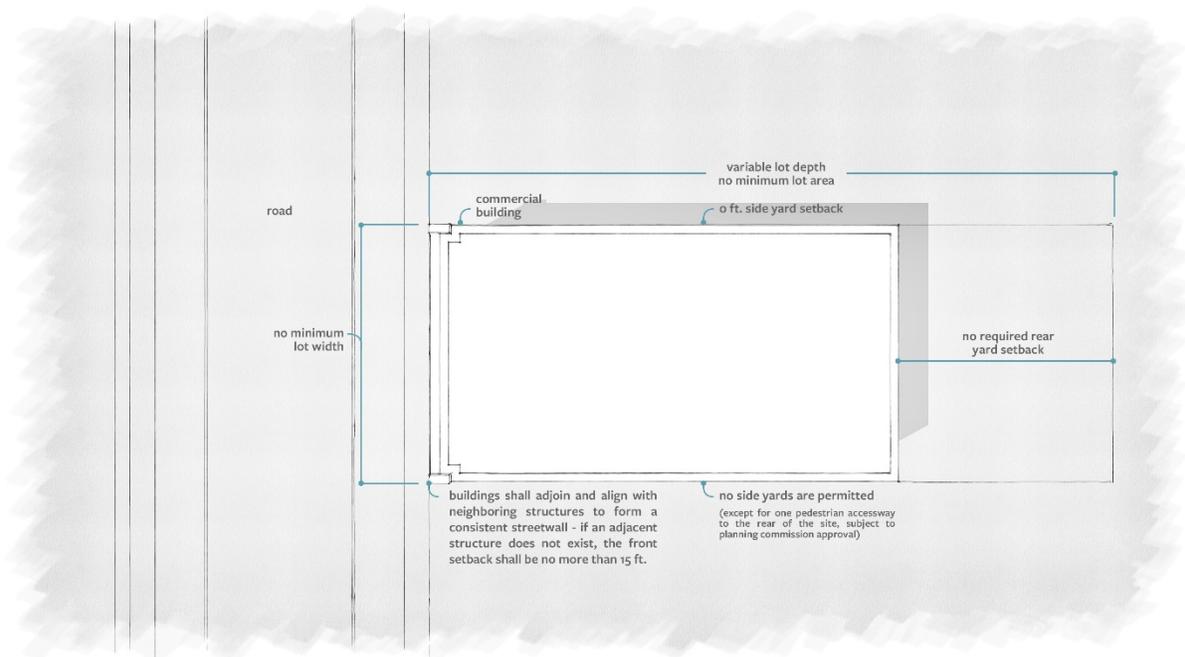


Figure 11.1 Central Business District Site and Building Placement Standards

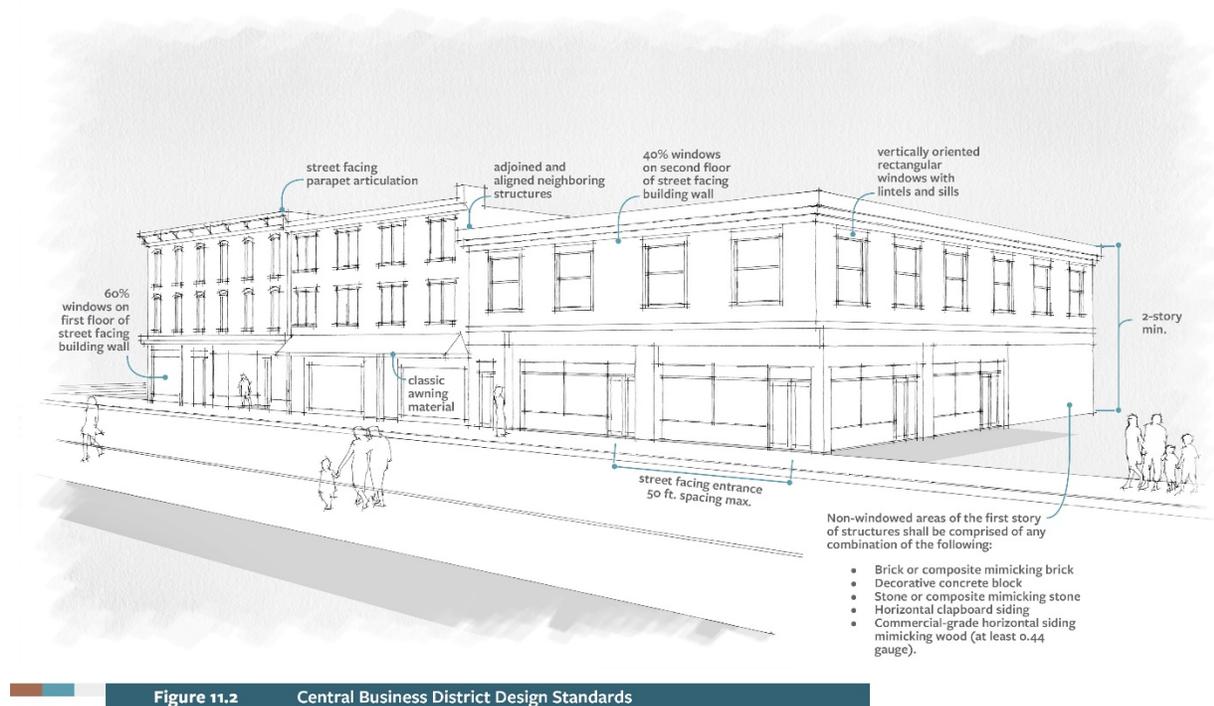
Section 390-71. Design standards.

With the exception of single-family structures, all new structures, major exterior structural renovations, or additions to structures, shall adhere to the following design standards (Figure 11.2):

- A. All structures shall be a minimum of two stories in height except that additions to existing one-story structures may be one story in height if the square footage of the addition is less than 570 square feet.
- B. All buildings with flat roofs shall include parapet articulation on the facade(s) of each building facing the street.
- C. No side yards are permitted except that one pedestrian accessway may be developed to access the rear of the site, subject to Planning Commission approval during the site plan review process. In no case shall there be another such pedestrian accessway within 100 feet unless approved by the Planning Commission. Accessways shall be landscaped in accordance with the provisions of this Chapter. Accessway width shall be a minimum of five feet and a maximum of 10 feet in width.
- D. Buildings shall adjoin and align with neighboring structures to form a consistent streetwall. If an adjacent structure does not exist, the front setback shall be no more than 15 feet from the street right-of-way line. The front yard, if provided, shall be landscaped in accordance with the provisions of this Chapter and have appropriate amenities (benches, bike racks, etc.) to enhance the street atmosphere.
- E. Detached accessory structures shall be behind the principal building.
- F. No off-street parking or delivery areas shall be permitted in the front yard of the property.
- G. Any facade facing the street or rear yard shall have an entrance for the public. Where building frontages exceed 50 feet in width, doors, or entrances with public access shall be provided at intervals averaging no greater than 50 feet apart.
- H. For buildings facing the street, no more than 50 feet of horizontal distance of wall shall be provided without articulation of architectural design variations to assure that the building is not monotonous in appearance. Acceptable variations include, but are not limited to, the following:
 - 1. Recess and projections along the building facade. Variation in depth must be a minimum of eighteen (18) inches.
 - 2. Architectural details or features such as arches; changes in vertical elements such as towers, cupolas, or changes in roof design; contrasting bases, masonry courses, or molding; pilasters and columns; stone accents; colonnades; or porches.
 - 3. Enhanced ornamentation around building entryways, such as canopies, paving treatments, change in roofline, porticos, larger door openings and display windows, accent colors, arches, arcades, distinctive door pulls, decorative lighting and planters
- I. All building walls which face a street shall be comprised of at least 60% windows on the first floor and at least 40% windows on upper floors. Windows on upper floors shall be vertically oriented, rectangular windows with lintels and sills. Reflective glass, bronze-tinted glass, and

frosted materials shall be prohibited for ground floors and strongly discouraged on upper floors. Window glazing shall be recessed from the outside of all building walls.

- J. Window awnings shall mimic classic design depicted in the Village Design Manual. High-gloss or bubble awnings are prohibited.
- K. Non-windowed areas of the first story of structures shall be comprised of any combination of the following:
 1. Brick or composite mimicking brick;
 2. Decorative concrete block;
 3. Stone or composite mimicking stone;
 4. Horizontal clapboard siding;
 5. Commercial-grade horizontal vinyl siding mimicking wood (at least 0.44 gauge).
- L. Areas above the first story may also be comprised of stucco or cement board.
- M. In no case shall vertical siding, cinder block, or sheet metal be considered an acceptable building cover.
- N. All development shall be adequately served by a sidewalk at least five (5) feet in width or as otherwise required by the Village.



Section 390-72. Exceptions.

- A. For the purpose of this section, an "exception" may be defined as a request to waive one or more of the requirements of Section 390-71 above.

- B. Exceptions, as defined in this section, shall be reviewed by the Planning Commission through a site plan review process. Exceptions to the requirements may be approved by the Planning Commission upon a finding that the following criteria are met:
1. The proposed construction is consistent with the overall intent of these minimum design requirements; and
 2. The applicant proves a practical difficulty in complying with the provisions of Section 390-71, owing to conditions peculiar to the land or structure and not the result to the action of the applicant, would result from strict adherence to these requirements;
 3. That the site plan meets the requirements of this Chapter;
 4. That the exception is no more than what is necessary to relieve the applicant's practical difficulty.

ARTICLE XII PLANNED UNIT DEVELOPMENT (PUD)

Section 390-73. Intent.

- A. Planned unit developments (PUDs) in the Village may be established in any zoning district when approved by the Village Council in accordance with the procedures specified in this article.
- B. The primary purpose of this article is to encourage the creation of desirable and efficient working and/or living environments that are designed and developed as integrated projects with harmonious land uses and compatibility with surrounding areas and natural features. It is the intent of this article to authorize the consideration and use of a PUD for some or all of the following purposes:
 - 1. Provide for flexibility in the regulation of land development;
 - 2. Encourage innovation in land use and variety in design, layout, and type of buildings and structures;
 - 3. Achieve economy, efficiency and sustainability in the use of land, natural and historical resources, energy, and the provision of public services and utilities;
 - 4. Encourage the use of land in accordance with its character and adaptability;
 - 5. Encourage useful open space;
 - 6. Promote the enhancement of housing diversity, employment, traffic circulation, pedestrian movement, and recreational opportunities for the residents of the Village;
 - 7. Provide for the regulation of a variety of land uses not otherwise authorized within a single zoning district;
 - 8. Create better living, working, and shopping environments; and
 - 9. Create developments that achieve the standards and best practices of smart growth and sustainable, energy efficient design.
- C. In order to accomplish these objectives, this article permits variation from the conventional requirements found in the underlying zoning district(s). The use of land and the construction and use of buildings and other structures as a PUD shall be in conformance with the procedures, standards, requirements, and conditions for eligibility contained in this article.

Section 390-74. Qualifying conditions.

In order to qualify for PUD, the following qualifying conditions shall be satisfied:

- A. A PUD may be considered for any property in the Village. However, the applicant must demonstrate that the PUD would result in recognizable and substantial benefits to the ultimate users of a development and to the community in general, where such benefits would be unfeasible or unlikely to be achieved under the conventional requirements of this Ordinance.
- B. A PUD shall be served adequately by essential public facilities and services, such as streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer, electricity, natural gas, and telecommunications.

- C. A PUD shall be compatible with the capacities of public services and facilities it may affect.
- D. The parcel shall be under the control of one owner or the subject of an application filed jointly by the owners of all properties and shall be capable of being planned and developed as one integral unit. Applications for a PUD must be made with the written authorization of all owners of the site. If a PUD application is filed by a prospective purchaser or option holder, written consent of all property owners must be submitted as evidence of their concurrence with the PUD application.
- E. A PUD shall result in a development that is substantially consistent with the goals and objectives of the Village's Master Plan, including, but not limited to creating a walkable, sustainable, and attractive community and protecting reasonable waterfront views and access for all waterfront developments.

Section 390-75. Site development requirements.

- A. Permitted Uses. Any principal or accessory land use permitted in any zoning district, either as a use by right or a special land use under this ordinance, or any combination of such uses, may be considered within the PUD district. Provided, however, that the Planning Commission and the Village Council must reach a finding that all such proposed uses and the impacts they may generate on one another and on the surrounding community shall be generally compatible and harmonious with one another.
- B. Density.
 - 1. For PUDs located in non-residential districts, the maximum number of dwelling units permitted in a PUD shall be determined by the Planning Commission in consideration of the master plan, existing and future surrounding land uses, capacity of public utilities and services, and other applicable factors.
 - 2. The total amount of land to be used for the calculation of the permitted density in a PUD in subsection 1 above shall be determined by using the net developable area, which shall be determined by taking the total site area and subtracting lands used or dedicated for existing public easements and existing rights-of-way for streets or private roads.
 - 3. Land not proposed for development and not used or dedicated for existing street or private road rights-of-way or other infrastructure, but used for the calculation of overall density, shall be considered open space and subject to the requirements of 390-75 C below.
- C. Open space.
 - 1. When open space is proposed as part of a PUD, it shall be large enough and of proper dimensions to contribute significantly to the intent of the PUD.
 - 2. Open Space Maintenance.
 - a. All Open Spaces shall be in the joint ownership of the property owners within the PUD. A property owners' association shall be formed which shall take responsibility for the maintenance of the Open Space. Alternatively, evidence shall be given that satisfactory arrangements will be made for the maintenance of the Open Space land to relieve the Village of its future maintenance.

- b. The applicant for the proposed PUD shall provide the Village with a recordable maintenance or restrictive covenant agreement among the owners of the Open Space, or other documentation satisfactory to the Village which shall provide for and assure that the Open Space shall be preserved in perpetuity and maintained as needed. Open Space may be deed restricted, placed in a conservation easement, or otherwise held as Open Space in perpetuity. Suitable recorded instruments shall be submitted to the Village for review prior to final approval of the PUD.
- D. Every PUD shall adhere to the standards of the underlying zoning district, unless specifically waived by the PUD approval. The proposed plan shall support the intent of the underlying zoning district and sections 390-74 and 390-75 of this article.
 - E. Every PUD shall adhere to the minimum design standards of the CBD Zoning District and the principles of the Village Design Manual, except that the Planning Commission may waive these standards under the following conditions:
 - 1. Minimum height may be waived if a taller structure would not fit the character of the immediate vicinity.
 - 2. Building material standards may be waived for building faces not in the immediate view of the public.
 - 3. Shared wall requirements would not be practical in the scope of the proposed design.

Section 390-76. General application procedures.

- A. The following steps, which are outlined in Sections 390-77 through 390-81, shall apply to all applications for PUD approval, whether residential, non-residential, or mixed use:
 - 1. Pre-application Conference. Prior to the submission of an application for a PUD, the applicant shall meet with the Village for initial review.
 - 2. PUD Preliminary Review and PUD Rezoning.
 - a. The Planning Commission shall review the preliminary development plan, hold a public hearing, and make a written recommendation to the Village Council.
 - b. The Village Council shall hold a public hearing, review the final PUD development plan for the entire project or for each phase of the project as identified in the preliminary development plan review, and the written recommendation and findings from the Planning Commission, and make a final decision.
 - 3. PUD Final Site Development Plan Review. The Planning Commission shall review the PUD final site development plan in accordance with Article XVII of this Ordinance. During the final development plan review, a PUD Agreement will also be developed by the Planning Commission with final approval by the Village Council.
- B. Either concurrently with the PUD plan application, or upon approval by the Village Council (with or without conditions), the applicant may apply for preliminary plat approval, condominium approval, and private road approval, as applicable.

Section 390-77. Pre-application conference.

- A. Information Required. Prior to the submission of an application for a PUD, the applicant shall meet with the Planner, Zoning Administrator, and any other individuals designated by

the Village Manager. The applicant shall demonstrate that the proposed PUD will satisfy the intent of this article, set forth in Section 390-73, and present at such conference a sketch plan of the development. The pre-application conference shall include the following information:

1. A description of the property and disclosure of ownership interest;
 2. Total number of acres included in the project;
 3. The principal objectives of the PUD; identification of its prospective users and their needs; and why this site is appropriate for those objectives and those users;
 4. A description of proposed land uses including the approximate number of residential units and/or approximate number/type and square footages of nonresidential development. This shall include the general development concept, including structures to be retained, remodeled or demolished, an overall architectural concept or development theme, and markets to be served by the development;
 5. A conceptual plan showing significant natural features, vehicular and pedestrian circulation;
 6. A general description of any departures from the regulations of this article which may be requested;
 7. The relationship of the development to the surrounding neighborhood;
 8. The approximate area of the proposed PUD to be devoted to each use;
 9. A description of how the proposed PUD will relate to the goals and objectives of the Village's Master Plan;
 10. All known natural resources, historical sites and natural features including any views from the site to important natural features and any impediments to development;
 11. The benefits that are expected to result from the PUD pertaining to the subject site;
 12. If the plan is to be carried out in phases, a description of the phases and approximate time frame for each phase.
- B. Based on the information presented, the Village may advise the applicant of possible issues and concerns the Village may want addressed should the PUD application be submitted. However, any such initial input or response from the Village shall not be considered binding, nor shall it be construed to indicate any preliminary approval of the proposed PUD.

Section 390-78. Preliminary development plan and rezoning request.

- A. Following the pre-application conference, the applicant shall submit fourteen (14) copies of a complete application for review of a preliminary development plan to the Zoning Administrator at least 30 days prior to review by the Planning Commission.
- B. The PUD plan shall be prepared by a licensed professional engineer, community planner, or architect and shall be accompanied by an application form and fee as determined by the Village Council. Such application shall contain all of the following information, unless specifically waived by the Planning Commission upon recommendation of the Zoning Administrator:

1. General Information.

- a. Information required for the pre-application conference.
- b. Name, address, and phone number of the applicant.
- c. Name, address, and seal of the professional engineer, planner or architect that prepared the plan.
- d. Legal description of property including common street address(es).
- e. Land use and zoning of adjacent properties and approaches planned to achieve a gradual transition between the proposed PUD and the surrounding neighborhood.
- f. All lot or property lines with dimensions.
- g. Acreage (gross and net).
- h. Existing site conditions:
 - 1) Boundary survey lines and setbacks;
 - 2) Topographic survey including date, north arrow, and scale, which shall not be more than 1" = 100'.
 - 3) A small-scale sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within five hundred (500) feet of the PUD.
 - 4) General location of all buildings within one hundred (100) feet of the property lines.
 - 5) Location of existing vegetation and natural features.
 - 6) Location and dimensions of existing buildings, structures, paved surfaces and areas, installed landscaping, and other significant physical infrastructure.
 - 7) All areas within the Waterfront Overlay district as defined in accordance with Article XIII of this Zoning Ordinance.
 - 8) Size and location of existing utilities and status, where applicable.
- i. Proposed development:
 - 1) General location, size, and architectural character of all proposed structures on the site, including building elevations and footprints.
 - 2) General location and dimensions of all proposed streets, private roads, driveways, and parking areas, including total number of spaces and typical dimensions.
 - 3) General size and location of all areas devoted to open space.
 - 4) General location and size of proposed landscaped areas and buffer areas.
 - 5) A general signage plan, showing the type, location, and dimensions of all signs.
 - 6) A plan for debris and snow management and dust abatement during construction. Layout of sidewalks and/or pathways, both internal to the development and along the main street frontage.

- 7) An illustration of parking areas including traffic flow diagrams and a detailed estimate of parking demand based on all proposed uses.
- 8) Conceptual plan for provision of public water and public sanitary sewer services.
- 9) Conceptual grading plan.
- 10) Conceptual stormwater plan.

2. Additional Information.

a. A narrative describing:

- 1) The nature and concept of the project.
- 2) The proposed density, number, and types of dwelling units if a residential PUD.
- 3) How the proposed PUD meets the objectives of this article.
- 4) The legal mechanisms and structures proposed to assure the perpetual maintenance of any open space proposed.
- 5) How the proposed project will be served by public water, sanitary sewer, storm drainage, electric, gas, and telecommunications.
- 6) The phasing plan or staging plan, if applicable.
- 7) Proof of ownership or legal interest in the property.

b. The Planning Commission may require additional information from the applicant to better assist in the determination of PUD qualification such as, but not limited to, market studies, fiscal impact analysis, traffic impact studies, and environmental impact assessments.

C. Planning Commission Review and Public Hearing.

1. The Planning Commission shall review the PUD plan at a regular or special meeting and shall hold a public hearing. Notice of a public hearing shall be provided in accordance with the requirements of Section 390-151 of the Michigan Zoning Enabling Act of 2006, as amended.
2. The Planning Commission shall review the PUD plan in consideration of public comments, technical reviews from Village staff and consultants, and other applicable standards and requirements. Within a reasonable timeframe, the Planning Commission shall make a recommendation on the proposed PUD preliminary development plan to the Village Council. The recommendations of the Planning Commission shall be transmitted in written form to the applicant, and a copy of such recommendations transmitted to the Village Council.
3. In order to recommend approval of the PUD plan and PUD rezoning, the Planning Commission shall find that the standards of Section 390-80 are satisfied.

D. Village Council Review and Required Public Hearing.

1. Upon a recommendation of a PUD plan and PUD rezoning by the Planning Commission, a public hearing of the Village Council shall be scheduled in accordance with the Michigan Zoning Enabling Act, as amended.

2. After the public hearing, the Village Council shall review the application in consideration of the Planning Commission's written recommendation, public hearing comments, technical reviews from Village staff and consultants, and other applicable standards and requirements. Within a reasonable time, the Village Council shall approve, deny, or approve with conditions the PUD preliminary development plan and PUD rezoning.
3. Approval of the PUD plan and PUD rezoning by the Village Council shall be incorporated into a rezoning amendment to the zoning ordinance and map. Such rezoning and PUD plan approval shall become effective after notification and publication as required by the Michigan Zoning Enabling Act, as amended.
4. The PUD, including the preliminary development plan as approved, the incorporated narrative, and all conditions imposed shall constitute the land use authorization for the property. Such authorization shall remain in effect for a period of one (1) year from the date of approval by the Village Council, unless a longer period is granted. Uses not specifically identified in the preliminary development plan shall not be permitted. All improvements and uses shall be in conformity with this amendment, except as permitted by Section 390-83. During the period of effectiveness of the preliminary development plan, the applicant shall be permitted to submit one (or more if the project is to be proposed in phases) site plan applications seeking final development plan approval pursuant to Section 390-81.
5. In all instances, the Village Council may impose conditions with approval of a PUD which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this article. Such conditions shall be considered an integral part of the PUD approval and shall be enforceable by the Village.
6. In the event that an application for a final development plan is not submitted within the time limits set forth in the approved preliminary concept development plan and any extensions thereof that may be permitted and approved, the approval granted under this article shall expire, and the planning commission may initiate rezoning proceedings to an appropriate zoning district.
7. Prior to commencement of construction, the applicant and the Village shall enter into a Planned Unit Development Agreement, which shall incorporate the approved final development plan, relevant dates of approval, the legal description of the property, all relevant conditions of approval, and a statement that the property shall be developed in accordance with the approved PUD preliminary development plan and any conditions imposed by the Village Council or planning commission, unless an amendment is approved pursuant to Section 390-83. Such agreement shall be drafted in a form acceptable to the Village attorney and shall be recorded with the Ottawa County Register of Deeds prior to the commencement of construction.

Section 390-79. Appeals.

The Zoning Board of Appeals shall have no authority to hear appeals regarding a decision on a PUD.

Section 390-80. Standards for approval.

The Planning Commission and Village Council shall approve a PUD only if it complies with each of the following standards:

- A. The proposed PUD is consistent with and promotes the intent of this article and represents a development opportunity for the community that could not be achieved through conventional zoning.
- B. The proposed PUD complies with all of the qualifying conditions of Section 390-74.
- C. The proposed PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the public health, safety and welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, dust, or glare.
- D. The proposed type and density of use shall be compatible with the capacities of the public services and facilities it may affect, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
- E. The proposed development shall be compatible with the adopted master plan of the village and shall be consistent with the intent and spirit of this article.
- F. Safe and efficient ingress and egress has been provided to the property, with particular reference to pedestrian safety and convenience, traffic flow and control and access in case of fire or other emergency.
- G. The proposed PUD shall be designed, constructed, and maintained to be an integrated and harmonious development, appropriate in appearance with the existing or intended character of adjacent property, the surrounding uses of land, the natural environment, the capacity of public services and facilities affected by the development.
- H. The proposed PUD shall satisfy all applicable local, state, and federal laws, rules, and regulations.

Section 390-81. Planning Commission review of final site development plan.

- A. Submittal. After receiving approval of the preliminary development plan by the Village Council, the applicant shall submit twelve (12) copies of a final site development plan for review and approval by the Planning Commission prior to starting any construction. The final site development plan shall be submitted at least 21 days prior to the meeting at which the plan will be considered by the Planning Commission. The plan shall contain the same information required for the preliminary development plan along with the following:
 - 1. A completed application form, supplied by the Zoning Administrator;
 - 2. Payment of a fee, as established by the Village Council;
 - 3. A written response to the findings, review comments, and conditions, if any, from the Planning Commission and Village Council review of the preliminary development plan and a narrative explanation of the changes made to the final development plan in response to those items.
 - 4. Evidence that all required permits, other than Building permits, have been obtained, as applicable, from County, State, and/or Federal agencies; and

5. A Site Plan containing all of the information required in Article XVII (Site Plan Review); provided, individual Detached Single-Family Dwellings need not be shown on the plan. For developments consisting of three (3) or more phases, a plan meeting the requirements of Section 390-78 may be submitted for the overall PUD and a detailed plan as required for final site development plan may be submitted for the first phase. Each subsequent phase shall be reviewed in the same manner.
 6. Final plans for water and sanitary sewer services, stormwater management, site grading, and similar items for which conceptual or general plans were required in Section 390-78.B.2.a (5).
- B. Standards for Final Site Development Plan Approval. Upon receipt of a complete application for final site development plan, the Planning Commission shall review said application and either approve, deny, or approve with conditions the final site development plan. In making its decision, the Planning Commission shall find that the proposed PUD meets the intent and qualifying conditions of this article and that it is in conformance with the preliminary development plan and the conditions, if any, of the PUD approval. If it is determined that the final site development plan is not in substantial conformance to the preliminary development plan, the review process shall be conducted as a preliminary development plan review, in accordance with the procedures of Section 390-77 through Section 390-78 of this Ordinance.
- C. Conditions.
1. In approving a final site development plan, the Planning Commission may impose reasonable conditions. Conditions imposed shall meet all of the following requirements:
 - a. Be designed to protect natural resources, the health, safety, and welfare, and the social and economic well-being of those who will use the land use or activity under consideration, residents, and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - b. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of this article and the preliminary development plan, be related to the standards established in this article for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
 2. The conditions imposed with respect to the approval of a PUD final development plan shall be recorded in the record of the approval action and shall remain unchanged except according to Section 390-83. The Planning Commission shall maintain a record of conditions which are unchanged. The final site development plan, as approved, shall act as a restriction upon the development. The development must conform with the final development plan, and no building permit shall be issued for any improvements that are not in compliance with said plan.

Section 390-82. Performance guarantees.

The planning commission may require a performance bond or similar guarantee in order to ensure the completion of required improvements pursuant to Section 390-153 of this Ordinance.

Section 390-83. Changes to approved PUD.

Changes to an approved PUD shall be permitted only under the following circumstances.

- A. The holder of an approved PUD final development plan shall notify the Zoning Administrator of any desired change to the approved PUD.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the PUD, nor any specified conditions imposed as part of the original approval. Minor changes shall include any of the following.
 - 1. Reduction of the size of any building or sign;
 - 2. Movement of buildings or signs by no more than 10 feet;
 - 3. Landscaping approved in the final development plan that is replaced by similar landscaping to an equal or greater extent;
 - 4. Changes in floor plans, of up to 5% of the total floor area of all buildings, which do not alter the character of the use or increase the amount of required parking;
 - 5. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
 - 6. Changes required or requested by the Village, the county, or other state or federal regulatory agency in order to conform to other laws or regulations;
 - 7. Change of phases or sequence of phases, only if all phases of the PUD have received final approval.
 - 8. Other changes determined by the Zoning Administrator to be minor changes.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the final development plan and shall be processed in the same manner as the original PUD application, including both preliminary and final development plan review (although the Planning Commission is not required to hold a public hearing in this context).

Section 390-84. Time limit for approved PUD; extensions.

- A. For each approved PUD, construction shall be commenced and shall proceed meaningfully toward completion within one (1) year from the date of the approval of the final development plan by the Planning Commission, or a longer period established per Section 380-78.D.4. If the Zoning Administrator determines this requirement is not being complied with, the Zoning Administrator shall notify the owner/applicant in writing at least 14 days prior to the expiration of this one-year time period.
- B. The owner or applicant of the PUD may apply to the Planning Commission for one extension of the original approval for an additional term of one year. The Planning Commission may, in its discretion, authorize this extension. In considering such authorization, the Planning Commission shall consider the following standards:
 - 1. The PUD has encountered unforeseen difficulties beyond the reasonable control of the owner/applicant.

2. The PUD has a likelihood of now proceeding.
- C. If the PUD has not commenced and proceeded meaningfully towards completion at the end of the initial one-year or longer time period, or the one permitted extension thereof, then the PUD approval shall be automatically invalid and void.

ARTICLE XIII WATERFRONT OVERLAY DISTRICT (WOD)

Section 390-85. Intent.

The Waterfront Overlay District is a supplementary zoning district which applies to designated lands, as shown on the Zoning Map, simultaneously with one of the other zoning districts established in this Chapter, hereinafter referred to as the "underlying" zoning district. Lands included in the Waterfront Overlay District are characterized by uses which are strongly oriented toward recreational experience and enjoyment of the waterways and shorelines of the Village. It is the intent of the Waterfront Overlay District to provide regulations in addition to those contained in the underlying zoning district pertaining to lands located in the resort waterfront areas of the Village. The purpose of these regulations is to recognize the unique physical, economic, and social attributes of resort waterfront properties and to ensure that structures and uses in this zoning district are compatible with and protect these unique attributes.

Section 390-86. Permitted uses.

Land, structures and buildings in this zoning district may be used only for those uses listed as either a permitted use or special land use in the underlying zoning district in which the land is located.

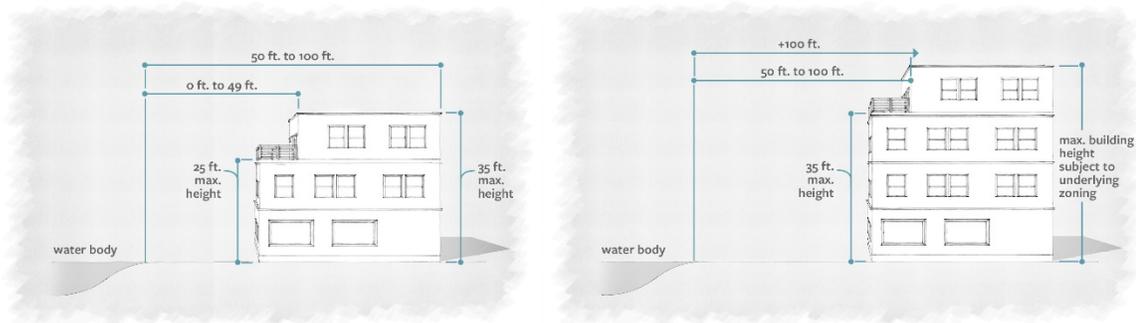
Section 390-87. Design requirements for waterfront development.

All waterfront developments shall be designed and constructed in conformance with the following requirements:

- A. Waterfront developments shall maintain, to a reasonable extent, open and unobstructed views to the waterfront from adjacent properties, roadways, and pedestrian ways.
- B. Waterfront developments shall be designed to provide uninterrupted public pedestrian access to and/or along the shoreline of the property at locations as required by the Planning Commission. The waterfront development shall provide a duly recorded, public pedestrian access easement to accomplish such access, and shall include construction of improved pedestrian pathways or walkways in accordance with standards established by the Village for such purpose.
- C. When construction of the pedestrian pathways required in Subsection B, above, would not result in a functional or useful pedestrian circulation route, because of the lack of completion of planned facilities on adjacent property(ies), the construction of such pathways may be deferred, provided that such construction shall be secured by a performance guarantee in accordance with Section 390-153 of this ordinance.
- D. The design of waterfront developments shall take into account environmental factors that affect the shoreline, in particular, erosion, pollution, and protection of wildlife. Applicants shall present evidence which demonstrates that these factors have been considered and adequately addressed.
- E. Waterfront developments shall be designed in accordance with the site plan review standards contained in Article XVII.

Section 390-88. District regulations.

- A. Regulations pertaining to minimum lot area, minimum lot width, required yards, and minimum residential floor area shall be as required by the underlying zoning district.
- B. Maximum building height shall be subject to the following limitations, unless the requirements of the underlying zoning district are more restrictive, in which case the limitations of the underlying zoning district shall be satisfied (Figure 13.1).
 - 1. When any part of a building is located less than 50 feet from a shoreline, the part of the building so located shall be subject to a maximum building height of 25 feet.
 - 2. When any part of a building is located between 50 feet and 100 feet from a shoreline, the part of the building so located shall be subject to a maximum building height of 35 feet.
 - 3. When any part of a building is located greater than 100 feet from a shoreline, the part of the building so located shall be subject to the maximum building height limitations of the underlying zoning district.
- C. All other applicable district regulations shall be those provided for in the underlying zoning district, except that, where more than one limitation applies, the more restrictive of the two limitations shall apply.



MAXIMUM BUILDING HEIGHT NOTES:

- 1. When any part of a building is located less than 50 ft. from a shoreline, the part of the building so located shall be subject to a maximum building height of 25 ft.
- 2. When any part of a building is located between 50 ft. and 100 ft. from a shoreline, the part of the building so located shall be subject to a maximum building height of 35 ft.
- 3. When any part of a building is located greater than 100 ft. from a shoreline, the part of the building so located shall be subject to the maximum building height limitations of the underlying zoning district.

Graphics are not to scale.

Figure 13.1 Waterfront Overlay District Regulations

ARTICLE XIV LANDSCAPING & SCREENING

Section 390-89. Intent.

The provisions in this article are intended to set minimum standards for the design, installation, and maintenance of landscaping, greenbelts, and screening for the protection and enhancement of the Village's environment. Landscaping and screening enhances the visual image of the Village, preserves natural features, improves property values, and alleviates the impact of noise, traffic, and visual distraction associated with certain uses. The intent of these provisions includes, but is not limited to the following:

- A. Promote the implementation of the Master Plan and promote values of a Tree City USA community;
- B. Define, articulate, and integrate outdoor spaces, architectural elements, and various site elements;
- C. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way;
- D. Protect and preserve the appearance, character, and value of the residential uses that abut nonresidential areas, parking areas, and other intensive use areas, thereby protecting the public health, safety, and welfare, by requiring complementary landscaping treatments and providing transitional areas adjacent to natural areas;
- E. Reduce soil erosion and depletion by utilizing vegetative root systems to stabilize soils and foliage to reduce the effects of erosive winds and water;
- F. Increase stormwater retention and slow the movement of water, thereby helping to prevent flooding;
- G. Provide reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein;
- H. Recognize and preserve natural areas such as woodlands, wetlands, and floodplains within and adjacent to a development site;
- I. Encourage the preservation of larger, native trees that, once destroyed, can only be replaced after generations; and
- J. Support wildlife and natural systems through the planting of native vegetation.

Section 390-90. Applicability.

The regulations of this article are applicable to all proposed developments requiring a site plan per Section 390-122, any new parking lot, and any addition of 10 or more spaces to an existing parking lot.

Section 390-91. Landscape plan.

Whenever a landscape screen or landscape planting is required by the provisions of this Ordinance, a landscape plan shall be provided for review by the Zoning Administrator and/or Planning Commission. The landscape plan shall demonstrate that all requirements of this article are met, and shall at a minimum, include the following information:

- A. A scale drawing of the site and proposed development thereon, including the date, name and address of the preparer, parcel lines, parcel area and north arrow.
- B. The minimum scale of the drawing shall be one (1) inch equals thirty (30) feet.
- C. Contour lines at minimum two (2) foot intervals shall be shown.
- D. Proposed and existing man-made features, including buildings, structures, and parking areas.
- E. Setback lines and their dimensions.
- F. Location of existing and proposed driveways and curb cuts, if any.
- G. Location of existing public and private rights-of-way and easements contiguous to and on the property.
- H. Natural features, including trees with a diameter at breast height of three (3) inches or more, water bodies and wetlands, high-risk erosion areas, slopes in excess of twenty-five (25) percent, drainage and similar features; and an indication of which features would be preserved.
- I. Proposed location of plantings, spacing between plantings, height and size at time of planting, type of plantings (common and botanical names), and other elements to illustrate compliance with the standards of this article.
- J. Description of the types of equipment and methods to be used to irrigate the required landscape areas, if any.
- K. A landscape maintenance program, including a statement that all diseased, damaged or dead materials shall be replaced in accordance with the standards of this section and identifying the individual(s) or business(s) who will be responsible for continued maintenance of the landscaping.
- L. A detailed description of either written or graphic form, indicating the applicant's plans to protect the existing trees to be preserved from damage during site development and construction such as dripline fencing, tree wells and culverts.
- M. Location, height, elevation/section and material of proposed screening walls, fencing, retaining walls, and berming. Berms are to be delineated by one-foot contours.
- N. Where berms are used, the plan shall depict a typical cross section including the slope, height, and width of the berm and the type of ground cover. Where a wall is used, the landscape plan shall depict typical cross sections of the wall construction and footings.
- O. Calculation verifying minimum landscape requirements such as quantities/areas of plantings for parking areas, screening areas, or greenbelts.
- P. Any other information as may be required by the zoning administrator to aid in the review of the site plan.
- Q. The Zoning Administrator may permit less information to be shown on the landscape plan based on the scope and scale of the project.

Section 390-92. General requirements.

The following general requirements shall be met by all landscaping plans.

- A. Occupancy certificates. All required screens, buffer areas, and landscaping plantings shall be planted in accordance with the approved landscape plan, and a certificate of occupancy shall not be issued until the screen, buffer area, and landscape planting has been completed in accordance with the approved plan. If a use is ready for occupancy between November 1 and March 31, a temporary certificate of occupancy may be issued, provided a performance guarantee, as regulated in Section 390-153, has been provided in an amount equal to the estimated cost of the landscape improvements. In any case, all required landscaping must be complete by June 1 following issuance of the temporary certificate of occupancy.
- B. Disturbed ground areas. All disturbed ground areas shall be stabilized with dense vegetative materials, including grass, shrubs, and ground covers consistent with these provisions. Native, low maintenance ground cover is encouraged.
- C. Density of Trees. Trees shall be planted on non-residential parcels at a rate of at least one tree per one-thousand square feet of any unpaved open area for which specific landscaping requirements do not apply.
- D. Street Trees. Where a parkway exists or is proposed, street trees shall be planted within the parkway along public and private streets in all developments requiring site plan approval.
1. Street trees shall be deciduous and capable of achieving a mature canopy diameter of at least twenty-five (25) feet;
 2. Provide branching structures which naturally grow, have been trained, or will be pruned to at least seven (7) feet above pedestrian and fourteen (14) feet above vehicular traffic areas;
 3. Shall be planted thirty (30) feet on center; and
 4. Be tolerant of urban conditions, such as pollution, salt, and drought. See the list of Suggested Native Plant Species in this section for several suitable street tree varieties.
- E. Irrigation. Methods of temporary and permanent irrigation for trees and all landscape areas must be specified. Landscape areas larger than one-thousand (1,000) square feet in area and landscape areas within parking lots shall be provided with an underground irrigation system. To encourage sustainable landscape practices and the use of natural water sources, the Planning Commission may approve an acceptable alternative water supply if the applicant/owner can demonstrate the use of drought-tolerant varieties and other natural sources of irrigation such as swales and rain gardens. If the alternative irrigation fails to maintain the landscaping in a healthy state, the property owner shall be required to install traditional methods of irrigation sufficient to maintain the plants. All irrigation shall utilize sustainable practices to the greatest extent practicable.
- F. Fractional plant requirements. Where this article requires landscaping for any distance along a property or other line, and an applicant's property is a fraction of the given measurement, then the property's measurement shall be rounded to the next highest number to comply with the minimum standards herein. Driveways and other paved points of access shall not be included in frontage calculations.
- G. Visual clearance. Landscaping shall be installed such that, when mature, it does not obstruct or obscure traffic signs, fire hydrants, lighting, drainage patterns on the site or adjacent properties, or obstruct vision for safety of ingress and egress, and is subject to the clear vision corner requirements of this Ordinance, as regulated in Section 390-11 A (2).

- H. Credit for Existing Vegetation. Existing healthy, well-formed trees, shrubs, and herbaceous perennials may be credited towards the requirements of this article provided the vegetation is identified on the landscape plan, protected from harm during construction, located in an appropriate place, and maintained in a healthy growing condition.
- I. Tree Preservation. Existing healthy trees located within required setbacks and areas not required for development shall be preserved, and may be counted toward the number of trees required.
1. All trees to be preserved as indicated on the landscape plan shall be sheltered by a protective fence and shall remain upright and intact until all construction activity is complete. Construction activities, including driving of machinery or pedestrian movements, and the storage of equipment shall not occur within these protected areas. Tree protection barriers shall extend at a minimum to the drip line of trees which have been identified for preservation.
 2. Should any tree designated for preservation fail to thrive as a result of pre-construction, construction, or post-construction activities, the owner shall calculate the diameter breast height (DBH) inches of the damaged tree and replace with tree(s) equivalent in caliper inches to the total DBH inches lost.
- J. Tree Removal and Replacement. All reasonable attempts to conserve established, high-quality canopy trees shall be made. Trees specified for removal measuring twelve (12) diameter breast height (DBH) inches or more shall be subject to the following tree replacement standards.
1. Trees must be replaced in caliper inches at a rate of 50% of the total DBH removed. Replacement deciduous trees shall be at least three (3) caliper inches and replacement evergreen trees shall be at least eight (8) feet in height.
 2. Where the Village finds it not reasonable or desirable to relocate or replace trees on site, the Village may direct the applicant to pay into the established Village Tree Fund an amount of money equal to the value of replacement trees, including installation, that would otherwise be required. The cost per three (3) inch caliper deciduous tree and eight (8) foot tall evergreen tree will be set annually by the Village based on current market conditions.
 3. Exceptions to the replacement of trees measuring twelve (12) diameter breast height (DBH) inches or more shall be limited to the following:
 - a. When no feasible and prudent alternative location can be had without causing undue hardship;
 - b. When the tree is dead, diseased, injured or is a danger to existing structures, utility service, or interferes with safe vision clearances;
 - c. Or if the tree is listed in the prohibited varieties table at the end of this article.
- K. Maintenance and replacement of plant material. Landscaping shall be installed and maintained in a healthy, neat, and orderly appearance, free from refuse, debris, and weeds. Plant materials, including lawn, shall be maintained in a substantially weed free, healthy growing condition, neat and orderly in appearance in accordance with the approved Site Plan and detailed planting plan. Plants shall be controlled by pruning, trimming, or other

suitable methods so that they do not interfere with public utilities, restrict pedestrian or vehicular access, or constitute a traffic hazard. All unhealthy and dead plant material shall be replaced within one (1) year or in the next appropriate planting period, whichever comes first. A description of the proposed maintenance program shall be submitted with the detailed planting plan, including a statement that all diseased, damaged, or dead materials will be replaced in accord with the Ordinance.

- L. Revised site plan. No landscaped area may be abandoned, paved, or otherwise employed without submission and approval of a revised site plan, in accordance with Article XVII.
- M. Performance guarantee. The Zoning Administrator or Planning Commission may require a performance guarantee per Section 390-153 of this Ordinance to ensure proper installation and maintenance of all required landscaping.
- N. The Planning Commission and Village Council may lessen the requirements of this section if site conditions make the strict application of these regulations unreasonable, assuming the applicant could provide for sufficient buffering between dissimilar uses and between expanses of parking and rights-of-way or if existing landscaping meets the intent of this article. Additional requirements on landscaping may be imposed if such modification would further the intent of this article.
- O. The Planning Commission and Village Council may retain the services of a landscape architect or other similarly qualified professional to review a landscape plan to ensure compliance with this article.

Section 390-93. Required landscaping.

A. Landscaping in the MFR district.

1. When a multiple-family dwelling abuts a one-family or two-family dwelling, a greenbelt or a screen shall be required along the side and rear property lines. The greenbelt area may be located within a required yard area.
2. When a multiple-family dwelling abuts any use that is not a one-family or two-family dwelling, a greenbelt shall be required along the side and rear property lines. The greenbelt area may be located in a required yard area.
3. The Planning Commission may require a taller screen based on site conditions.

B. Landscaping in nonresidential districts.

1. When a nonresidential district abuts a property used for residential purposes, a greenbelt or a screen shall be required along the side and rear property lines. The greenbelt area may be located within a required yard area.
2. The Planning Commission or Village Council may require installation of wrought iron or material that gives the appearance of wrought iron, fence with brick pier accents, as seen in typical Village developments, or a solid brick wall or hedge, twenty-four (24) inches in height, along street frontages for new development or substantially redeveloped properties. This shall also include a five (5)-foot-wide landscaped area with one (1) tree for every twenty-five (25) feet of length and one (1) bush for every five (5) feet of length. If the property is in the CBD or C districts, or where parking, loading, or

storage has been permitted by the Planning Commission in the front yard, these standards are required.

3. The Planning Commission may require a taller screen based on site conditions.

C. Parking areas. In addition to the site landscaping required in A and B above, any off-street parking area containing ten (10) or more parking spaces shall be landscaped according to the following requirements:

1. All required interior landscaped areas shall be protected by a barrier (i.e. a raised standard or rolled concrete curb), except where landscape islands in parking lots are being utilized as part of a stormwater detention or conveyance system.
2. In the case of a shared parking lot, screening and greenbelts shall not be required along the common property line.
3. The interior portion of the parking lot shall contain landscaped areas consisting of one square foot of landscaped area for every twelve and one-half (12.5) square feet of pavement, or fraction thereof, and one (1) deciduous tree for every two hundred (200) square feet, or portion thereof, of landscaped area provided.
4. Each landscaped area shall be a minimum of two hundred (200) square feet, with a minimum width of ten (10) feet, and shall include one (1) deciduous tree. In addition to the tree, each landscaped area shall be covered with living vegetative materials such as shrubs, grasses, and flowers, and may include no more than twenty (20) percent exposed surface area of natural mulch materials.
5. At least fifty (50) percent of the deciduous trees within the landscape areas shall be canopy trees, able of achieving a mature canopy diameter of at least twenty-five (25) feet.
6. The landscaped areas shall be dispersed throughout the parking lot in order to break up and soften large expanses of impervious surface and to define access and circulation patterns.
7. The Planning Commission may permit the required landscape areas to be combined into larger areas if they find that the resulting landscape area is of a higher quality and meets the intent of this article to visually enhance the parking lot.
8. Sizes of plant materials at installation shall comply with the minimum landscape material standards in section 390-95.

D. Storage and dumpsters. Exposed storage areas, trash receptacles and dumpsters, machinery installations, service areas, loading docks, utility buildings and utility structures such as electrical transformers, air conditioners, and similar features shall be screened from view from adjoining streets and properties by a screen of sufficient height to obscure the view of the equipment. Dumpster enclosures shall comply with the following requirements.

1. Dumpster enclosures shall be sturdy and constructed of quality, long-lasting masonry materials, or other acceptable durable materials (i.e. split face block or CMU) that are generally compatible in character and appearance to the principal structure. Cinder block, conventional concrete block, wire, or cyclone fencing materials are prohibited.
2. The enclosure shall be four (4) sided and placed on a concrete pad.

3. The enclosure shall be four (4) sided with lockable opaque gates which complement the screen materials. The Zoning Administrator or Planning Commission may permit the enclosure to be three (3) sided where site dimensions make a four (4) sided enclosure impractical and where the three (3) sided enclosure will effectively screen the dumpster from view from the adjoining right-of-way.
4. Walls of the enclosure shall be six (6) feet in height.
5. When a dumpster is added to any developed site for regular use, such dumpster shall be enclosed pursuant to this section.

Section 390-94. Screening and greenbelts.

- A. Where screening is required, the screen shall consist of one of the following (Figure 14.1):
1. A solid uniform wall or fence having a height of at least four (4) feet and sufficiently dense to obscure vision through it. In no case shall wire or cyclone fencing materials be permitted. High-quality, low-maintenance materials such as brick and vinyl are strongly recommended. Wood fence may be permitted if it is properly treated as often as necessary to maintain the look of new wood.
 2. Evergreen landscape material having a height of at least six (6) feet and sufficiently dense to obscure vision through it.
 3. A three (3)-foot-tall vegetative berm designed with a maximum slope ratio of three (3) feet horizontal to one (1) foot vertical, with a minimum of a two (2)-foot level area at the top of the berm and slopes stabilized plant materials. The berm may be used in conjunction with a wall, fence, or plantings to achieve the total six (6) feet in height of screening.

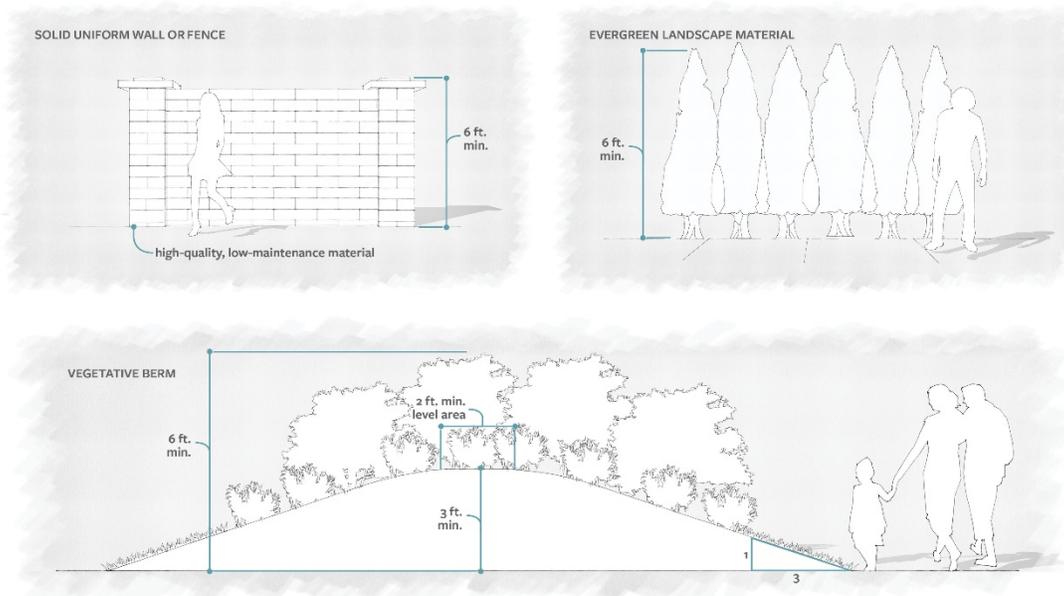


Figure 14.1 Screening Options

- B. When a greenbelt is required, it shall comply with the following landscape requirements (Figure 14.2):
1. The greenbelt shall be a landscaped strip at least 10 feet in width.
 2. The greenbelt shall be planted with living plant materials including all of the following:
 - a. Deciduous or evergreen trees not less than twelve (12) feet in height. One tree is required for every twenty-five (25) feet of greenbelt length; and
 - b. At least one (1) row of dense shrubs not less than five (5) feet in height and spaced not more than five (5) feet apart.
 3. No parking, loading, or accessory uses are permitted in the greenbelt.

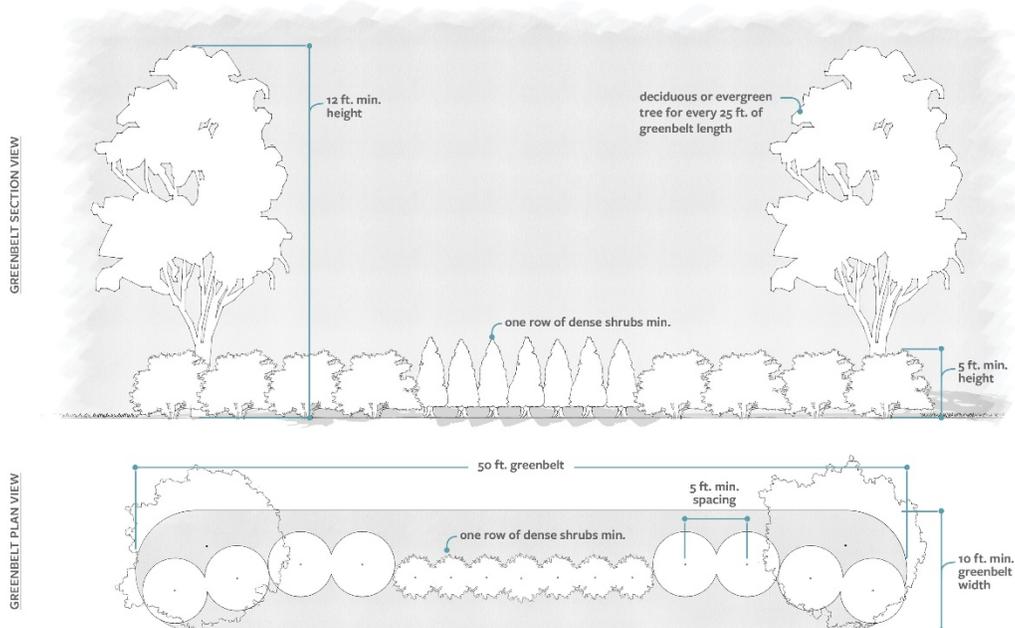


Figure 14.2 Greenbelt Requirements

- C. The following chart defines site landscaping for front, side and rear yards for each zoning district, in addition to other landscaping standards contained in this Ordinance.

Screening and Greenbelt Required Landscaping

Zoning District or Use	Adjacent to	Required Landscape Elements	Location	Additional Requirements
Industrial	All residential zones and uses	Greenbelt ⁴ and screen ²	Along the side and rear property lines with the screen located on the inner edge of the greenbelt	
Industrial	All other zoning districts except Industrial	Greenbelt ⁴	Along the side and rear property lines	
Industrial	Industrial Zone	Greenbelt ⁴	Along the side and rear property lines	
Multiple-Family Dwelling uses in MFR	SFR-A, SFR-B and one or two-family uses	Greenbelt ⁴ or screen ²	Along the side and rear property lines	
Multiple-Family Dwelling uses in MFR	All other zoning districts	Greenbelt ⁴	Along the side and rear property lines	
C, CBD	All zoning districts	Greenbelt ⁴ or screen ²	Along the side and rear property lines	
C, CBD	Public street or private roadway	Decorative brick and wrought iron fence or solid hedge ¹ and a minimum five-foot wide landscaped area ³	Along property lines of all street frontages	Required where parking, loading or storage has been permitted by the Planning Commission in the front yard, and where determined by the Planning Commission

Notes:

1. To be determined by the Planning Commission as a condition of site plan approval.
2. The Planning Commission may require a taller screen based on site conditions.
3. The landscaped area shall include one tree for every 25 feet and one bush for every five feet of length.
4. No parking, loading or accessory uses are permitted in the greenbelt.

Section 390-95. Minimum landscape material standards.

- A. All plant material shall be hardy to Ottawa County, be free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.
- B. Diversity. The overall landscape plan shall not contain more than twenty-five (25) percent of any one species.
- C. Native Vegetation. At least seventy (70) percent of new plantings shall be species native to West Michigan.
- D. Deciduous Canopy trees shall have a minimum caliper of two and one-half (2 ½) inches at time of planting, measured at four (4) feet from grade.
- E. Deciduous ornamental trees shall have a minimum caliper of two (2) inches at time of planting, measured at four (4) feet from grade.
- F. Evergreen trees shall be a minimum of six (6) feet in height at the time of planting. Evergreen trees may be planted in staggered rows to provide space for spreading and growth.
- G. Shrubs shall be at least thirty (30) inches in height at time of planting with a minimum spread of twenty-four (24) inches.
- H. Spreading shrubs shall have a minimum height of twenty-four (24) inches at time of planting with a minimum width of thirty (30) inches.
- I. Ornamental grasses and perennials shall be a minimum pot size of two gallons when planted.
- J. The following are suggested native plant species, and the use of native species is encouraged.

Suggested Native Plant Species

Plant Type	Common Name	Botanical Name
Canopy Trees	Red Oak	<i>Quercus rubra</i>
	Hackberry	<i>Celtis occidentalis</i>
	American Hornbeam	<i>Carpinus caroliniana</i>
	Black Oak	<i>Quercus velutina</i>
	Ironwood	<i>Ostrya virginiana</i>
	Kentucky Coffee Tree (Fruitless Varieties)	<i>Gymnocladus dioicus</i>
	Red Maple	<i>Acer rubrum</i>
	Sugar Maple	<i>Acer saccharum</i>

	White Oak	<i>Quercus alba</i>
	Sycamore	<i>Platanus occidentalis</i>
	Thornless Honeylocust	<i>Gleditsia triacanthos f. inermis</i>
	River Birch	<i>Betula nigra</i>
	Osage orange (Fruitless Varieties)	<i>Maclura pomifera</i>
	Black Gum	<i>Nyssa sylvatica</i>
Ornamental Trees	American Hazelnut	<i>Corylus americana</i>
	Eastern Red Bud	<i>Cercis canadensis</i>
	Cockspur hawthorn	<i>Crataegus crus-galli</i>
	Pagoda Dogwood (Tree Form)	<i>Cornus alternifolia</i>
	Fringe Tree	<i>Chionanthus virginicus</i>
	Allegheny Serviceberry	<i>Amelanchier laevis</i>
Evergreen Trees	Eastern White Pine	<i>Pinus strobus</i>
	Red Cedar	<i>Juniperus virginiana</i>
	White Spruce	<i>Picea glauca</i>
	Balsam Fir	<i>Abies balsamea</i>
	Canadian Hemlock	<i>Tsuga canadensis</i>
Shrubs	Bush Honeysuckle	<i>Diervilla lonicera</i>
	Common Juniper	<i>Juniperus communis</i>
	Red osier dogwood	<i>Cornus sericea</i>
	Highbush Blueberry	<i>Vaccinium corymbosum</i>
	New Jersey Tea	<i>Ceanothus americanus</i>
	Carolina Rose	<i>Rosa carolina</i>
	Fragrant Sumac	<i>Rhus aromatica</i>
	Common Witch Hazel	<i>Hamamelis virginiana</i>
	Michigan Holly	<i>Ilex verticillata</i>

	Buttonbush	<i>Cephalanthus occidentalis</i>
	Spice Bush	<i>Lindera benzoin</i>
	Shrubby cinquefoil	<i>Potentilla fruticosa</i>
	Creeping Juniper	<i>Juniperus horizontalis</i>
	American Arborvitae	<i>Thuja occidentalis</i>
Ornamental Grasses and Perennials	Palm Sedge	<i>Carex muskingumensis</i>
	Little bluestem	<i>Schizachyrium scoparium</i>
	Switchgrass	<i>Panicum virgatum</i>
	Tufted Hairgrass	<i>Deschampsia cespitosa</i>
	Sundial Lupine	<i>Lupinus perennis</i>
	Bee Balm	<i>Monarda fistulosa</i>
	Black-Eyed Susan	<i>Rudbeckia hirta</i>
	Sweet Joe Pye Weed	<i>Eupatorium purpureum</i>
	Cardinal Flower	<i>Lobelia cardinalis</i>
	Butterfly Weed	<i>Asclepias tuberosa</i>
	New England Aster	<i>Aster novae-angliae</i>
	Blue Stemmed Goldenrod	<i>Solidago caesia</i>
	Columbine	<i>Aquilegia canadensis</i>
Wild Blue Phlox	<i>Phlox divaricata</i>	

K. The following trees are not permitted in an effort to protect the health, safety, and welfare of the Village. Some of the plant species listed below are prone to splitting; having wood that is brittle and breaks easily; roots which clog drains and sewers; and or may be unusually susceptible to disease or insect pests. Existing trees of these species may not be counted toward the required number of trees for the development and need not be preserved on the development site. The plants included in this list denoted with an asterisk, have native varieties which are species permitted in naturalized locations where limited contact with people, vehicles, and structures can be obtained.

Prohibited Trees

Common Name	Botanical Name
Box Elder	<i>Acer Negundo*</i>
Tree of Heaven	<i>Ailanthus</i>
Ginkgo (Female)	<i>Ginkgo Biloba</i>
Ash	<i>Fraxinus</i>
Honey Locust (with thorns)	<i>Gleditsia Triacanthos (with thorns)</i>
Eastern Cottonwood	<i>Populus Deltoids*</i>
Mulberry	<i>Morus species (Morus rubra*)</i>
Black Locust	<i>Robinia species*</i>
Catalpa	<i>Catalpa species*</i>
Chinese Elm	<i>Ulmus Parvifola</i>
Silver Maple	<i>Acer Saccharinum*</i>
Willow Tree	<i>Salix tree species*</i>
Bradford Pear	<i>Pyrus calleryana 'Bradford'</i>
Norway Maple	<i>Acer platanoides</i>

ARTICLE XV SIGNS

Section 390-96. Intent.

Intent. This article is intended to regulate and limit the construction, erection, reconstruction, placement, size, and height of signs so as to protect public health and safety and promote the public welfare. This article is further intended to protect all zoning districts from visual chaos and clutter, eliminate distractions hazardous to motorists, protect appropriately identified uses from excessive signage, provide ability for the public to identify premises and establishments, encourage creativity of sign design, and enhance the aesthetics of the community.

Section 390-97. Reserved.

Section 390-98. General standards for all signs.

All signs shall meet the following standards:

- A. A sign not expressly permitted by this article is prohibited. A sign shall pertain to the use or lot on which it is located, with the exception of temporary signs as authorized in Section 390-100 G, below.
- B. All Signs shall conform to all applicable codes and ordinances of the Village and shall be approved by the Zoning Administrator. A Sign must comply with this section unless exempted under Section 390-100.
- C. Sign area.
 - 1. The area of a sign shall be measured within a single, continuous rectangle which encloses the extreme limits of writing, representation, emblem, or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed, unless the supports or uprights contain writing, representations, emblems or any figure of similar character in which case the area of such shall be computed within the total sign area (Figure 15.1).

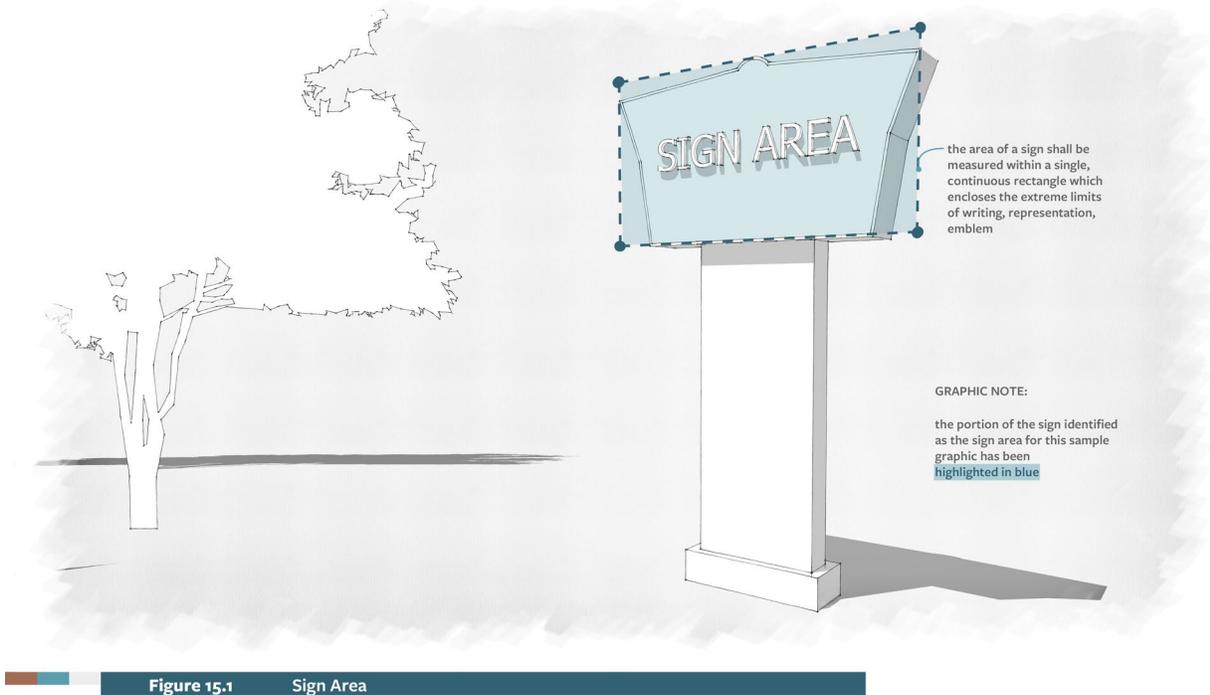


Figure 15.1 Sign Area

2. Where a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign, except that, where two (2) such faces are placed back to back so that both faces cannot be viewed from any one (1) point at the same time, and when such sign faces are at no point more than two (2) feet from one another, the sign area shall be computed by the measurements of one (1) of the faces. In the case of a sphere, the total surface area of the sphere shall be divided by two for purposes of determining the sign area.
- D. Height. Sign height shall be measured as the vertical dimension from the median natural grade to the highest point of the highest attached component of the sign. A sign shall not extend above the roof line of a building to which it is attached.
- E. Setbacks. All signs shall be set back a minimum of one-half (1/2) of the front yard setback, except for sandwich board signs. However, no sign shall be placed in the clear vision area as shown in Section 390-11 A (2) nor in a similar clear vision area at the intersection of a driveway or private road or access with a private road or street.
- F. Illumination. When illumination is permitted, external or internal illumination shall comply with the following requirements:
1. Illumination shall not be flashing, oscillating, blinking, intermittent, or on-and-off type of lighting. Time and temperature numerals are exempt from this provision.
 2. Electronic message boards are permitted subject to Section 390-105.
 3. Illumination shall be arranged so that light is deflected away from adjacent properties so that no direct sources of light shall be visible to any motorist or pedestrian located in a public right-of-way or street easement or from any adjacent property.

4. External illumination. Any external lighting of signs shall be downward facing, shielded, or otherwise directed to illuminate only the sign face.
 5. Internal illumination. Sign faces shall have an opaque background so that individual lamps are muted and cannot be distinguished behind the sign face. The sign face may have internally lit lettering, face lit channel lettering, or backlit lettering.
- G. Where a proposed sign appears to meet the definition of more than one sign, the most restrictive requirements and limitations of the defined sign types shall apply.
- H. Maintenance. Signs shall be maintained in a safe condition with proper bracing, anchorage, and foundation and be subject to inspection by the Zoning Administrator or other designated representative. Signs shall at all times be in a state of good repair, with all braces, bolts, clips, supporting frame, and fastenings free from deterioration, insect infestation, rot, rust or loosening. All signs shall be kept neatly finished, including all metal parts and supports that are not galvanized or made of rust-resistant metals.

Section 390-99. Sign permit required.

Unless listed as an exempt sign in Section 390-100, a permit is required for all new signs or sign replacements.

- A. Application for a permit shall be made by submitting the following information to the Zoning Administrator:
1. A completed application on a form provided by the Village;
 2. Payment of an application fee, which shall be nonrefundable, and which shall be established from time to time by resolution of the Village Council; and
 3. A sketch plan with signs drawn to scale, showing the proposed location, type of sign, and specifications for the proposed sign, in detail sufficient to determine its compliance with the provisions of this article.
 4. Sufficient other details to demonstrate that the proposed sign, including structural and electrical components, shall comply with the provisions of this Ordinance.
 5. The written consent of the owner of record of the property on which the sign is proposed to be erected.
- B. No sign requiring a sign permit shall be erected or installed until an application is approved.
- C. If the proposed sign conforms with the provisions of this article, a permit shall be issued.
- D. The permit review may be eliminated if the required information is provided to the Planning Commission as part of a site plan review, in which case the Planning Commission shall recommend or grant approval, approval with conditions, or denial of the request as the case may be.
- E. Expiration. Approval of a sign permit shall expire one (1) year from its effective date. If not completed within one (1) year, unless an extension not to exceed one (1) year has been granted by the Zoning Administrator, the permit shall expire. The Zoning Administrator may deny extension of time for the approved sign even if no substantial changes in circumstances are found.

Section 390-100. Exempt signs.

The following signs are exempt from the permit requirements of this article, but they shall conform to any other applicable standards of this Ordinance.

- A. Any public notice, traffic control, or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.
- B. Government signs.
- C. One (1) sign per street address not exceeding two (2) square feet in area and bearing only property numbers, post box numbers or names of occupants of residential premises and bearing no advertising message.
- D. Any sign wholly located within a building and not visible from outside the building. This does not include window signs.
- E. Holiday lights and decorations with no commercial message.
- F. Works of art that do not contain a commercial message.
- G. Flags and insignia of any nation, state, local government, community organization, and educational institution, except when displayed in connection with commercial promotion.
- H. Temporary banners covering a permitted and approved sign, provided that the banner does not exceed the size of the permitted and approved sign.
- I. Temporary signs, provided the following standards are met:
 - 1. Yard signs, general.
 - a. A lot or parcel shall be limited to one (1) sign per street frontage.
 - b. Signs shall not exceed seven (7) square feet in area and five and one-half (5 ½) feet in height above the natural grade.
 - c. Extra signs shall be permitted during a time period of thirty (30) days prior to an election date and removed within ten (10) days after the election date.
 - d. Signs shall be set back a minimum of five (5) feet from any property line.
 - e. Signs shall be placed only on private property, with the permission of the property owner, and not in any right-of-way.
 - f. Signs shall not be illuminated.
 - 2. Yard signs, construction sites.
 - a. A lot or parcel shall be limited to one (1) sign per street frontage.
 - b. Signs shall not exceed thirty-two (32) square feet in area and five and one-half (5 ½) feet in height above the natural grade.
 - c. Signs shall be set back from any property line a minimum of half (½) the required front yard setback for the property or ten (10) feet, whichever is greater.
 - d. Signs shall not be erected on a construction site until a building permit has been issued and construction has begun. The sign shall be removed immediately upon completion of work or issuance of any occupancy permit, whichever occurs first.

- e. Signs shall not be illuminated.
3. Yard signs, property for sale, lease, or rent.
- a. One (1) sign shall be allowed per street address on a property that is offered for sale, lease, or rent, with or without a building.
 - b. The sign shall not exceed six (6) square feet for any single-family or two-family dwelling use or thirty-two (32) square feet for any other use and shall not exceed five and one-half (5 ½) feet in height above the natural grade.
 - c. The sign shall only be displayed when the property is being offered for sale, lease, or rent.
 - d. The sign shall not be illuminated.
 - e. The sign shall be set back from any property line a minimum of five (5) feet.
 - f. The sign shall be removed within ten (10) days after completion of the sale or lease or rent.
 - g. For properties with shoreline frontage, an additional sign of the same size and height as otherwise permitted may be placed in the yard abutting the shoreline.
4. Yard signs, garage sale.
- a. Signs shall be limited to one (1) on-premises location and three (3) off-premises locations during the event of a garage sale.
 - b. Signs shall be located on private property.
 - c. Signs shall be limited to four (4) square feet in area per side. The sign may be two-sided.
 - d. Signs shall be affixed to the ground and be freestanding.
 - e. Signs shall be displayed for no longer than three (3) days prior to the garage sale and shall be removed promptly upon the end of the garage sale.
5. Off Premise Signs. One (1) off-premises sign is permitted when all of the following conditions are met:
- a. It shall be located in the CBD or C zoning districts.
 - b. It shall be associated with an approved site plan or PUD.
 - c. It shall be removed when 75% of the project is sold, rented, leased or occupied.
 - d. It shall be limited to twenty-four (24) square feet in area per side.
 - e. It shall be located at least ten (10) feet from any public right-of-way or private road easement/driveway.
 - f. It shall be located in private property with written permission granted from the property owner.
 - g. It shall be located outside of the clear vision area as defined by this Ordinance.
 - h. It may only be illuminated between the hours of 7:00 a.m. and 9:00 p.m.

- i. It shall be made of wood, metal, or solid plastic and kept in good condition.
 - j. It shall not be located more than five-hundred (500) feet from the subject property/development being advertised, unless otherwise approved by the Planning Commission.
6. Flag signs in nonresidential districts.
- a. One (1) flag sign shall be permitted per nonresidential establishment.
 - b. The flag sign shall be no more than twelve (12) square feet in size.
 - c. The flag sign shall be displayed only during the hours an establishment is open to the public. The entire flag, including the structure, shall be removed during the hours that the establishment is closed.
 - d. The flag sign shall be permitted within any yard or attached to the wall of the building. If attached to the wall of a building, the flag sign must meet the following requirements:
 - 1) Be affixed to the wall at least six (6) feet above the adjacent grade; any portion of the flagpole over the public right-of-way shall maintain a minimum clear space of eight (8) feet from the bottom of the flagpole to the ground.
 - 2) The top of the flagpole shall be not more than fifteen (15) feet above the adjacent grade.
 - 3) The flagpole shall not project more than three (3) feet from the face of the wall to which it is attached.
 - e. The flag and its support shall not impede pedestrian movement, and shall not present a hazard to people or property.
 - f. For establishments in the Central Business District, whose property abuts a public sidewalk with flag stands embedded in the sidewalk, the flag may be displayed in the flag stand in the sidewalk, instead of on the building, under the following conditions:
 - 1) No more than one (1) flag is permitted to be displayed at any time.
 - 2) The flag may only be located on the sidewalk when the Village is not using the flag stands for the American Flag or other community use.
 - 3) The flag, including the supporting structure, must be removed during the hours that the establishment is closed, and whenever requested to remove the flag by a Village official or designated representative.
 - 4) The use of the sidewalk flag stand by any establishment fronting on Savidge Street is subject to approval by the Michigan Department of Transportation.
 - 5) All flag signs shall be maintained in good condition at all times. Frayed or damaged flags shall be replaced or removed upon the first signs of damage.
7. Temporary signs for special events sponsored by governmental agencies or nonprofit organizations.
- a. No more than five (5) temporary signs shall be displayed for each special event. Such signs may be located either on or off the lot on which the special event is held.

- b. The display of such signs shall be limited to the twenty-one (21) days immediately preceding the special event.
 - c. Signs shall have a maximum size of thirty-two (32) square feet in area and a maximum height of five (5) feet.
 - d. Signs shall be removed within forty-eight (48) hours of the conclusion of the special event.
- J. Village wayfinding signs consistent with accepted graphic identity and as approved by the Village manager on public or private property.
 - K. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
 - L. Signs not exceeding two (2) square feet in area per sign on the interior portions of any lot which direct and guide traffic and parking on private property, but bearing no advertising message.

Section 390-101. Prohibited signs.

The following signs shall be prohibited in any zoning district:

- A. Signs which are obsolete, that do not relate to existing establishment or products for sale or available on the site.
- B. Signs which are illegal under state laws or regulations or applicable local ordinances or regulations, and which are not consistent with the standards in this ordinance.
- C. Signs that are not clean and in good repair, and signs that are out of compliance with applicable building and electrical codes.
- D. Signs not securely affixed to a supporting structure.
- E. Signs that are not official traffic signs that appear to or attempt to regulate, warn, or direct the movement of traffic, which interfere with or resemble any official traffic sign, signal, or device, or which may obstruct a motorist's vision.
- F. Searchlights, air-filled balloons, signs animated by forced air, and lighter-than-air signs are prohibited, except as otherwise permitted in this article.
- G. Except for projecting signs as permitted in this article, no sign shall be placed within or above any public right-of-way or upon any utility pole except as otherwise permitted in accordance with the state or local regulations. Any projecting sign that is to be placed over a Village right-of-way requires a license agreement with the Village or MDOT, as applicable, prior to installation.
- H. A sign located in a public right-of-way, or in a private road easement is prohibited, unless it is part of the traffic control information for that private road or street such as a public notice, traffic control, or warning required by a valid and applicable Federal, State, or local law, regulation, or ordinance.
- I. Truck or trailer mounted signs. No sign or other advertising structure shall be painted on or be attached to a motor vehicle used primarily for the display of such sign, including, but not limited to a billboard truck. This section shall not prohibit the identification of a business or

its products or services on its vehicle(s) operated and parked in a manner appropriate to the normal course of business.

- J. Roof signs. Roof signs shall be prohibited in all zoning districts except as authorized by special use permit in the C and CBD zoning districts only, following a public hearing held in accordance with the procedures for approval of a special land use contained in Article XVIII.

Section 390-102. Permitted signs.

In addition to the above standards, the following signs are permitted in the various zoning districts as follows:

Residential Districts: SFR & MDR					
Type	Max. Number	Max. Area	Max. Height	Minimum Setback	Illumination
Monument (nonresidential use)	1 per street frontage	32 sq. ft. ¹	5 ½ ft.	½ of required front yard setback or 10 ft, whichever is greater	Not permitted
Wall (nonresidential use)	1 per street frontage	32 sq. ft.	N/A	N/A	Not permitted
Projecting (nonresidential use)	1 per street frontage	10 sq. ft.	N/A	N/A	Not permitted
Portable (nonresidential use)	1	32 sq. ft.	6 ft.	5 ft. from front property lines, 15 ft. from side and rear property lines	Not permitted

¹ If a monument sign advertises two or more establishments located on the same lot, the maximum sign area may be increased to 50 square feet.

Nonresidential Districts: CBD & C					
Type	Max. Number	Max. Area	Max. Height	Minimum Setback	Illumination
Monument AND	1 per parcel	32 square feet ¹	5 ½ feet	2 feet	Permitted
Wall AND	1 per wall facing a street or parking lot	All signs shall not exceed 15% of the front face of the building or 100 feet, whichever is less.	N/A	N/A	Permitted
Projecting AND	1 per street frontage	10 square feet	N/A	N/A	Permitted
Portable or portable changeable message OR	1 per parcel	32 square feet	6 feet	5 feet from front property lines, 15 feet from side and rear property lines	Not permitted
Sandwich board OR	1 per customer entrance	12 square feet for each sign face	4 ½ feet	N/A	Not permitted
Banner OR	3 per parcel	50 square feet	N/A	N/A	Not permitted
Flag OR	1 per establishment	12 square feet	N/A	N/A	Not permitted
Pennant	String of pennants shall not exceed 2 times the width of the building facade	N/A	N/A	N/A	Not permitted

¹ If a monument sign advertises two or more establishments located on the same lot, the maximum sign area may be increased to 50 square feet.

Section 390-103-104. Reserved.

Section 390-105. Electronic message boards.

- A. Purpose and Intent. The Village of Spring Lake recognizes the importance of signage to its local business community, and further recognizes that permitting electronic message boards can benefit Village’s business community and enhance civic life. However, the Village finds that if left unregulated, electronic message boards can threaten the public health, safety, and welfare due to the manner in which such signs are located and operated. The Village also finds that due to its many unique viewsheds, residential density, and character of development that electronic message boards may be compatible with surrounding

properties in certain areas, but incompatible in others. Therefore, electronic message boards shall be subject to special land use review pursuant to Article XVIII of this zoning ordinance.

It is the intent of this Section to:

1. Balance the rights of businesses and institutions to convey their messages through electronic means with the right of the public to protected against unrestricted electronic signage;
 2. Further the objectives of the Village Master Plan and streetscape design guidelines;
 3. Protect the public health, safety, and welfare of the public;
 4. Reduce traffic and pedestrian hazards;
 5. Promote the aesthetic qualities of the Village; and
 6. Promote economic development of the Village;
- B. Special Land Use Required. Electronic message boards are permitted with special land use approval in the CBD or C districts only. Electronic message boards may also be permitted in a PUD, or with special land use approval on parcels containing churches, schools, civic uses, or municipal/government buildings or uses. In addition to the special land use standards of Section 390-134, the following regulations shall apply to all electronic message boards.
1. One electronic message board is permitted per parcel.
 2. Electronic message boards are only permitted on monument or wall signs, subject to the following standards:
 - a. For monument signs, up to 50% of the permitted area of the monument sign may consist of an electronic message board.
 - b. For wall signs, any amount of the permitted area of the wall sign may consist of an electronic message board.
 3. An off-premise sign shall not contain an electronic message board.
 4. The intensity and contrast of light levels on the electronic message board shall remain constant throughout the sign face. An electronic message board shall use automatic day/night dimming software to reduce the illumination intensity of the sign at night. Light intensity shall not exceed 0.3 footcandles over ambient lighting conditions, or 250 Nits during the day and 125 Nits at night. **Light Intensity shall be measured according to the most recent applicable standards adopted by the International Sign Association (ISA), summarized below:**
 - a. Measurements shall be obtained using an illuminance meter with the ability to provide a reading up to two decimal places, calibrated to read footcandles.
 - b. Determine square footage of the electric message board by multiplying the height and width of the sign face.
 - c. The distance at which the measurement is taken shall be determined using the following formula, where the area of sign face is measured in square feet:

$$\sqrt{\text{area of sign face} \times 100}$$

- c. The illuminance meter shall be positioned a distance from the sign face calculated above. An opaque, black sheet of material must be then positioned 7-10 feet from the sign face so it blocks all light from the electronic message board but still allows remaining ambient light to register on the illuminance meter.
 - d. The illuminance meter must be held at a height of approximately 5 feet (eye level) and aimed directly at the electronic message board (still blocked by the opaque sheet). Readings from the illuminance meter must be recorded to establish a baseline illumination level. Once the baseline level is established, add 0.3 footcandles to the baseline level to determine the maximum brightness for the electronic message board.
 - e. To determine the brightness of the electronic message board, the opaque sheet must be removed, and the illuminance meter must be observed for 3-5 minutes to determine if the maximum brightness level is exceeded.
5. A photometric plan shall be submitted to the Planning Commission with along with the application for special land use.
 6. The electronic message board shall not have a scrolling, flashing, blinking, spinning, exploding, or any other similar animated effect, and shall generally function and have the appearance of a static sign.
 7. In granting a special land use permit for an electronic message board, the planning commission may place conditions on such approval taking into consideration the specific circumstances of the request and other applicable special land use factors.
 8. It shall be the responsibility of the owner on whose property the sign is located to present to the Zoning Administrator, within ten (10) days of installation, documentation that the brightness of the electronic message board is compliant with this Ordinance.

Section 390-106. Standards for certain signs.

Following are general standards for specific types of signs.

A. Wall signs.

1. Signs shall not extend farther than twelve (12) inches from the face of the wall to which it is attached.
2. Wall signs may be attached to any wall so long as no more than one wall sign shall be placed on any wall.
3. Signs shall not project above the roof line or building façade.

B. Temporary signs, unless exempted in Section 390-100.

1. Banner.

- a. The annual banner and pennant permit is valid from January 1 through December 31 of the year in which it is issued. A new banner and pennant permit must be obtained prior to the end of the calendar year in order for an establishment to continue to display a banner(s).

- b. Banners may be changed periodically while the permit is valid without obtaining additional permits.
- c. Banners shall be displayed for no more than one hundred and twenty (120) days in any one (1) calendar year.
- d. Attachment of a banner to utility poles and light poles shall be prohibited.
- e. Banners shall not conceal architectural details or windows.
- f. Banners shall be secured at every corner.

2. Pennants.

- a. Pennants shall be displayed for periods of no more than thirty (30) days. After thirty (30) days, the pennants shall be removed from display. The pennants may be displayed for no more than three (3) thirty (30)-day periods in any one (1) calendar year. There shall be an interval of at least thirty (30) days between display periods.
- b. Pennants shall be maintained in good, clean condition at all times. Frayed or damaged pennants shall be replaced or removed upon the first signs of damage.

3. Portable signs and portable changeable message.

- a. One portable changeable message sign is permitted per establishment, regardless of the number of parcels occupied by the establishment.
- b. The portable changeable message sign shall be displayed for a period of no more than thirty (30) days. A portable changeable message sign is permitted for no more than three (3) thirty (30)-day display periods in any calendar year. There shall be an interval of at least fourteen (14) days between display periods.
- c. A portable changeable message sign shall be located on the property of the applicable establishment.

4. Sandwich board signs.

a. Design.

- 1) Maximum sign face width shall be limited to thirty-six (36) inches measured from sign legs.
- 2) Maximum sign height shall be limited to four and one-half (4 ½) feet measured from the ground to the top of the sign.
- 3) Sign bases shall be weighted with a minimum ten (10)-pound ballast, colored solid black, to ensure sign stability in windy conditions.
- 4) The sign frame shall be constructed as specified by Village Council resolution.

b. Placement.

- 1) Signs must be truly portable and cannot be permanently affixed to any structure or sidewalk, and must be removed each day when the establishment is closed.
- 2) If signs are placed on sidewalks, the sidewalk must be wide enough to allow for at least five (5) feet of width for unrestricted pedestrian movement with sandwich board signs in place.

- 3) Signs shall be placed to consider public safety including: location and proximity of doorways; maximum distance between pedestrian obstacles; location of crosswalks; and other physical features of the location that affect sight distance, accessibility and safety.
- 4) Signs shall be placed a minimum of forty-eight (48) inches from all obstructions within the sidewalk right-of-way, including newspaper boxes, outdoor tables/seating, trees and tree grates, bicycle racks, trash receptacles and any other item impeding pedestrian or wheelchair movement.
- 5) Signs shall be placed a minimum of ten (10) feet from a building corner or pedestrian crosswalk.
- 6) Signs shall be placed a minimum of ten (10) linear feet from the base of another sandwich board sign.

C. Projecting signs.

1. A projecting sign shall not project more than three (3) feet from the building wall to which it is attached.
2. Where a projecting sign, marquee sign, suspended sign, or similar element protrudes over any public or private sidewalk or walkway, a projecting sign shall have a minimum ground clearance of eight (8) feet from the bottommost point of the sign structure to the walkway.
3. If any projecting sign or suspended sign is suspended over a public property, street, sidewalk, or alley, the owner of such sign shall keep in force a public liability insurance policy in the minimum amount of one million dollars (\$1,000,000.00). In addition, when a sign is extending over a public right-of-way, an encroachment permit must be obtained, which will require showing the insurance coverage and will have to be renewed every three (3) years. The licensee shall at all times carry liability insurance in such amounts as are satisfactory to the village, and issued by companies acceptable to the village, licensed in the State of Michigan naming the village as an additional insured on any such policy. Licensee will file with the village certificates or policies evidencing such insurance coverage. The insurance policies or certificates shall provide that the village shall be given thirty (30) days written notice before a cancellation in coverage may occur.
4. If at any time the insurance policy is canceled, the projecting sign or suspended sign shall be immediately removed. In the event the sign is not so removed, the Village of Spring Lake shall have the right to remove the sign and repair the facade at the expense of the property owner. If the property owner fails to promptly pay the expense, the amount may be added to the next annual tax bill issued for the property.

D. Vehicular signs.

1. Signs shall only advertise the establishment, products, or services offered on the same premises.
2. Signs shall be securely affixed to the interior or exterior of the vehicle.
3. The vehicle shall be located in an off-street parking space.
4. The vehicle shall be operable and registered.

5. Signs shall only be displayed between 7:00 a.m. and 9:00 p.m.
6. Signs shall be displayed for no more than three (3) thirty (30)-day periods in any one (1) calendar year.

Section 390-107. Special purpose signs.

Upon submittal of a site plan pursuant to Article XVII, the Planning Commission may consider approval of a special purpose sign which does not exceed the permitted sign area in the underlying zoning district, but such sign type is not contemplated in this section. In making its determination, the planning commission may consider:

- A. The compatibility of the proposed sign in relationship to the type and location of signage on adjacent parcels;
- B. The conformance of the proposed sign to the general standards for all signs; and
- C. The durability of sign materials, and compatibility with the building for which the sign serves.

Section 390-108. Existing nonconforming signs.

- A. Signs lawfully erected prior to the adoption of this ordinance or applicable amendment thereto which do not meet the standards of this section may be continued, except as hereinafter provided. No nonconforming sign shall:
 1. Have any changes made in the words or symbols used or the message displayed on the sign, unless the sign is specifically designed for periodic change of message;
 2. Be structurally altered so as to change the shape, size, type or design of the sign; or
 3. Be reestablished or continued after the establishment, product, or service to which it applied has been discontinued for ninety (90) days or longer.
- B. Signs lawfully erected prior to the adoption of this ordinance or applicable amendment thereto which do not meet the size limitations of this article may be changed to another nonconforming sign, provided that the sign replacing the original nonconforming sign is at least thirty-three (33) percent smaller in area than the original nonconforming sign.
- C. No sign shall be required to be removed which was erected in compliance with this section if such sign becomes nonconforming due to a change occurring after the adoption of this ordinance or applicable amendment thereto in the location of a building, streets, or other signs, and which change is beyond the control of the owner of the premises on which the sign is located.
- D. If the owner of the premises on which a sign is located changes the use of the building, or changes the location of any property line or sign, so that any sign is rendered nonconforming, such sign must be removed or made to conform to this article.

ARTICLE XVI, PARKING REGULATIONS

Section 390-109. Scope.

- A. In order to reduce or prevent traffic congestion and shortage of parking facilities in the Village, off-street parking and loading facilities shall be provided in accordance with this article, in proportion to the need for such facilities created by various uses of land, buildings, and structures.
- B. Off-street parking and loading areas are to be designed, maintained, and operated in a manner that will ensure their usefulness, protect the public safety, and where appropriate, protect surrounding uses from their impact.

Section 390-110. Applicability.

In all zoning districts, after the effective date of this Chapter, off-street parking facilities shall be provided for any new building, structure, or use, for any addition or enlargement to an existing building, structure, or use, or for any change of use to an existing structure, according to the standards in this article. For additions or enlargements to an existing building, structure, or use, or change in use of an existing building or structure, additional parking shall be required only for such addition or enlargement, or incremental increase in required parking due to such change in use, and not for the existing building or structure or previous use.

Section 390-111-112. Reserved.

Section 390-113. Procedure for approval.

- A. No person shall construct a parking lot or cause any land to be used for a parking lot, with the exception of parking facilities serving a single-family or two family dwelling, unless the construction of such lot has been approved by the Planning Commission pursuant to Article XVII.
- B. In addition to applicable site plan requirements, the site plan shall also include parking stall dimensions, driveway and aisle dimensions, type of curbing, and proposed surface and base materials to be used.
- C. Construction of an approved parking lot shall be carried out in strict conformance with the plans submitted.
- D. The diversity of land uses within the Village keep it vibrant and active each day of the week. This has been accomplished, in part, because the Village has enabled residential buildings to be converted into non-residential uses, either as principal or accessory uses. The Village desires to preserve these buildings, and further desires to discourage the razing of buildings to construct off-street parking lots, as the Village has determined that there exists adequate parking within these areas. For these reasons, the expansion of an off-street parking lot for a non-residential use in the SFR or MDR district may only be permitted by the Planning Commission and is subject to the following requirements:
 - 1. The applicant shall provide a professionally prepared written parking study that justifies the need for the additional parking area. Such study shall also take into account all possibilities for shared or joint parking arrangements that would reduce,

minimize, or eliminate the need for additional parking. The Village may require changes to the site plan based on the results of the parking study.

2. The Planning Commission may require that any expanded parking area be surfaced with a porous or semi-porous pavement or similar material to reduce the adverse effects of adding impervious surfaces. However, this shall not be construed as allowing gravel, dirt, grass, or similar materials.
3. The Planning Commission may require additional landscaping, fencing, or screening for any expanded parking area to minimize any adverse impacts on surrounding properties.

Section 390-114. Location of parking.

- A. All parking associated with any use shall be located in the same zoning district as that use. With the exception of the C and CBD Zoning Districts, off-street parking areas shall be located either on the same lot as the use served by the parking or on an adjoining lot under the same ownership or control, or under the terms of a lease, shared parking agreement, or other arrangement approved by the Village.
- B. CBD Zoning District.
 1. Within the CBD Zoning District, parking required by this article shall be located within 300 feet of the building, structure, or use for which it is intended, as measured from the nearest part of the building or structure or use to the nearest part of the parking area.
 2. Within the CBD Zoning District, the parking requirements of this article may be met by participation in a municipal or joint community parking lot designed to serve a larger area, provided plans for the community parking area have been approved by the Village Council and such parking facilities are located on the same side of State Highway M-104 (Savidge Street) as the proposed use to be served.
- C. Two (2) or more buildings or structures or uses may collectively provide the combined and required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual buildings or structures or uses computed separately, unless excepted in subsection D below.
- D. In the instance of such dual-use of off-street parking spaces where peak operating hours of buildings do not conflict or overlap, the planning commission or zoning administrator may grant an exception to the requirements in Table 390-115.01 and permit less than the combined sum of required parking.
- E. Private shared parking areas may be located on a different lot from the subject building or structure or use that it serves if the following conditions are met:
 1. The parking area is located no more than three hundred (300) feet from the main entrance of the subject building or structure or use it serves.
 2. The sharing of parking shall be guaranteed via a legally binding and recorded agreement between the owner of the parking area and the owner of the building or structure or use which is located on a different lot served by the parking area. Such agreement shall be submitted to the village for review and approval and address the issue of how parking will be shared and be adequate if the parties modify operating hours or other factors.

The planning commission may waive the requirement for a recorded agreement where it finds sufficient alternative documentation of an assured long-term shared parking arrangement.

Section 390-115. General requirements.

- A. Off-street parking facilities in existence on the effective date of this Chapter, and provided in connection with a building, structure, or use of land for which off-street parking is required by this article, shall not be reduced in number or dimensions to less than the minimum standards prescribed by this article, nor shall such facilities be used to satisfy the standards of this article for any other building, structure, or use of land, unless otherwise provided herein.
- B. Before any building or structure or use is occupied, or enlarged or increased in capacity, parking shall be provided in accordance with the number of spaces required in Table 390-115.01. However, no parking lot shall exceed the minimum required number of parking spaces by ten percent (10) or more. This limitation may be modified by the Planning Commission if satisfactory evidence is provided by the applicant that demonstrates the need for additional parking spaces.
- C. When calculations determining the number of required parking spaces result in a fractional space, the fraction shall be raised to the next whole number.
- D. For any use not specifically listed in Table 390-115.01, off-street parking spaces shall be provided as required for the most similar use, as determined by the zoning administrator or Planning Commission. The planning commission or zoning administrator may reference industry standards to establish such requirements.
- E. Handicapped spaces and loading spaces shall count toward the required number of spaces.
- F. For nonresidential uses in the C and CBD zoning districts, on-street or off-street public parking within three hundred (300) feet of the use may be counted toward the minimum parking requirement, provided that such parking is on the same side of Savidge Street as the use proposed use.
- G. Front yards.
 - 1. Parking of vehicles in the front yard in the SFR Zoning District and for single-family dwelling and two-family dwelling uses in all zoning districts is restricted to a designated driveway, the width of which shall not exceed at any point one-third (1/3) of the lot width, or twenty (20) feet, whichever is greater. Off-street parking of vehicles shall not obstruct the sidewalk. Driveways shall be surfaced with concrete, asphalt, or other similar dustless material acceptable to the Zoning Administrator.
 - 2. With respect to multiple-family dwellings in the MFR Zoning District, the required front yard shall not be used for parking, loading, display, or storage of equipment or materials.
 - 3. In the C Zoning District, parking, loading, display or storage of equipment or materials shall not be permitted within ten (10) feet of the front lot line, unless approved by the Planning Commission. The Planning Commission, as part of its site plan review, may allow parking, loading, and display or storage up to the front lot line, if the Commission finds that no traffic safety hazard is created by allowing such activity to occur. As a condition of approving such parking, loading, display, or storage up to the front lot line,

the Planning Commission may require installation of a decorative wall, fence, or solid hedge, not exceeding twenty-four (24) inches in height, at the front lot line.

- H. Deferred Parking. Where the property owner/applicant can demonstrate that the required amount of parking is excessive, a portion of the required parking area may be deferred until some future date, provided that adequate space on the property is reserved for future parking, and provided that the reserved area is used as open landscaped space until parking is constructed. A permit shall be required prior to construction of a deferred parking area. Construction of the deferred parking may be initiated by the property owner or by the Village based on parking needs.
- I. Maintenance. All off-street parking and loading facilities required by this article shall be maintained free of accumulated snow, debris or other materials preventing full use and occupancy of such facilities in accordance with the intent of this article, except for temporary periods of short duration in the event of heavy snowfall.
- J. Reduction of parking spaces.
 1. A reduction of the number of spaces required may be permitted by the Planning Commission for a building, structure, or use located within eight hundred (800) feet of a regularly-scheduled, year-round transit service stop currently in use and for a use eight hundred (800) feet from a commercial parking facility, and where such reduction will not result in inadequate parking area.
 2. A reduction of the number of spaces required may be permitted by the Planning Commission for a new or expanding nonresidential building, structure, or use that dedicates carpool spaces, vanpools, transit passes, covered bicycle spaces or lockers, and similar alternative means of transportation, for its employees, and where such reduction will not result in inadequate parking area.

Table 390-115.01. Required spaces per unit of measure

Use	Required Number of Parking Spaces
Single- and two-family dwellings	2 spaces per dwelling unit
Multiple-family dwellings	1.5 spaces per dwelling unit
Accessory dwelling	1 space per dwelling unit
Residential above retail or office	1.2 spaces for each dwelling unit, plus parking for the nonresidential uses as determined in this table
Live/work	1 space per unit, plus 1 space per 500 square feet of space devoted to business use
Bed-and-breakfast	2 spaces for the principal dwelling use, plus 1 off-street space per guest room
Home occupation	2 spaces for the principal dwelling use, plus up to 2 additional off-street spaces

Park or parkland	Village shall demonstrate parking demand
Day-care, family	Applicant shall demonstrate parking demand
Day-care, adult	Applicant shall demonstrate parking demand
Day-care, group	Applicant shall demonstrate parking demand
Foster-care group home	Applicant shall demonstrate parking demand
Foster-care family home	Applicant shall demonstrate parking demand
Community support facility	1 space for each employee or volunteer on largest shift, plus 1 space for each vehicle operated by the facility, plus 1 space for each dwelling unit, plus 5 spaces for a food and clothing distribution center or other nonresidential use
Funeral home	1 space per employee of largest shift, plus 1 space per 4 seats of legal capacity
Places of public assembly	1 space per 4 seats of legal capacity
Churches, theaters, auditoriums, assembly areas	2 spaces per 5 seats or 8 feet of pew length
Schools, elementary and middle	1.5 spaces per classroom, plus amount required for auditorium or gymnasium seating
Schools, secondary	1 space per 8 students, plus 1.5 spaces per classroom, plus amount required for auditorium or gymnasium seating
Retail business	1 space per 200 square feet of gross floor area
Office	1 space per 300 square feet of gross floor area
Financial institution	1 space per 200 square feet of gross floor area
Indoor commercial recreational establishments and gymnasiums	1 space per 3 persons allowed within maximum occupancy permitted by building code
Eating and drinking establishment	1 space per 3 persons of legal capacity
Hotels, motels	1 space per guest room, plus amount required for other uses on the premises, plus 1 per employee
Personal service establishment	1 space per 300 square feet of gross floor area
Professional service establishment	1 space per 450 square feet of gross floor area

Wholesale facility	1 space per 500 square feet of gross floor area
Assembly operations	1 space per 2,000 square feet of gross manufacturing area, plus amount required for office space on the premises
Private marinas	0.75 space per boat slip or rack storage bin, plus amount required for other ancillary uses
Public transient marinas	5 spaces per boat slip
Public facilities	Applicant shall demonstrate parking demand
Municipal uses – utilities	Applicant shall demonstrate parking demand
Medical clinic	1 space for each employee of the largest shift, plus 1 space per 200 square feet gross floor area
Convenience store	1 space per 250 square feet of gross floor area
Pharmacy	1 space per 250 square feet of gross floor area
Automobile repair, major or minor	1 space per employee of largest shift, plus 1 space per service bay
Automobile gasoline station	1 space per 150 square feet dedicated to retail activity, plus 1 space at each fuel pump, plus 1 stacking space per fuel nozzle
Automobile wash	3 stacking spaces per bay, plus 1 space per 350 square feet of retail/office space, not including care wash bays
Veterinary hospital	1 space per 300 square feet of gross floor area
Warehouse	1 space per 500 square feet of gross floor area
Drive-through business	5 stacking spaces per drive-through lane with window service or 3 stacking spaces for drive-through ATM, in addition to any spaces required for the non-drive-through uses
Sexually oriented business	1 space per 350 square feet of gross floor area
Open air business	1 space per 350 square feet of indoor space devoted to retail activity, plus 1 space for each 2,000 square feet of outdoor display area

Section 390-116. Dimensional requirements for parking.

- A. Adequate ingress and egress to the parking area, by means of limited and clearly defined drives, shall be provided for all vehicles. One-way ingress driveways shall have a width between twelve (12) feet and fifteen (15) feet, and two-way ingress and egress driveways shall have a width between twenty-four (24) feet and thirty (30) feet.
- B. Maneuvering lanes for ninety (90) degree parking patterns shall accommodate two-way traffic.
- C. Minor adjustments of the dimensions prescribed in Table 390-115.01 may be authorized by the Zoning Administrator if consistent with generally recognized design standards for off-street parking facilities.
- D. Dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements in Table 390-116.01 below.

Table 390-116.01. Dimensional requirements for parking spaces and maneuvering lanes.

Parking Pattern (see figure 16.1)	Maneuvering lane width, two-way (feet)	Maneuvering lane width, one-way (feet)	Parking space width (feet)	Parking space length (feet)
Parallel parking	18	12	9	25
Angle parking 30° to 75°	24	12	9	21
Angle parking 76° to 90°	26	15	9	18

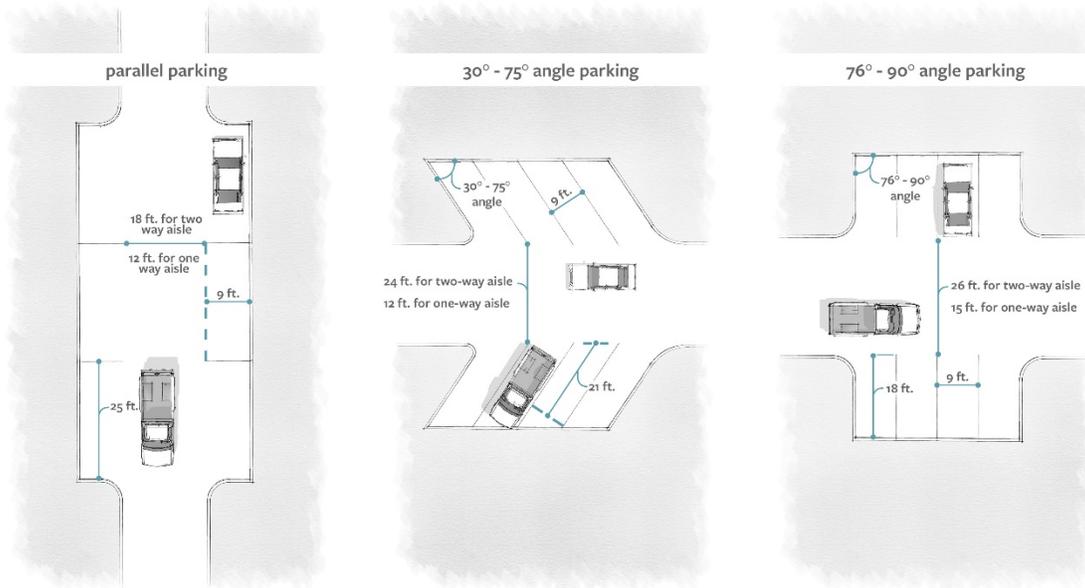


Figure 16.1 Off-Street Parking Design Standards

Section 390-117. Parking design requirements.

- A. All parking facilities, with the exception of those serving single-family dwellings and nonpublic areas used primarily for storage of vehicles, shall be hard-surfaced with asphalt, concrete, brick, stone, pavers, porous or semi-porous pavement, or an equivalent dustless and durable material approved by the Village Engineer.
- B. All parking facilities shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. No surface water from a parking area shall be permitted to drain onto adjoining property, not including a street, unless a watershed easement has been obtained. Discharge of drainage into a public right-of-way or municipal storm sewer shall require prior approval of the Village.
- C. If provided, parking area lighting shall comply with Section 390-35, Outdoor Lighting.
- D. Parking areas shall comply with the applicable provisions regarding screening and landscaping contained in Article XIV, Landscaping and Screening.
- E. Raised curbing, fences, or landscaping shall be provided and located so as to prevent any vehicle from projecting over or into any public sidewalk, walkway, right-of-way, or adjacent property. Wheel stops may be used only if they are firmly attached to the ground to prevent accidental movement from snowplows.
- F. Individual parking spaces shall be clearly identified and marked with durable striping to delineate each individual parking space.
- G. Parking areas, with the exception of access driveways from streets, shall be located entirely within lot lines and shall not encroach into any public right-of-way. With the exception of parking facilities serving single-family or two-family dwellings, or parking facilities

accommodating less than four (4) vehicles, off-street parking areas shall be designed in a manner which avoids the necessity of vehicles backing into any street.

- H. All parking spaces, parking lots, and maneuvering aisles shall provide adequate snow storage area, as determined by the Planning Commission. Snow storage area shall be shown on the Site Plan. In determining whether the proposed snow storage area would be sufficient, the following standards shall be considered:
 1. Snow storage shall not interfere with the clear vision and corner clearance requirements of this ordinance, as regulated in Section 390-11 A (2).
 2. Snow storage shall not impede pedestrian or vehicular circulation.
 3. Snow storage shall not create hazardous conditions for plantings in the landscape.

Section 390-118. Reserved.

Section 390-119. Bicycle parking.

Bicycle parking in the form of bicycle racks may be required by the Planning Commission within fifty (50) feet of the entrance of a building, in accordance with the following:

- A. Commercial uses located within two hundred (200) feet of the Village non-motorized trail may be required to provide one bicycle parking space per twenty-five (25) vehicular parking spaces or fraction thereof.
- B. Multi-family uses located within two hundred (200) feet of the Village non-motorized trail may be required to provide the following:
 1. one (1) bicycle parking space for every three (3) units for complexes of thirty (30) units or less,
 2. one (1) bicycle parking space for every four (4) units for complexes of thirty-one (31) to one hundred (100) units,
 3. one (1) bicycle parking space for every five (5) units for complexes of one hundred one (101) or more units.

Section 390-120. Required off-street loading and unloading spaces.

- A. Provision of off-street loading/unloading spaces shall be required for construction of any building 20,000 square feet or greater in gross floor area, or for any expansion of 2,000 square feet or more in gross floor area of any existing building of 18,000 square feet or greater in existing gross floor area, in the C and CBD Zoning Districts, as follows:

Building Gross Floor Area (square feet)	Required Number of Spaces
Less than 20,000 square feet	1
20,000 to 50,000	2
Above 50,000	3

- B. Off-street loading/unloading spaces shall have minimum dimensions of ten (10) feet in width, twenty-five (25) feet in length and unobstructed height of fourteen (14) feet.
- C. Any loading space located closer than fifty (50) feet to any residential zoning district or use shall be completely screened from such district or use by a solid fence or wall at least six (6) feet in height or a landscape screen consisting of a dense, evergreen vegetative buffer not less than six (6) feet in height at the time of planting.
- D. Adequate space shall be provided so that vehicles using required loading/unloading spaces are not required to use a street for maneuvering.

ARTICLE XVII, SITE PLAN REVIEW

Section 390-121. Purpose.

The purpose of site plan review is to ensure that the use of land and proposed structures thereon are in compliance with all applicable provisions of this Chapter, other ordinances of the Village and county, and state and federal statutes. This section provides for the consultation and cooperation between the applicant and Planning Commission in order that the applicant may accomplish the desired objectives in the utilization of land within the regulations of this Ordinance, while minimizing adverse impacts on natural features, shores, roadways, adjacent uses, surrounding infrastructure, and future uses of neighboring properties. This Ordinance therefore requires that site plans include the documents, information, and drawings necessary to address whether a proposed land use or activity is in compliance with applicable ordinances and statutes and the intent and purpose of this Ordinance.

Section 390-122. Required site plan review.

- A. Site plan review and approval by the Planning Commission shall be required prior to the issuance of a building permit for the construction, reconstruction, erection, or expansion of any building or structure in any zoning district, or prior to the initiation of any special land use in any zoning district, with the exception of the following:
 - 1. Accessory buildings and structures accessory to a single-family dwelling or two-family dwelling in any zoning district.
 - 2. Single-family dwellings and two-family dwellings.
 - 3. Family day-care homes and foster-care family homes in any zoning district.

Section 390-123. Application procedure.

- A. Optional Pre-application Conference. Prior to the submission of an application for site plan review, the applicant may meet with the Village for initial review. The purpose of this meeting is to facilitate discussion between the applicant and Village, and to identify any potential issues that will need to be addressed in the site development process.
- B. Site Plan Review. Application for site plan review shall be made by submitting the following materials to the Zoning Administrator or Planner at least thirty (30) days prior to the Planning Commission meeting at which the site plan is to be considered:
 - 1. Twelve (12) copies and a PDF of a site plan containing all of the information required in section 390-124.
 - 2. A completed application on an appropriate form provided by the Village.
 - 3. Payment of an application fee, which shall be established from time to time by resolution of the Village Council.

Section 390-124. Required site plan contents.

- A. A site plan submitted in accordance with this article shall contain all of the following information:

1. The date, north arrow, and scale. The scale shall not be more than one (1) inch equals twenty (20) feet.
2. The name and address of the individual responsible for the preparation of the site plan.
3. A sketch drawn to scale sufficient to locate the property within the Village.
4. The property size in acres and square feet.
5. All existing and proposed lot lines with bearings and dimensions, including setback lines and existing easements.
6. The location of all existing structures, street rights-of-way, pavement, parking areas and driveways within one hundred (100) feet of the subject property.
7. The location and dimensions of all existing and proposed structures on the subject property, including but not limited to accessory flagpoles, fences, walls, bulkheads, docks, storage sheds, transformers, air conditioners, generators and similar equipment, and the method of screening where applicable.
8. For any structure located in the one-hundred-year floodplain, as determined by the Federal Insurance Administration Flood Insurance Rate Map, the elevation, in relation to mean sea level, of the lowest floor (including basement) shall be indicated.
9. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, curbing, unloading areas, recreation areas, common use areas and areas to be conveyed for public purpose and use.
10. Curb cuts, driving lanes, parking, and loading areas shall be shown, including the dimensions of a typical space and aisle; the number of parking spaces and parking calculations; vehicular circulation patterns and features; location of all parking spaces; and identification of service lanes and parking.
11. Locations of exterior site lighting shall be shown, including specification of the height and style of fixtures.
12. Location of exterior trash facilities, including type of screening.
13. The existing zoning of all properties abutting the subject property.
14. Size and location of existing and proposed sewer and water supply systems, and storm sewers, including valves, hydrants, manholes, stormwater intakes and cleanouts.
15. Locations of all other utilities on the site, including but not limited to natural gas, electric, cable television and telephone.
16. The location and size of all existing and proposed subsurface and surface water drainage facilities, established floodplain areas, bodies of water or other unbuildable areas if present on the site.
17. Existing and proposed elevation contours shall be shown at two (2)-foot intervals. Direction of drainage flows shall be indicated. If applicable, the boundary of any area within the one-hundred-year floodplain, as determined by the Federal Insurance Administration Flood Insurance Rate Map, shall be identified.
18. Exterior building elevations and specifications for materials to be used on all structures, including calculation for the percentage of windows for each floor.

19. Location and design of all signs and advertising features, including diagram of height and size of signs.
 20. A landscape plan showing required planting and buffering features that comply with Article XIV of this Ordinance.
 21. A lighting plan meeting the requirements of Section 390-35 of this Ordinance.
 22. Evidence indicating that the sight distance requirements of MDOT and the Ottawa County Road Commission (OCRC), as applicable, are met.
 23. Proposed and existing access points on both sides of the street within five hundred (500) feet of the development.
 24. Dimensions for driveways (width, radii, throat length, length of any acceleration or deceleration lanes, tapers, pavement markings, and signs) and all curb radii within the site.
 25. Route and dimensioned turning movements of any expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles, and other similar vehicles.
- B. The following documentation shall also accompany the site plan:
1. The name and address of the property owner and petitioner, if different, and proof of ownership or option to purchase by the petitioner.
 2. Typical elevation views, with dimensions, of all sides of each principal building type.
 3. Summary tables with the following information, as applicable, shall be provided:
 - a. Total site area.
 - 1) Net site area exclusive of right-of-way.
 - 2) Minimum, maximum, and average lot area.
 - 3) Number, size, and bedroom mix of dwelling units proposed, list of commercial uses proposed, and the gross floor area of each use.
 - 4) Area and percentage of site coverage by buildings, pavement and open space.
 4. A legal description of the subject property and its street address.
 5. If applicable, correspondence showing that the proposal has been submitted to MDOT, and/or the OCRC.
 6. Where shared access is proposed or required, a draft access easement, including the maintenance and operation agreements.
 7. A copy of the shared parking contract between the property owners when a shared parking agreement has been proposed.
- C. The Zoning Administrator may waive any of the requirements of Section 390-124 A and B if, in his/her opinion, such information is not necessary for the review of the site plan.

Section 390-125. Planning Commission review and action.

- A. The Planning Commission may hold a public hearing on a proposed site plan, though it is not required. If a public hearing is held, notice shall be given in the same manner as specified in Section 390-151.
- B. The Planning Commission shall review the site plan and shall approve, deny or approve with conditions the site plan, based on its conformance with Section 390-126, Site plan review standards, all applicable provisions of this Chapter, other ordinances of the Village and County, and state and federal statutes.
- C. The Planning Commission may impose reasonable conditions in conjunction with approval of a site plan which it deems necessary to ensure conformance with applicable provisions of this Chapter and with state and federal statutes.

Section 390-126. Site plan review standards.

All site plans reviewed by the Planning Commission pursuant to this article shall comply with all applicable provisions of this article and with each of the following standards:

- A. Natural features preservation. Existing natural features of the site, including vegetation, topography, water features, and other such features, shall be preserved to the greatest extent practical. Only those areas under actual development shall be disturbed.
- B. Building relationships. Buildings and structures shall be placed in an orderly, logical fashion that is consistent with its surroundings and the intent of the district in which the lot is located. Where proposed, open spaces shall be located and arranged in a manner which provides view protection, visual relief, physical separation, environmentally sensitive area protection, and/or recreational value to the site and surrounding properties.
- C. Views. Views from adjacent properties and streets open to water areas shall be preserved to the greatest extent practical. Placement and height of buildings and locations of open spaces shall make reasonable provision for protection of existing views of the significant visual resources of the Village.
- D. Driveways, parking, and circulation. There shall be a proper relationship between the existing streets within the vicinity, and proposed deceleration lanes, service drives, entrance and exit driveways, and parking areas to assure the safety and convenience of pedestrian, bicycle, and vehicular traffic. Proposed streets and access plan and/or ingress/egress drives shall conform with any street or access plan adopted by the Village or MDOT. Access management standards of section 390-31 shall be met.
- E. Surface water drainage. Special attention shall be given to proper site surface drainage so that the removal of surface waters will not adversely affect neighboring properties, the public storm drainage system, or nearby bodies of water. Temporary on-site storage to reduce peak runoff from the site may be required. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create standing water in the paved areas. The standards of the Spring Lake Stormwater Management Ordinance (Chapter 320 of the Village of Spring Lake Code of Ordinances) shall be met.

- F. Utility service. All utility services shall be provided on site in a manner least harmful to surrounding properties, and all utilities are located underground, as applicable, unless specifically waived by the planning commission.
- G. Special features. Exposed storage areas, trash receptacles, machinery installations, service areas, truck unloading areas, utility buildings and structures, and similar accessory areas shall be screened from view from adjoining streets and properties in accordance with Article XIV, Landscaping and Screening.
- H. Emergency access. The site plan shall provide for adequate access to the site and all buildings on the site by emergency vehicles.
- I. Transitions. All structures shall provide an orderly transition to adjacent development of a different scale.
- J. Common areas. Where appropriate, the site plan shall provide outdoor common areas and associated amenities for employees, customers, and/or residents which may include public trash receptacles, bike racks, seating areas, recreations areas, shade trees, bus stop turn-outs, and similar facilities.
- K. Agency approvals. All applicable local, state, and federal approvals are in place, or that such approvals shall be in place prior to issuance of a land use permit. Further, the failure to remain in compliance with any such approval shall be grounds for denying or revoking approval hereunder.
- L. The site plan shall be consistent with the intent and purpose of this Ordinance.

Section 390-127. Construction in conformity with approved site plan required.

- A. Upon approval or conditional approval of a site plan by the Planning Commission, the Planning Commission Chairman and the applicant shall sign a minimum of three (3) copies of the approved site plan. Signed copies shall be provided to the applicant and the Building Official, and one (1) signed copy shall be made a part of the record of approval.
- B. Following approval of a site plan by the Planning Commission, construction of all improvements and other subsequent actions relating to the activity authorized shall be in conformity with the approved site plan.

Section 390-128. Time limit for approved site plans.

- A. A site plan approval granted pursuant to this article shall be valid for one (1) year from the date of approval. If construction has not commenced by the end of this period, and if a written request for extension of the approval has not been submitted by the applicant, the site plan approval shall be deemed expired and shall become null and void.
- B. The Planning Commission may grant no more than one (1) extension of the site plan approval for a one (1) year period, upon submittal in writing by the applicant of a request for an extension prior to the date of the expiration of the site plan approval. The Planning Commission shall grant such an extension only upon presentation of written evidence indicating that construction of the project has been delayed by factors beyond the reasonable control of the applicant and that construction on the project is likely to commence within one (1) year and proceed diligently to completion.

Section 390-129. Changes to approved site plans.

- A. Amendments to an approved site plan may be made, provided such amendments are in conformance with this Ordinance, and provided such amendments receive approval from the Village. Requests for approval of site plan amendments shall be submitted to the Zoning Administrator.
- B. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include, but are not necessarily limited to, the following:
 - 1. Internal rearrangement of a parking lot or a reduction in the number of parking spaces by no more than ten (10) percent;
 - 2. Changes in the building size, up to five (5) percent of the gross floor area;
 - 3. Movement of buildings by no more than ten (10) feet;
 - 4. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater size and/or number;
 - 5. Changes in floor plans that do not alter the character of the use or increase the amount of required parking;
 - 6. Changes to building materials of a comparable or higher quality;
 - 7. Changes required or requested by the Village, Ottawa County, or other state or federal regulatory agency in order to conform to other laws or regulations, unless said changes result in a major change in the opinion the Zoning Administrator; and
 - 8. Change of phases or sequence of phases, only if all phases have received final approval.
- C. A proposed change not determined by the Zoning Administrator to be minor shall be submitted as an amendment to the site plan and shall be processed in the same manner as the original site plan application.
- D. Approved amendments to site plans shall be recorded on a revised copy of the site plan meeting the requirements of Section 390-124 and kept in the office of the Zoning Administrator. The Zoning Administrator shall notify the Building Official and any other appropriate agencies or individuals of the approved changes.

Section 390-130. Appeals.

With regard to site plan approval decisions, an appeal may be taken to the Zoning Board of Appeals in the same manner as other administrative decisions. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be necessary to reverse any decision by the Planning Commission, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the village, County, or State. The Zoning Board of Appeals shall state the grounds of each determination. An appeal to the Zoning Board of Appeals must be taken within thirty (30) days of the decision complained of by the appellant.

ARTICLE XVIII, SPECIAL LAND USES

Section 390-131. Purpose.

This article describes procedures and standards for approval of special land uses. These uses, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole. The regulations and standards herein are designed to allow reasonable uses of land while maintaining adequate provisions for the protection of the health, safety, and welfare of the community.

Section 390-132. Application procedures.

- A. Optional Pre-application Conference. Prior to the submission of an application for special land use, the applicant may meet with the Village for initial review. The purpose of this meeting is to facilitate discussion between the applicant and Village, and to identify any potential issues that will need to be addressed in the site development process.
- B. Application requirements. A special land use application shall be submitted to the Zoning Administrator at least thirty (30) days prior to the next regular Planning Commission meeting. An application that is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. All applications shall include the following:
1. Twelve copies of the site plan containing all of the information required by Article XVII, provided that the Zoning Administrator may waive any of the submittal requirements pursuant to Section 390-124 C.
 2. A legal description, either by metes and bounds or by subdivision lot and block, and a street address.
 3. A completed application on a form provided by the Village.
 4. Payment of an application fee, as established from time to time by resolution of the Village Council.
- C. Review process.
1. Public hearing. Upon receipt of an application for approval of a special land use, the Zoning Administrator shall schedule a Planning Commission public hearing on the special land use request, in accordance with Section 390-151.
 2. Planning Commission decision. Following the public hearing on the special land use request, and the Planning Commission shall approve, approve with conditions or deny the special land use request, based upon review and consideration of materials submitted with the application and comments received at the public hearing.
 3. Attachment of conditions. The Planning Commission may impose reasonable conditions related to approval of a special land use which are deemed necessary to:
 - a. ensure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed special land use
 - b. protect the natural environment and conserve natural resources and energy
 - c. insure compatibility with adjacent uses of land, and

- d. promote the use of land in a socially and economically desirable manner.
- 4. Basis for decision. In arriving at their decision, the Planning Commission shall refer to and be guided by those standards set forth in this article. The decision of the Planning Commission or Zoning Administrator, as applicable, shall be incorporated in a statement of conclusions specifying the basis of the decision and any conditions imposed. The decision and statement of conclusions, including conditions imposed on any approval, shall be kept and made a part of the minutes of the Planning Commission or as part of an official record.
- D. Issuance of permit and enforcement. Upon approval by the Planning Commission, the Zoning Administrator shall issue the Special Land Use permit. It shall be the responsibility of the Zoning Administrator to monitor compliance with the terms, conditions, and restrictions of any Special Land Use permit and take any enforcement action necessary in the event of a violation of the Special Land Use permit. Any violation of the terms, conditions, or limitations of a Special Land Use permit shall be cause for revocation of the permit.
- E. Amendments. Amendments to special land use permits shall be handled in the same manner as the initial special land use application. Minor non-substantive changes to a site plan in accordance with Section 390-129 may be made to an existing special land use permit with the approval of the Zoning Administrator.
- F. Appeals. No decision or condition related to a special land use application shall be taken to the Zoning Board of Appeals.
- G. Transfers. The special land use permit, along with any and all associated benefits, conditions, and required security may be transferred to a new owner upon the sale or transfer of the property in question. The prior owner, upon transferring the special land use permit, shall advise the Zoning Administrator of said transfer in order to insure the continued validity of the permit and compliance with the terms and conditions of the approved permit.
- H. Abandonment. Any permitted special land use shall be considered abandoned, and such use shall not be resumed thereafter, if any of the following conditions apply:
 - 1. The owner declares or otherwise makes evident an intent to discontinue the special land use.
 - 2. When the special land use has been replaced by a different use.
 - 3. If the special land use has been abandoned for more than one (1) year, and the Zoning Administrator finds that one or more of the following conditions exist:
 - a. Utilities, such as water, gas, and electricity to the property, have been disconnected.
 - b. The property, buildings, and grounds, have fallen into disrepair.
 - c. Signs or other indications of the existence of the special land use have been removed.
 - d. Removal of equipment or fixtures necessary for the operation of the special land use.
 - e. Other actions, which in the opinion of the Zoning Administrator constitute an intention of the part of the property owner or lessee to abandon the use.

Section 390-133. Reserved.

Section 390-134. Standards for approval.

The Planning Commission shall approve, or approve with conditions, a special land use request only upon a finding that all of the following standards for approval are satisfied:

- A. That the use is designed and constructed, and will be operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the area in which it is proposed.
- B. The Special Land Use shall be consistent with the adopted Spring Lake Village Master Plan.
- C. The Special Land Use authorized shall be compatible with adjacent uses of land, the natural environment, and the capacities of public services and facilities affected by the land use.
- D. The use is, or will be, served adequately by public services and facilities, including, but not limited to streets, police and fire protection, drainage structures, refuse disposal, water and sewer facilities and schools.
- E. The use does not involve activities, processes, materials and equipment or conditions of operation that will be unreasonably detrimental to any persons, property or the general welfare by reason of excessive traffic, noise, smoke, fumes, glare, or odors.
- F. That the buildings, structures, and entrances thereto proposed to be located upon the premises are so situated and so designed as to minimize adverse effects upon owners and occupants of adjacent properties and the neighborhood.
- G. The site plan and special land use shall comply with the applicable specific special land use requirements contained in section 390-137 of this article.

Section 390-135. Approval term and expiration.

- A. A special land use approval granted pursuant to this article shall be valid for one (1) year from the date of approval, unless approval is revoked as provided in Section 390-136. If the special land use has been initiated or construction necessary for such use has been initiated and is proceeding meaningfully toward completion, approval shall remain valid indefinitely, unless the use is abandoned pursuant to section 390-132 G.
- B. If after one (1) year following approval, the special land use has not been initiated or the construction necessary for such use has not been initiated or, if construction has been initiated, it is not proceeding meaningfully toward completion, then the special land use approval shall be deemed expired and no longer valid.
- C. A special land use approval, including conditions imposed, is attached to and shall run with the land for which the approval is granted, and shall be binding upon subsequent owners and all occupants of the subject land.
- D. Applications for re-approval of an expired special land use approval shall be considered in the same manner as the original approval in accordance with the procedures in this article.

Section 390-136. Revocation of special land use approval.

The Planning Commission may revoke any special land use approval, or take any other action allowed by law, if the applicant fails to comply with any of the applicable requirements in this article, any conditions placed on the original approval by the Planning Commission, or any other applicable provisions of this Chapter. Prior to revoking a special land use approval, the Planning Commission shall conduct a public hearing and give notice of such hearing in accordance with Section 390-151. The applicant shall be given a reasonable opportunity to correct the violation(s).

Section 390-137. Requirements for specific special land uses

The general standards and requirements of Sections 390-134 to 390-136 apply to all special land uses. The specific and detailed requirements set forth in this section relate to particular uses and are requirements which must be met by those uses in addition to the foregoing general standards and requirements.

The following requirements shall apply to any special land use approved after the effective date of this Chapter. Uses lawfully in existence on the effective date of this Chapter shall not be considered nonconforming uses or nonconforming structures by reason of noncompliance with the following requirements; provided, however, that the Planning Commission may, as a condition of approval of any special land use request for expansion or modification of such an existing use, require reasonable measures to be taken to eliminate existing noncompliance with these requirements.

Section 390-137.01. Accessory Dwellings.

- A. An accessory dwelling shall not be used for short term rental purposes.
- B. All structures designed and/or used for the temporary or permanent dwelling of a person or persons and not integrated into the primary residence on a lot shall be considered an accessory dwelling unit (ADU).
- C. The ADU shall be connected to public water and wastewater systems.
- D. The ADU shall include a kitchen, bathroom, and sleeping area separate from the primary residence, and shall meet all provisions of the Building Code and regulations.
- E. The exterior design of an ADU, whether attached or detached to the principal dwelling, including the primary dwelling unit, shall be compatible with the existing residence on the lot. The building form, height, construction materials, dimensions, and landscaping shall remain consistent with the principal structure and in harmony with the character and scale of the surrounding neighborhood.
- F. The ADU shall not result in excessive traffic, parking congestion, or noise.
- G. The design and location of the ADU shall maintain a compatible relationship to adjacent properties and shall not significantly impact the privacy, light, air, or parking of adjacent properties.
- H. Where applicable, the ADU shall be located and designed to protect neighboring views of the lakeshore and scenic coastal areas.
- I. No more than one ADU shall be permitted on a single parcel.

J. Development standards.

1. Unit size. ADUs shall have a floor area no less than four hundred (400) square feet and no greater than one thousand (1,000) square feet, and an ADU shall not be greater than the size of the principal dwelling
2. Setbacks. ADUs shall comply with all setbacks for accessory buildings in the zoning district in which they are located. Attached ADUs shall meet the same setbacks as required for the principal dwelling.
3. Occupancy. The property owner must occupy either the principal or accessory dwelling.
4. Height. A single story detached ADU shall not exceed thirteen (13) feet in height. A one and one-half (1 1/2;) to two (2) story detached ADU shall not exceed twenty-two (22) feet in height. Height shall be measured to the roof peak. If the primary dwelling unit has historic or special roof features or ornamentation, which should be matched on the ADU, the maximum building height may be exceeded in order to accommodate the existing character of the lot, subject to review and approval of the zoning administrator.
4. Orientation. Windows facing an adjoining residential property must be designed to protect the privacy of neighbors, unless fencing or landscaping is provided as screening.
5. Deed restrictions. Before obtaining a building permit, or when a building permit is not required, before making an ADU available for use, the property owner shall file with the zoning administrator a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner, which shall state the following:
 - a. The use permit for the ADU shall be in effect only so long as either the main residence or the ADU is occupied as the principal residence by the applicant.
 - b. The ADU is restricted to the approved size.
 - c. The ADU shall not be sold separately.
 - d. All above declarations shall run with the land, and are binding upon any successor in ownership.
 - e. The deed restrictions shall lapse upon the removal of the ADU.
6. Attached accessory dwelling units. All attached ADUs shall have a separate entrance/exit from that of the primary dwelling unit. All interior doors and entryways linking the primary residence to the accessory unit shall be lockable.

Section 390-137.02. Adult foster care congregate facilities

- A. Adult foster care facilities and homes shall at all times maintain all valid state and local licenses.
- B. An adult foster care facility or home serving seven (7) or more residents shall not be located within fifteen hundred (1,500) feet of any other adult foster care facility or home.

Section 390-137.03. Adult foster care small and large group homes

- A. Buildings shall conform to the yard, setback, and height standards of the zoning district in which it is located.
- B. All required state and local licensing shall be maintained at all times.
- C. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- D. Hours of operation shall not exceed sixteen (16) hours during a twenty-four (24) hour period. The Planning Commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 p.m. and 6:00 a.m.

Section 390-137.04. Assembly operations

- A. The applicant shall demonstrate why the proposed use will not adversely impact other uses in the vicinity and particularly those on adjacent lots.
- B. The applicant shall submit estimates regarding the amount and type of truck traffic that can reasonably be expected to enter or leave the site on a daily and weekly basis.
- C. If the entire site is not initially being developed, the applicant shall indicate on the required site plan any contemplated expansions or additional development that might be expected to take place at a future date.
- D. No hazardous materials shall be stored on the site or used in any assembly process.
- E. If the Planning Commission determines that any proposed use or activity will create discernable noise, dust, vibration, odor, glare, or heat beyond any property line, a detailed statement shall be provided which addresses and quantifies each concern and addresses how each concern will be minimized to the satisfaction of the Planning Commission.

Section 390-137.05. Automobile gasoline stations.

- A. Minimum lot area shall be twelve thousand (12,000) square feet and minimum lot width shall be one hundred (100) feet.
- B. Pump islands shall be a minimum of fifteen (15) feet from any public right-of-way or lot line.
- C. Where adjoining a residential zoning district or use, a solid fence or wall six (6) feet in height shall be erected along the common lot line. Such fence or wall shall be continuously maintained in good condition.
- D. In the event that the use of the property for sales of gasoline has been abandoned or terminated for a period of more than one (1) year, all underground gasoline storage tanks shall be removed from the premises. The Village may require a performance guarantee at the time of special land use approval to ensure their removal.

Section 390-137.06. Automobile repair, minor and major.

- A. There shall be a minimum lot area of 12,000 square feet and minimum lot width of 100 feet.

- B. Where adjoining a residential zoning district or use, a solid fence or wall six (6) feet in height shall be erected along the common lot line. Such fence or wall shall be continuously maintained in good condition.
- C. All repair work shall be conducted completely within an enclosed building.
- D. Any materials or products stored outside and not for sale shall be completely enclosed by a solid fence, wall, or landscape screen approved by the Planning Commission as part of the special land use approval. Such fence, wall, or landscape shall be continuously maintained in good condition.
- E. In the event that an automobile service station use has been abandoned or terminated for a period of more than one year, all underground gasoline storage tanks shall be removed from the premises in accordance with local, state, and federal regulations.

Section 390-137.07. Reserved.

Section 390-137.08. Automobile wash.

- A. Only one (1) ingress/egress driveway shall be permitted on any single street. A one-way-in/one-way-out access shall be counted as a single ingress/egress driveway.
- B. Sufficient stacking capacity shall be provided to ensure that traffic does not extend into the street. Self-service car washes shall provide a minimum of four (4) stacking spaces (including one in the wash stall) per each washing stall. Automatic washes shall provide a minimum of ten (10) stacking spaces (including two in the washing facility). Spaces in addition to the minimum required shall be provided if determined by the Planning Commission to be necessary to ensure that traffic does not extend into the street. Stacking shall be planned so as to minimize conflicts with entering and exiting traffic, pedestrians and parking areas.
- C. Where adjoining a residential zoning district or use, a solid fence or wall six (6) feet in height shall be erected along the common lot line. Such fence or wall shall be continuously maintained in good condition.

Section 390-137.09. Reserved.

Section 390-137.10. Bed-and-breakfast establishments.

- A. A bed-and-breakfast establishment shall only be permitted in a single-family detached dwelling which shall be owner occupied at all times. During temporary absences (up to 14 days in a calendar year) the owner's designee must be on the premises.
- B. A bed-and-breakfast establishment shall only be permitted on the following streets in the Village: Savidge Street, West Exchange Street, and Liberty Street.
- C. The impact of the bed-and-breakfast shall be no greater than that of a private home with house guests.
- D. The rooms utilized for the bed-and-breakfast shall be a part of the principal residential use and not specifically constructed for rental purposes. Additions to the home for the sole purpose of expanding of the bed-and-breakfast are not permitted. The residence shall not

be altered to contain more rental rooms than the number of bedrooms which existed at the time of enactment of this article.

- E. The residential character of the dwelling shall be preserved, and no structural alterations, construction features, or site features of a nonresidential nature shall be permitted.
- F. No accessory building shall be used for bed-and-breakfast activities, except that the Planning Commission may permit the use of an existing accessory dwelling as a guest sleeping area for a bed-and-breakfast.
- G. Not more than four (4) rooms shall be rented to guests.
- H. Meals may be served to overnight guests only and shall not be served to the public at large. No cooking facilities are allowed in individual rooms.
- I. Each sleeping room shall have a separate operational smoke detector alarm that meets the requirements of the Michigan Building Code, as amended from time to time. There shall be a fire extinguisher in proper working order on every floor. There shall be at least two (2) exits to the outdoors from the dwelling.
- J. Lavatories and bathing facilities shall be provided for all registered guests at a ratio of not less than one bathroom per two (2) guest bedrooms.
- K. The maximum length of stay for any guests of the bed-and-breakfast operation shall be fourteen (14) consecutive days and not more than thirty (30) days in any one (1) year.
- L. All bed-and-breakfast operations shall maintain a guest register including name, address, phone number, and vehicle license number, and indicating the dates of arrival and departure, which shall be subject to inspection by the Zoning Administrator or his/her designee during reasonable hours.
- M. Exterior refuse storage facilities beyond what might normally be expected for a single-family detached dwelling shall be prohibited.
- N. Accessory retail and service uses, including but not limited to gift shops, antique shops, restaurants, and bakeries shall be prohibited unless the bed-and-breakfast establishment is located in a commercial district where such uses are permitted. Additional parking shall be provided for such additional uses as required by this ordinance.
- O. No guest parking shall be permitted in the front yard. No parking area shall be lighted except for a residential porch light as regulated in Section 390-35. A landscape buffer area shall separate the parking area from any adjacent residentially zoned or used property.
- P. A complete floor plan and site plan, including off-street parking, must be provided for review and approval of the Planning Commission.
- Q. Rooms utilized for guest sleeping shall not exceed two (2) occupants per room, not including children under the age of twelve (12). Each room for guest sleeping shall be at least one hundred (100) square feet in area.
- R. Each dwelling utilized as a bed-and-breakfast establishment shall comply with all applicable provisions of the State Construction Code, Building Code, Electrical Code, Plumbing Code, Mechanical Code, Property Maintenance Code, and Fire Prevention Code enforced by the Village. The bed-and-breakfast establishment shall secure all applicable state and local permits or certifications.

- S. All signs for the bed-and-breakfast establishment shall comply with the regulations in Article XV of this ordinance.
- T. Any property to be used for a bed-and-breakfast establishment shall be suitable for transient lodging facilities. In this connection, a bed-and-breakfast establishment shall meet the requirements of Chapter 271, Rental Units, Registration of, of the Code of the Village of Spring Lake, and shall be subject to periodic registrations and inspections as provided in said code.

Section 390-137.11. Community support facility.

- A. The facility must be operated by a church or 501(c)(3) nonprofit organization as a not-for-profit operation. The facility must be located on property that has been removed from the property tax rolls prior to the submission of the special use application. The office(s) of the organization may be in the facility.
- B. Any temporary transitional housing shall be subject to the following:
 - 1. Each dwelling unit may be occupied by the same family for no longer than six (6) months in a twelve (12)-month period.
 - 2. The organization shall provide details of their residency requirements to the Planning Commission as part of the special use permit application.
- C. The facility shall be operated in a single-family dwelling, or a structure built to resemble a single-family dwelling, similar in style to a typical Village home.
- D. There may be no more than one (1) principal structure per parcel.
- E. The home(s) and property shall be maintained in a manner consistent with the visible characteristics of the surrounding residential neighborhood.
- F. The housing units need not be owner occupied.
- G. Food and clothing distribution and similar services may occur only between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday.
- H. Delivery of food, clothing, or other commodities to the facility by semitrailer trucks is prohibited.
- I. Parking areas shall be set back five feet from all property lines and the setback area shall be landscaped to buffer adjacent properties from noise and headlights;
- J. The applicant shall submit a sign plan for the facility. The Planning Commission shall review the sign plan based on the size and location of the facility and the proximity of the facility to residentially zoned or used properties.
- K. Site lighting shall be of a residential nature, size, scale, and intensity, and shall be confined to the property on which the facility is located.
- L. Unless otherwise stated in this article, all building additions, accessory buildings, major site changes, or changes in use require an amendment to the special use permit and site plan approval per the requirements of this Chapter.
- M. Any community support facility providing transitional housing shall comply with the provisions of Chapter 271 of the Code of the Village of Spring Lake.

Section 390-137.12. Day-care, adult.

- A. For purposes of this section "participant" is defined as the adult who is being supervised at the facility.
- B. The facility must be operated by a church or 501(c)(3) nonprofit organization as a not-for-profit operation.
- C. The applicant shall indicate the number of anticipated participants and illustrate how they will be able to safely accommodate them on site. Input or information from the Fire Chief or other relevant reviewing agency is recommended.
- D. Hours of operation shall be limited to a period beginning at 6:00 a.m. and concluding at 11:00 p.m. seven (7) days per week. Additional hours may be permitted from time to time, but must be approved in advance by the Zoning Administrator, or at their discretion, the Planning Commission.
- E. The facility shall be operated in a single-family dwelling, or a structure built to resemble a single-family dwelling similar in style to a typical Village home with a homelike atmosphere for the participants.
- F. The facility does not need to be owner occupied.
- G. The facility shall meet all ADA accessibility standards.
- H. All entrances used by participants must be covered by an awning, roof, or other building feature to protect participants from the elements. Such awning or covering may encroach into the side or front setback up to five (5) feet, but no closer than ten (10) feet to the property line. Installation of such awning or covering shall be subject to the approval of the Zoning Administrator.
- I. The home and property shall be maintained in a manner consistent with the visible characteristics of the surrounding residential neighborhood.
- J. The minimum lot area shall be twenty thousand (20,000) square feet.
- K. Outdoor recreation area shall be fenced.
- L. A dropoff/pickup area shall be provided for vehicles off the street. Such area shall be arranged so as to allow entrance to the street without backing of vehicles and so as to minimize conflicts between pedestrians and traffic.
- M. Parking areas shall be set back five (5) feet from all property lines, and the setback area shall be landscaped to buffer adjacent properties from noise and headlights.
- N. All applicants must demonstrate that there will be adequately trained personnel to staff or manage the facility.
- O. The facility may have one (1) nonilluminated wall sign not exceeding twenty (20) square feet in area on the building wall facing the street. One (1) additional sign which meets the same requirements may be permitted over a major building entrance facing the parking lot.
- P. Site lighting shall be of a residential nature, size, scale, or intensity, and shall be confined to the property on which the facility is located.

- Q. Unless otherwise stated in this article, all building additions, accessory buildings, and major site changes require an amendment to the special use permit and site plan approval pursuant to the requirements of this Chapter.

Section 390-137.13. Day care, commercial.

- A. All required state and local licensing shall be maintained at all times.
- B. All outdoor areas used for care and play area shall be located in the rear or side yards only and shall have appropriate fencing for the safety of the children. Such fence shall consist of a six-foot-high opaque fence along the area adjoining another residence, and a four-foot to six-foot-high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
- C. Such facilities shall be located at least fifteen hundred (1,500) feet from any one of the following:
 - 1. A licensed or pre-existing operating group or commercial day-care home.
 - 2. An adult foster care facility.
 - 3. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people.
 - 4. A community correction center resident home halfway house or similar facility under jurisdiction of the county sheriff or the department of corrections.
- D. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- E. The planning commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 p.m. and 6:00 a.m.

Section 390-137.14. Day care, group.

- A. All required state and local licensing shall be maintained at all times.
- B. All outdoor areas used for care and play area shall be located in the rear or side yard only, and shall have appropriate fencing for the safety of the children. Such fence shall consist of a six-foot-high opaque fence along the area adjoining another residence, and a four-foot to six-foot-high fence in the rear yard and in the side yard up to the front building line. Play areas abutting a public right-of-way shall be prohibited.
- C. Such facilities shall be located at least fifteen hundred (1,500) feet from any one of the following:
 - 1. A licensed or pre-existing operating group or commercial day-care home.
 - 2. An adult foster care facility.
 - 3. A facility offering substance abuse treatment and rehabilitation service to seven (7) or more people.
 - 4. A community correction center resident home halfway house or similar facility under jurisdiction of the department of corrections.

- D. Such facilities shall at all times be maintained in a manner consistent with the character of the surrounding neighborhood.
- E. The planning commission shall not prohibit evening operations completely, but may establish limitations on hours of operation and/or activities between the hours of 10:00 p.m. and 6:00 a.m.

Section 390-137.15-16. Reserved.

Section 390-137.17. Financial institutions with drive-through facilities.

- A. Only one ingress/egress driveway shall be permitted on any single street. A one-way-in/one-way-out driveway shall be counted as a single ingress/egress driveway.
- B. Sufficient stacking capacity for the drive-through facility shall be provided to ensure that traffic does not extend into the street. A minimum of five (5) stacking spaces (including one space at the drive-through facility) per each drive-through facility station shall be provided in all cases. Spaces in addition to the minimum required shall be provided if determined by the Planning Commission to be necessary to ensure that traffic does not extend into the street.
- C. Stacking shall be planned so as to minimize conflicts with entering and exiting traffic, pedestrians, and parking areas.
- D. The drive-through facility shall be screened from adjacent residential properties.
- E. The speaker system shall not be audible from the road right-of-way or adjacent properties.
- F. Lighting of all drive-through facilities shall be one-hundred-percent cutoff fixtures directed downward. All lighting shall be directed away from adjacent properties and streets.

Section 390-137.18. Reserved.

Section 390-137.19. Foster-care group homes.

- A. Off-street parking spaces shall be provided in a quantity sufficient to accommodate employees of the foster-care group home.
- B. The home and property shall be maintained in a manner consistent with the visible characteristics of the surrounding neighborhood.

Section 390-137.20. Funeral homes.

- A. An off-street vehicle assembly area shall be provided to be used in support of funeral procession activities. This area shall be in addition to the required off-street parking and its related maneuvering area.
- B. A caretaker's residence may be provided within the main building.
- C. The use shall not be located on a local street.

Section 390-137.21. Reserved.

Section 390-137.22. Hotels, motels.

- A. Minimum lot area shall be one (1) acre and minimum lot width shall be one hundred fifty (150) feet.
- B. Where adjoining a residential zoning district or use, a dense, evergreen vegetative buffer not less than six (6) feet in height at time of planting shall be erected along the common lot line. Such buffer area shall be continuously maintained in good condition.

Section 390-137.23. Indoor recreation facilities.

- A. Only one (1) ingress/egress driveway shall be permitted on any single street. A one-way-in/one-way-out access shall be counted as a single ingress/egress driveway.

Section 390-137.24. Large places of public assembly.

- A. The Planning Commission may require the completion of a traffic impact study for large places of public assembly..

Section 390-137.25. Marinas.

- A. There shall be no aboveground storage of gasoline, fuel oil, or other flammable liquids or gasses.
- B. No building, structure, dock, or parking area which is part of a marina shall be located closer than thirty-five (35) feet to any lot in the SFR Zoning District.
- C. Required parking facilities shall not be used for storage of boats, racks, or trailers for periods exceeding seventy-two (72) hours, from June 1 to September 10.

Section 390-137.26. Reserved.

Section 390-137.27. Open air businesses.

- A. Any materials or products stored or displayed in the open air shall not extend into any required yard or occupy any required parking or maneuvering areas for vehicles.
- B. Any materials or products stored outside and not for sale shall be completely enclosed by a decorative fence, wall, or landscaped screen approved by the Planning Commission as part of the special land use approval. Such fence, wall, or screen shall be continuously maintained in good condition.
- C. Lighting of outdoor display areas shall be shielded so as to deflect light away from any residential use or residential zoning district and shall not be placed so as to interfere with vision of drivers on adjoining streets.

Section 390-137.28. Reserved.

Section 390-137.29. Pharmacies with drive-through facilities.

- A. The drive-through facility shall be screened from adjacent residential properties.
- B. The speaker system shall not be audible from the road right-of-way or adjacent properties.

- C. Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way nor does it interfere with internal circulation of vehicles. No more than three (3) stacking spaces shall be permitted.
- D. Lighting of all drive-through facilities shall be one-hundred-percent cutoff fixtures directed downward. All lighting shall be directed away from adjacent properties and streets.

Section 390-137.30. Restaurants with drive-through facilities.

- A. Sufficient stacking capacity for the drive-through facility shall be provided to ensure that traffic does not extend into the street. A minimum of ten (10) stacking spaces shall be provided for the drive-through facility. Spaces in addition to the minimum required shall be provided if determined by the Planning Commission to be necessary to ensure that traffic does not extend into the street. Stacking shall be planned so as to minimize conflicts with entering and exiting traffic, pedestrians, and parking spaces.
- B. A minimum of three (3) parking spaces shall be placed beyond the pickup window to accommodate vehicles waiting for delivery of orders.
- C. Where adjoining a residential zoning district or use, a dense evergreen vegetative buffer not less than six (6) feet in height at the time of planting shall be installed along the common lot line. The buffer shall be continuously maintained in good condition.
- D. The speaker system shall not be audible from the street right-of-way or adjacent properties.

Section 390-137.31. Senior assisted living facilities.

- A. The use shall be established and maintained in accordance with any and all applicable local, state, and federal laws.
- B. Parking shall comply with the parking requirement for each specific use on the site, however, parking requirements may be reduced if the planning commission finds that such requirements may be modified due to varying hours of operation or other factors.
- C. All dwellings shall consist of at least four hundred fifty (450) square feet of floor area per dwelling unit.
- D. The number of efficiency dwelling units may exceed fifteen (15) percent of the total number of dwelling units, provided the total number of dwelling units shall not exceed eighteen (18) dwelling units per net usable acre of land.
- E. The owner shall file with the Village a covenant, reviewed as to form by the Village attorney and approved by the Village Council. The owner shall covenant on behalf of owner and the owner's heirs, personal representatives, successors, and assigns that occupancy of the development shall be limited to the "aged" as defined in Section 20106 of Michigan Public Act 368 of 1978, the Public Health Code, as amended or as superceded and replaced. The covenant shall be executed and recorded with the county register of deeds prior to issuance of a building permit.

Section 390-137.32. Short term rentals.

- A. If the subject lot does not meet the district minimum lot area or has other dimensional nonconformities, the Planning Commission may deny approval, or it may condition approval

on measures that mitigate potential adverse effects of operating a short term rental on the lot.

- B. Off-street parking shall comply with these requirements in addition to any other requirements for the applicable zoning district in question.
 - 1. A minimum of two (2) off-street parking spaces located on the subject property shall be provided per unit (up to 6 occupants), plus one space for every three occupants over six, based on approved occupancy for the dwelling unit.
 - 2. Any proposed expanded parking area must be shown on the site plan and will be subject to review by the Planning Commission and Zoning Administrator. Parking on the grass is prohibited.
- C. Outdoor areas intended for the congregating of guests (e.g., porches, decks, pools and pool decks, gazebos, fire pits, etc) must meet the following requirements, in addition to other requirements established by this chapter.
 - 1. Fire pits shall meet the requirements of the fire code and any other applicable codes.
 - 2. Patios and decks must be a minimum of three (3) feet from any property line.
 - 3. The planning commission may require an outdoor congregating area to be fenced in or landscaped in order to help buffer the short term rental from neighboring properties. The Village shall consider lot sizes in the area and of the short term rental, surrounding land uses, topography, and other considerations deemed relevant by the Village.
- D. The number of overnight guests in a short term rental shall be based on occupancy limits established by the International Property Maintenance Code. No guest may sleep on couches, the floor, in tents, or in trailers on the lot.
- E. The applicant shall submit a floorplan of the dwelling unit and a site plan of the property drawn to a scale of not less than 1/8 inch = 1 foot.
- F. No separate cooking facilities shall be allowed in sleeping rooms.

Section 390-137.33. Tattoo or piercing parlors

- A. The planning commission may establish hours of operation to protect the character of the land uses in the vicinity. Hours of operation shall be consistent with those of adjacent land uses.
- B. Food or beverages shall not be served at the establishment.
- C. The applicant shall demonstrate that outdoor loitering space would not be provided for and that outdoor loitering would be prohibited.
- D. The use shall be compatible with other allowed uses in the vicinity. The impact of the establishment shall be no greater than of other uses allowed in the commercial districts of the Village.
- E. A proposed tattoo or piercing parlor shall be located a minimum of one thousand (1,000) feet from an existing tattoo or piercing parlor or educational facility. The planning commission may waive this requirement if it finds that physical features significantly separate the uses so as to avoid concentration of tattoo or piercing parlors, and to avoid the establishment of a tattoo or piercing parlor in proximity to an educational facility.

Section 390-137.34. Veterinary hospitals.

- A. Boarding of animals shall not be permitted except for brief periods deemed necessary for medical observation or treatment.
- B. Buildings in which animals are treated shall not be located nearer than fifty (50) feet to any adjacent dwelling. No outdoor animal runs shall be permitted.
- C. Where adjoining a residential zoning district or use, a solid fence or wall six (6) feet in height or a dense evergreen vegetative buffer not less than six (6) feet in height at time of planting shall be erected and maintained along any common lot line. The buffer area shall be continuously maintained in good condition.

Section 390-137.35. Wholesale establishments and warehouses

- A. The applicant shall demonstrate why the proposed use will not adversely impact other uses in the vicinity and particularly those on adjacent lots.
- B. The applicant shall submit estimates regarding the amount and type of truck traffic that can reasonably be expected to enter or leave the site on a daily and weekly basis.
- C. If the entire site is not initially being developed, the applicant shall indicate on the required site plan any contemplated expansions or additional development that might be expected to take place at a future date.
- D. If any hazardous materials are to be stored on the site or used in any manufacturing process, a detailed listing of each substance and the approximate quantity to be located on site shall be submitted. A detailed plan of substance storage, hazard control and prevention, and emergency response shall be submitted and reviewed by the Fire Chief and a report made to the Planning Commission.
- E. If the Planning Commission determines that any proposed use or activity will create discernable noise, dust, vibration, odor, glare, or heat beyond any property line, a detailed statement shall be provided which addresses and quantifies each concern and addresses how each concern will be minimized to the satisfaction of the Planning Commission.

ARTICLE XIX, ZONING BOARD OF APPEALS

Section 390-138. Creation and membership.

There is hereby created a Zoning Board of Appeals, the membership, powers and duties of which are prescribed in this article.

Section 390-139. Composition.

Membership. The Zoning Board of Appeals shall consist of five (5) members appointed by the Village Council. One (1) member of the Village Council shall be appointed a member of the Zoning Board of Appeals. One (1) member of the Planning Commission may be appointed a member of the Zoning Board of Appeals. In addition, not more than two (2) alternate members may be appointed by the Village Council.

Each member and each alternate member shall serve a term of three (3) years from the effective date of his or her appointment; provided, regular and alternate members of the Zoning Board of Appeals serving in such position on the effective date of this Chapter may continue their term.

Alternates. The alternate members of the Zoning Board of Appeals may be called as specified herein, to sit as regular members of the Zoning Board of Appeals in the absence of a regular member, if a regular member is absent from or unable to attend one (1) or more meetings of the Zoning Board of Appeals. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been called shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals. The decision of whether an alternate member shall sit in the absence of a regular member shall be determined by the Chairman of the Zoning Board of Appeals, and, if there is no Chairman, by a majority of the Zoning Board of Appeals' members then in attendance at a duly called meeting of the same.

Section 390-140. Jurisdiction.

The Zoning Board of Appeals shall have all jurisdiction and powers granted by the Michigan Zoning Enabling Act, all jurisdiction and powers prescribed in other articles of this Ordinance and the following specific jurisdiction and powers:

- A. To hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official or body charged with the enforcement of this Ordinance, excluding, however, decisions regarding the authorization of special land uses, rezoning of property, zoning amendments, and planned unit developments which are made by the Village Council or Planning Commission. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify the order, requirement, permit, decision, or determination as in the Board's opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official from whom the appeal is taken.
- B. The jurisdiction and power to act upon all questions as they may arise in the administration and enforcement of this Ordinance, including interpretation of the Zoning Map and text of this Ordinance;

- C. To hear and decide matters referred to the Zoning Board of Appeals or upon which the Zoning Board of Appeals is required to pass under this Ordinance; and
- D. If there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance, the Zoning Board of Appeal is empowered to grant variances from any of the rules or provisions of this Ordinance relating to the construction of, or structural changes in, or alteration of, buildings or structures, or to any other nonuse-related standards in this Ordinance, so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

Section 390-141. Granting of variances.

No variance shall be authorized by the Zoning Board of Appeals unless it is found from the evidence that all of the following conditions exist:

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question which are different from other properties in the same zoning district or result from conditions which do not exist throughout the Village of Spring Lake.
- B. That such variance is necessary for the preservation and enjoyment of a substantial property right and that the need for such variance was not created by the applicant. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
- C. That the granting of such variance will not be of substantial detriment to adjacent property or materially impair the intent and purposes of this Chapter or the public interest.
- D. The condition or situation of the property or its intended use is not of so general or recurrent a nature as to make reasonably practicable a general regulation for the condition or situation.
- E. The enforcement of the literal requirements of this Ordinance would involve practical difficulties.
- F. There is no reasonable alternative location on the parcel for the proposed improvements for which a variance is sought where such alternative location would eliminate the need for the requested variance or reduce the extent of the condition(s) necessitating the variance.
- G. The requested variance shall not permit the establishment within a district any use which is not permitted within that zone district, or any use for which a special land use permit is required.

Section 390-142. Application and hearing procedures.

- A. Application. The following materials shall be filed with the Zoning Administrator at least 30 days in advance of the next regular meeting of the Zoning Board of Appeals:
 - 1. A completed application form signed by the applicant or his/her agent. Applicants other than the owner of the property must submit evidence that the owner of the property is aware and approves of the application.
 - 2. Payment of a fee which shall be established by resolution of the Village Council, and which shall be nonrefundable.

3. A legal description of the property involved in the request.
 4. An application or appeal shall be filed not later than thirty (30) days after the order, decision or determination as to which the application or appeal is taken.
 5. A site plan, drawn to scale, sufficient to show the nature and extent of the requested variance.
- B. After an application for an appeal, a variance, or other authorized relief is complete, has been filed in proper form, and the application fee has been paid, the Zoning Administrator shall transmit to the Zoning Board of Appeals all of the application materials and other evidence relevant to the application.
 - C. The Zoning Administrator shall schedule the application for a public meeting within a reasonable time. Notice of hearing shall be given in accordance with Section 390-151 of this Ordinance.
 - D. Applicants shall be required to appear before the Board or be represented by a representative who can speak for and make commitments on behalf of the applicant.
 - E. The concurring vote of a majority of the full membership of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Zoning Board of Appeals is required to pass under a provision of this Ordinance, or to grant a variance from the requirements of this Ordinance.

Section 390-143. Conditions of variance appeals.

In granting a Variance or in making any decision referred to it by this Ordinance, the Zoning Board of Appeals may impose and attach such conditions upon an affirmative decision in conformance with the provisions of the Zoning Enabling Act as it shall determine are necessary and/or appropriate.

Section 390-144. Official record; findings of fact.

The Zoning Board of Appeals shall prepare an official record for all appeals and shall base its decision on this record. The official record shall include the following:

- A. The relevant administrative records and orders issued relating to the appeal.
- B. The notice of the appeal.
- C. Such documents, exhibits, photographs, or written reports as may be submitted to the Zoning Board of Appeals for its consideration.
- D. The written decision of the Zoning Board of Appeals stating the conclusions of the Board relative to the appeal, variance, or interpretation, the basis for the decision, and any conditions imposed.

Section 390-145. Decisions of Zoning Board of Appeals.

- A. The decision and orders of the Zoning Board of Appeals shall be entered in the official record after they have been signed by the Chairman and after written notice of the decision has been served either in person or by mail, upon the parties to the appeal, the Village

Zoning Administrator, and the Village Clerk. The Chairman shall sign the decision within ten (10) days after the Zoning Board of Appeals reaches its final decision.

- B. The decision and orders of the Zoning Board of Appeals shall become effective five days after the decision and orders are entered on the official record unless the Board shall find immediate effect is necessary to preserve property or personal rights and shall so certify on the record.
- C. A copy of the official record of the appeal shall be made available to the parties to any appeal upon request and after payment of a reasonable fee, as set by the Village Council, sufficient to recover the costs of duplicating such material.
- D. If the Zoning Board of Appeals grants a variance to the appellant, such variance shall be exercised (construction commenced and actively continued) within six (6) months from the date of such action, unless more time is specifically granted by the Zoning Board of Appeals. If the variance is not exercised within six (6) months or any other time frame established by the Zoning Board of Appeals, the variance will be lost unless the failure to exercise is because of an appeal filed with a court of competent jurisdiction, in which case the variance must be exercised within six (6) months of the conclusion of the appeal and any subsequent appeals.

Section 390-146. Stay of proceedings.

An appeal to the Zoning Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals after notice of appeal shall have been filed that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Zoning Board of Appeals or by the Circuit Court on application, after notice to the Zoning Administrator.

Section 390-147. Appeal of decisions.

The decision of the Zoning Board of Appeals shall be final, provided that the Board may, in its sole discretion, grant a rehearing. In such case, notice of the rehearing shall be given in accordance with the Zoning Enabling Act. Any person having an interest affected by a final decision on the appeal shall have the right of appeal to the Circuit Court as provided by the Zoning Enabling Act.

Section 390-148. Reserved.

ARTICLE XX, ADMINISTRATION AND ENFORCEMENT

Section 390-149. Zoning Administrator.

- A. Where the provisions of this Ordinance authorize or direct the Zoning Administrator to perform any act or carry out any function, such act or function may also be carried out by a deputy or deputies designated by the Zoning Administrator.
- B. The Zoning Administrator shall have the power to grant certificates of zoning compliance and to make inspections of premises necessary to carry out his/her duties in the enforcement of this Ordinance, and to otherwise carry out the duties assigned herein.
- C. The Zoning Administrator shall order discontinuance of illegal uses of land, buildings, or structures; removal of illegal buildings or structures; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with, or prevent violations of its provisions.
- D. It shall be unlawful for the zoning administrator to approve any plans or issue a land use permit for any excavation or construction or use until such plans have been reviewed in detail and are found to be in compliance with this ordinance. To this end, the zoning administrator shall require that an application for a land use permit for excavation, construction, moving, alteration, or change in type of use or type of occupancy, shall, where required by this ordinance, be accompanied by a site plan, in accordance with Article XVII hereof.
- E. Issuance of a certificate of zoning compliance shall in no case be construed as waiving any provisions of this Ordinance. The zoning administrator shall have no authority to grant exceptions to the actual meaning of any clause, order, or regulation contained in this ordinance to any person making application to excavate, construct, move, alter, or use buildings, structures, or land. The zoning administrator shall have no authority to make changes to this ordinance or to vary the terms of this ordinance in carrying out his or her duties.

Section 390-150. Amendments.

- A. All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least thirty (30) days prior to the first consideration by the Village Planning Commission.
- B. Any person affected by this Ordinance may submit a petition in writing to the Zoning Administrator requesting that consideration be given to amendments to this Ordinance in the particulars set forth in the petition. Such petitions shall be accompanied by the required fee and shall include the following:
 - 1. The name, address, and interest of the person making the request and the name, address, and interest of all persons having a legal or equitable interest in any land which is requested to be rezoned;
 - 2. The nature and effect of the proposed amendment;
 - 3. If the proposed amendment would require a change in the Zoning Map, a fully dimensioned map showing the land which would be affected by the requested

amendment, a legal description of such land, the present zoning district of such land, the zoning district(s) of all abutting lands, and all public and private rights-of-way and easements bounding and intersecting the land to be rezoned;

4. The alleged error in the Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons why the proposed amendment will correct the same;
 5. The changed or changing conditions in the area or in the Village that make the proposed amendment reasonably necessary to the promotion of the public health, safety, and general welfare;
 6. All other circumstances, factors, and reasons which the petitioner offers in support of the proposed amendment.
 7. A written response justifying an amendment with regards to the following statements. These statements will be used as standards for the Planning Commission and Village Council to use in their consideration of the requested amendment:
 - a. Whether there are changed conditions in the community that have occurred since the property was originally zoned warranting the rezoning request.
 - b. Whether the property is reasonably able to be used as zoned and whether the property can be reasonably used under the proposed zoning.
 - c. Whether there are other areas of the community that are better suited and planned for the proposed zoning.
 - d. Whether the rezoning is consistent with the goals, policies, and future land use map of the Spring Lake Village Master Plan.
 - e. Whether the rezoning is compatible with the site's physical, geological, hydrological, and other environmental features given uses permitted in the proposed zoning district.
 - f. Whether the property is compatible with all the potential uses allowed in the proposed zoning district and with the surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, and infrastructure.
 - g. Whether there is capacity of Village infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Village or its residents.
 - h. Whether there is capacity of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district.
 - i. Whether the rezoning would support a rational and sequential development pattern keeping potential development near existing development and infrastructure, avoiding "leap frog" type development.
- C. Conditions. It is recognized that there are certain instances where it would be in the best interest of the Village, as well as advantageous to property owners seeking an amendment to zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. Therefore, an owner seeking a rezoning may voluntarily propose

conditions regarding the use and/or development of land as part of the rezoning request, in accordance with the Michigan Zoning Enabling Act, as amended.

1. The offer of conditions or restrictions shall be received in writing with the rezoning application, prior to the Planning Commission public hearing on the rezoning request. Provided, if an offer of conditions is proposed at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the Village time to consider the offer; and if an offer of conditions is proposed at a Village Council meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration.
2. The Village of Spring Lake shall not add to, alter, or augment the offer of conditions or restrictions.
3. The Planning Commission or Village Council may table a request to give residents of the Village of Spring Lake more time to fully understand the offer of conditions.
4. Offers of conditions or restrictions shall not be approved if such conditions or restrictions would have the effect of departing from the standards of the zoning ordinance or other regulations or ordinances promulgated by, or applicable in, the Village of Spring Lake.
5. When considering an offer of conditions or restrictions, the Village shall determine whether the conditions or restrictions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.

D. Expiration of agreement, reversion, and extensions of conditions.

1. In approving the conditions, the Village Council may establish a time period during which the conditions apply to the land. Except for an extension under subparagraph 3 hereof, if the conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, as set forth in subparagraph 4 hereof.
2. Neither the applicant nor the Village Council shall add to or alter the approved conditions during the time period specified in subparagraph 1 except by mutual agreement.
3. The time period specified in subparagraph 1 may be extended upon the request of the applicant and with the approval of the Village Council in accordance with the following standards:
 - a. The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and the Zoning Administrator's recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being sought.
 - b. Upon recommendation of the Planning Commission, the Village Council may extend the time period specified under subparagraph 1. In the event such request is approved, if the conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, as set forth in subparagraph 4.
4. If the conditions are not satisfied or the restrictions are not established within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this paragraph. At a public hearing, the Planning Commission shall determine whether the

applicant has failed to satisfy the approved conditions, shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such, and shall recommend to the Village Council whether to rezone the land back to its former zoning classification. The Village Council shall make a decision as to the rezoning of the property.

E. Coordination and performance bonds.

1. Where proposed conditions involve public improvements, the applicant shall submit the following to the Planning Commission prior to the final approval of the rezoning and offer of conditions:
 - a. A construction schedule;
 - b. Costs and obligations;
 - c. Responsible parties for obtaining permits; and
 - d. Proof, in writing, that applicable utility or regional agencies or reviewing bodies have reviewed and approved final design of said public improvements.
2. The Village may require a performance bond or similar financial guarantee in a form approved by the Village Attorney as part of the agreement or approval.

F. Recording.

1. If the Village Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming to the provisions of this section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Village Council to accomplish the requested rezoning.
2. The statement of conditions shall:
 - a. Be in a form acceptable to the Village Attorney and recordable with the Register of Deeds of Ottawa County;
 - b. Contain a legal description of the land to which it pertains;
 - c. Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successive owners of the land;
 - d. Incorporate, by attachment, any diagrams, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions; and
 - e. Contain the notarized signature of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
3. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The Village Clerk shall maintain a listing of all lands rezoned with a Statement of conditions.

- G. Failure to Offer Conditions. The Village shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.
- H. Notices and hearing. Rezoning or zoning reversion of land shall require notice of public hearing in accord with Section 390-151 hereof.

Section 390-151. Hearing and notice procedures.

Whenever a public hearing is required or granted by discretion under the provisions of this Ordinance or the Zoning Act relating to an application or request for zoning approval or other zoning action, notice of the public hearing shall be given as follows:

- A. The notice shall be published once, at least fifteen (15) days prior to the date of the public hearing, in a newspaper of general circulation in the Village.
- B. Except as provided in subsection D of this section, a notice of public hearing shall also be mailed or be delivered to the following persons, at least fifteen (15) days prior to the date of the public hearing:
 - 1. The applicant;
 - 2. All persons to whom real property is assessed within three hundred (300) feet of the property that is the subject to the application or request; and
 - 3. The occupants of all structures within three hundred (300) feet of the property that is the subject of the application or request.
 - 4. If the above described three hundred (300) feet radius extends outside of the Village's boundaries, then notice must be provided outside of the Village boundaries, within the three hundred (300) foot radius, to all persons in the above stated categories.
- C. The notice of public hearing shall include the following information:
 - 1. A description of the nature of the application or request.
 - 2. An identification of the property that is the subject of the application or request. Except as provided in subsection D of this Section, the notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property and another means of identification of the property shall be used.
 - 3. State when and where the application or request will be considered.
 - 4. Identify when and where written comments will be received concerning the application or request.
 - 5. In the case of an amendment to this Chapter or to the Zoning Map the notice shall indicate the place where and the times when the proposed text or map amendment may be examined.
- D. When a proposed rezoning involves eleven (11) or more adjacent properties, the mailing or delivery requirements of subsection B of this Section are not required, and the listing of individual property addresses under subsection C.b is not required.

Section 390-152. Certificate of zoning compliance.

- A. No building permit shall be issued for the construction, erection, alteration, expansion, moving or repair of any building or other structure until a certificate of zoning compliance has been issued therefor. Issuance of such a certificate shall indicate that the use and plans for which the permit is requested comply with this Chapter.
- B. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure or premises, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, as permitted under the terms of this Chapter, until a certificate of zoning compliance shall have been issued hereunder by the Zoning Administrator. The certificate shall state that the building, structure, and lot and use thereof, conform to the requirements of this Chapter.
- C. The Zoning Administrator shall maintain a record of all certificates of zoning compliance.
- D. Certificates of zoning compliance authorize only the use, arrangement and construction set forth in the application and any appended plans, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Chapter, and is punishable as provided by Section 390-154. Any change in approved plans shall occur only as provided for in this Chapter and shall require the issuance of an amended certificate of zoning compliance.

Section 390-153. Performance guarantee.

- A. As a condition of approval of a site plan, special land use, variance, or planned unit development, the Planning Commission, Village Council, or Zoning Board of Appeals may require a performance guarantee to ensure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development. Such features or components, hereafter referred to as "improvements," may include but shall not be limited to roadways, curbs, landscaping, fences, walls, screens, lighting, drainage facilities, sidewalks, driveways, utilities and similar items.
 - 1. Such performance guarantee shall be in a principal amount reasonably estimated to enable the village to recover any costs the village incurs to complete such work or otherwise assure compliance with the requirements, specifications, and conditions of such approval should the applicant fail to do so within the time specified within the approval. The zoning administrator, the village engineer, the village's legal counsel and the applicant shall work together to establish the amount needed to reasonably cover the costs of non-performance. The terms of the performance guarantee may, but shall not be required to, provide for partial releases of the amount of the guarantee as the requirements, specifications and conditions imposed with the approval are fulfilled. If the applicant disagrees with the village staff as to the amount needed to reasonably cover the costs of non-performance, the Village Engineer shall provide an engineer's cost estimate shall be used to determine the amount required.
 - 2. The performance guarantee shall be provided before any permits are issued pursuant to this Ordinance or the construction code and the failure of any such performance guarantee shall be a basis for revoking any permit granted under this Ordinance or the construction code.

- B. Performance guarantees shall be processed in the following manner.
1. Prior to the filing of a final site plan, a pre-application conference may be held to provide an opportunity to the Village staff to inform the applicant of the Village's requirements regarding performance guarantees.
 2. Upon filing of the final site plan, the applicant shall prepare an itemized cost estimate of the required improvements, which shall then be reviewed by the Zoning Administrator. The amount of the performance guarantee shall be 100% of the cost of installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.
 3. The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village.
 4. Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a certificate of zoning compliance for the subject development or activity.
 5. The Zoning Administrator, upon written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.
 6. When all of the required improvements have been completed, the obligor shall send written notice to the Village Clerk of completion of said improvements.
 - a. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall recommend to the Council approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejections. If partial approval is recommended, the cost of the improvement rejected shall be set forth.
 - b. The Council shall either approve, partially approve or reject the improvements. The Zoning Administrator shall notify the obligor in writing of the action of the Council within thirty (30) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
 7. A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

Section 390-154. Violations and penalties; enforcement.

- A. Penalties. Any person violating any provision of this Chapter shall be responsible for a municipal civil infraction, subject to the general penalty in section 1-2 of the Code of the Village of Spring Lake.
1. A separate offense shall be deemed committed upon each day during or when a violation of this Chapter occurs or continues.
 2. The owner of record or tenant of any building, structure, premises, or part thereof, and any agent or person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

3. The imposition of any fine shall not exempt the violator from compliance with the provisions of this Chapter.
 4. Any building or structure which is erected, altered or converted or any use of premises or land which is begun or changed subsequent to the time of passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- B. Procedure. The Zoning Administrator shall be authorized to issue and serve civil infraction documents on any person with respect to any violation of this Chapter when there is reasonable cause to believe that the person has committed such an offense. The Village, through its duly authorized attorney, may pursue a civil infraction proceeding for any violation of this Chapter. In addition, the Village, acting through its duly authorized attorney, may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate, or remove any violation of this Chapter.
- C. Rights and remedies. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Section 390-155. Administrative liability.

No officer, agent, employee, or member of the Village Council, Planning Commission, or Board of Appeals shall be personally liable for any damage which may accrue to any person or property as the result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this Chapter.

Section 390-156. Fees and escrow.

The Village Council shall periodically establish by resolution a schedule of fees and escrow amounts to be paid by applicants for any permit, certificate, approval, application, or appeals required by this Ordinance. All fees shall be paid to the Zoning Administrator, who shall promptly remit the same to the Village Treasurer. The fee and escrow schedule shall be posted on public display in the Village Hall and may be changed only by resolution of the Village Council. No permit, certificate, approval, application or appeal shall be issued or considered unless and until the fees and escrow amounts therefor have been paid in full, and payment of the required fees and escrow shall be a condition precedent to the validity of any permit, certificate, or approval.

ARTICLE XXI, WIRELESS COMMUNICATION TOWERS

Section 390-157. Background.

- A. The Village has received or expects to receive requests to site wireless communications towers and antennas within its boundaries.
- B. The Village finds that it is in the public interest to permit the siting of wireless communications towers and antennas within its boundaries.
- C. It is the Village's intent to permit the siting of wireless communications towers and antennas within its boundaries.
- D. It is the Village's intent to protect and promote the public health, safety, and welfare by regulating the siting of wireless communications towers and antennas within its boundaries.

Section 390-158. Purpose and goals.

- A. The purpose of this article is to establish several guidelines for siting wireless communications towers and antennas. This article's goals are to:
 - 1. Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - 2. Encourage the location of towers and antennas in nonresidential areas;
 - 3. Minimize the total number of towers and antennas throughout the Village;
 - 4. Promote the joint use of existing tower sites rather than construction of additional towers;
 - 5. Promote the location of towers and antennas in areas where the adverse impact on the Village is minimal;
 - 6. Promote the configuration of towers and antennas to minimize their adverse visual impact through careful design, siting, landscape screening, and innovative camouflaging techniques;
 - 7. Promote telecommunications services to the Village which are quick, effective, and efficient;
 - 8. Protect the public health and safety of the Village and its residents; and
 - 9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.
- B. To further these goals, the Village shall consider its Master Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

Section 390-159. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ALTERNATIVE TOWER STRUCTURE. Clock towers, bell steeples, church spires, light poles, elevator bulkheads and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA. Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communications signals or other communications signals.

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

HEIGHT. When referring to a tower or other building or structure upon which an antenna is mounted, the distance measured from the finished grade of the parcel at the center of the front of the building or structure to the highest point on the tower or other building or structure, including the base pad and any antenna.

LATTICE TOWER. A support structure constructed of vertical metal struts and cross braces, forming a triangular or square structure, which often tapers from the foundation to the top.

PREEXISTING TOWERS and PREEXISTING ANTENNAS. Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the amendment of the ordinance adding this article, or any tower or antenna for which no building and/or special use permit were required, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting (i.e., without guy wires or other external means of support) lattice towers, guyed towers, or monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals. The term includes the structure and any support for the structure.

Section 390-160. Applicability.

- A. New towers and antennas. All new towers and new antennas in the Village shall be subject to this article, except as otherwise provided in this section.
- B. Amateur radio station operators/receive-only antennas; television antennas. This article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station or is used exclusively for receive-only antennas.
- C. Preexisting towers and antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this article, other than the general requirements of this Chapter concerning preexisting structures.

Section 390-161. General requirements.

- A. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of an antenna or tower on that lot.
- B. Lot size. Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot-coverage requirements, and other such requirements.

- C. Inventory of existing sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Village or within one mile of the Village borders, including specific information about the location, height, and design of each tower or antenna.
- D. Tower finish. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- E. Tower site. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- F. Antenna color. An antenna and its supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- G. Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- H. State or federal requirements. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this article shall bring such towers and antennas into compliance with such revised and applicable standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to comply with such revised and applicable standards and regulations shall constitute grounds for the Village to seek a court order, authorizing the Village or its designee to remove the tower or antenna at the owner's expense.
- I. Building codes; safety standards. The owner of a tower or antenna shall ensure its structural integrity by maintaining it in compliance with standards contained in applicable state or local building codes and applicable standards published by the Electronic Industries Association or any similar successor organization, as amended from time to time. If the Village suspects that a tower or an antenna does not comply with such codes and standards and constitutes a danger to persons or property, then the Village may proceed under applicable State of Michigan law (i.e., Michigan Public Act 144 of 1992, as amended, or any successor statute) or common law to bring the tower or antenna into compliance or to remove the tower or antenna at the owner's expense.
- J. Measurement. Tower setbacks and separation distances shall be measured and applied to facilities located in the Village without regard to municipal and county jurisdictional boundaries.
- K. Not essential services. Towers and antennas shall be regulated and permitted pursuant to this article. They shall not be regulated or permitted as essential public services, public utilities, or private utilities.

- L. Franchises. Owners and/or operators of towers and antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village have been obtained; they shall file a copy of all required franchises with the Zoning Administrator.
- M. Signs. No signs or advertising shall be allowed on an antenna or tower. The tower owner, however, may post a sign designating a person to contact in an emergency, together with the person's telephone and address, and other safety-related signage and notices.
- N. Metal towers. Metal towers shall be constructed with a corrosion-resistant material.
- O. No interference. Towers shall not interfere with television or radio reception on surrounding properties.
- P. Paving requirement. All parking and drive areas must be paved as provided in this Chapter.
- Q. Noise. All appropriate measures shall be taken to ensure that equipment on the site, including backup generators, shall not generate noise that exceeds sixty (60) decibels at the property line.
- R. Generators and Equipment. Backup generators and all other equipment shall be installed in strict conformance with manufacturer's instructions and all local, state, and federal regulations.

Section 390-162. Permitted uses.

- A. General. The uses listed in this section are deemed to be permitted uses by right in any zoning district and shall not require a special use permit.
 - 1. Antennas or towers located on property owned, leased, or otherwise controlled by the Village are permitted uses, provided a license or lease authorizing such antenna or tower has been approved by the Village. This provision shall not be interpreted to require the Village to approve a license or a lease.
 - 2. Antennas which are themselves not more than 30 feet in height and located upon legally existing lattice electric transmission towers are permitted uses.
 - 3. The colocation of an antenna on an existing tower that does not increase the tower height by more than ten (10) feet.

Section 390-163. Special use permits.

- A. General. The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission.
 - 1. If the tower or antenna is not a permitted use under Section 390-162 of this article, then a special use permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.
 - 2. Applications for special use permits under this section shall be subject to the general procedures and requirements of this Chapter for special uses, except as modified in this section.
 - 3. After an application for special land use approval has been received by the Planning Commission, it shall be reviewed by the Zoning Administrator for completeness, and this

determination shall be made within fourteen (14) business days. If, before the expiration of the fourteen (14)-day period, the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 14-day period shall be paused until the applicant submits the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

4. Approval or denial.

- a. For wireless communications equipment that will be collocated on an existing wireless communications support structure or in an existing wireless equipment compound, the Village shall approve or deny the application not more than sixty (60) days after the application is considered to be administratively complete. If the Village fails to timely approve or deny the application, the application shall be considered approved and the Village shall be considered to have made any determination required for approval.
- b. If the wireless communications equipment will not be collocated on an existing wireless communications support structure, in an existing equipment compound, or does not meet the requirements for a wireless communications support structure as defined in the Zoning Enabling Act, the Planning Commission shall approve or deny the application not more than ninety (90) days after the application is considered administratively complete. If the Village fails to timely approve or deny the application, the application shall be considered approved and the Village shall be considered to have made any determination required for approval.
 - 1) In granting a special use permit, the Planning Commission may impose such conditions that the Planning Commission concludes are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
 - 2) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Such an engineer shall certify that the tower or antenna will be structurally sound and will comply with all applicable building and other construction code requirements.

B. Processing special use applications.

1. Information required. Applicants for a special use permit for a tower or an antenna shall submit the following information, in addition to any other information required by this Chapter:
 - a. A scaled site plan showing the location, type and height of the proposed tower or antenna; on-site land uses and zoning; adjacent land uses and zoning (even if adjacent to another municipality); Master Plan designation of the site and all properties within the applicable separation distances set forth in section 390-163 B (6); adjacent streets; proposed means of access; setbacks from property lines; elevation drawings of the proposed tower or antenna and any other structures; topography; parking; and other information deemed necessary by the Zoning Administrator or Planning Commission to assess compliance with this article.

- b. Legal description of the lot and the leased portion of the lot (if applicable), together with a copy of the deed or lease pertaining to that lot.
 - c. The setback distance between the proposed tower or antenna and the nearest dwelling, platted residentially zoned properties, and unplatted residentially zoned properties.
 - d. The separation distance from other towers or antennas described in the inventory of existing sites submitted pursuant to Section 390-161 C, the type of construction of those existing towers or antennas, and the owners/operators of those existing towers and antennas, if known.
 - e. A landscape plan showing specific landscape materials.
 - f. Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
 - g. A description of compliance with the requirements of this article, and of all applicable federal, state, county and Village laws, rules, regulations and ordinances.
 - h. A notarized statement by the applicant for a tower, indicating if the tower will accommodate co-location of additional antennas for future users.
 - i. A description of the services to be provided by the proposed new tower or antenna, and any alternative ways to provide those services without the proposed new tower or antenna.
 - j. A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower or antenna is erected.
2. Factors considered in granting special use permits for towers or antennas. In addition to any other standards specified in this Chapter for considering special use permit applications, the Planning Commission shall consider the following factors in determining whether to issue a special use permit under this article:
- a. Height of the proposed tower or antenna;
 - b. Proximity of the proposed tower or antenna to residential structures and residential district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the proposed tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress to the proposed tower or antenna;
 - h. Availability of suitable existing towers or antennas, alternative tower structures, other structures, or alternative technologies not requiring the use of towers or antennas or other structures, as discussed below in this section;

- i. The effect of the proposed tower or antenna on the conforming properties and the surrounding neighborhood; and
 - j. Whether or not the proposed tower or antenna is located in zoning districts or on structures where the Village intends at least most towers and antennas in the Village to be located, as subsequently described in this section.
3. Village intentions concerning the location of most if not all towers and antennas. The Village intends that most if not all towers and antennas will be located as described below.
- a. The Village encourages the location of towers and antennas, including the placement of additional buildings or other supporting equipment used in connection with them, in a commercial zoning districts or public property.
 - b. The Village encourages the location of antennas on existing structures or towers consistent with the terms of Subsection B(3)(b)[1] and [2] below.
 - 1) The Village encourages antennas on existing structures which are not towers, as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight or more dwelling units, provided the antenna does not extend more than 30 feet above the highest point of the structure;
 - 2) The Village encourages antennas on existing towers, provided that:
 - a) A tower which is modified or reconstructed to accommodate the co-location of one or more additional antennas shall be of the same tower type as the existing tower or a monopole.
 - b) A tower which is modified or reconstructed to accommodate the co-location of an additional antenna may be modified or rebuilt to a taller height, not more than once per tower and not to exceed 30 feet over the tower's existing height [this additional height shall not require an additional distance separation per section 390-163 B (6).
 - c) The Village encourages the location of new towers in nonresidential zoning districts, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; and provided the tower is no more than 90 feet in height if for a single user, no more than 120 feet in height if for two users, and no more than 150 feet in height if for three or more users.
4. Availability of suitable existing towers, antennas, alternative tower structures, other structures, or alternative technology. No new tower or antenna shall be permitted unless the applicant demonstrates to the Planning Commission that no existing tower, antenna, alternative tower structure, or alternative technology can provide the services sought by the applicant without the erection of the applicant's requested new tower or antenna. Evidence that no existing tower, antenna, alternative tower structure, structure, or alternative technology can provide the services sought by the applicant may consist of the following:

- a. The applicant could demonstrate that no existing towers, antennas, alternative tower structures, alternative technology, or other structures are available within the geographical area which meet the applicant's engineering requirements.
 - b. The applicant could demonstrate that existing towers, antennas, alternative tower structures, or other structures are not of sufficient height to meet the applicant's engineering requirements, and that their height cannot be increased to meet such requirements.
 - c. The applicant could demonstrate that existing towers, alternate tower structures, or other structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment, and that their strength cannot practically be increased to provide that support.
 - d. The applicant could demonstrate that the proposed antenna would cause electromagnetic interference with existing towers or antennas, or that existing towers or antennas would cause interference with the applicant's proposed antenna.
 - e. The applicant could demonstrate that the costs to co-locate an antenna exceed the costs of erecting a new tower or antenna.
 - f. The applicant could demonstrate that there are other limiting factors that render existing towers, antennas, alternative tower structures, and other structures unsuitable.
 - g. The applicant could demonstrate that an alternative technology that does not require the use of towers or antennas is cost-prohibitive or unsuitable.
5. Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required:
- a. Towers must be set back a distance equal to at least 75% of the height of the tower from any adjoining lot line. The setback is measured from the perimeter or outside edge of the base of the tower.
 - b. Guys and accessory buildings must satisfy the minimum setback requirements for the applicable zoning district.
6. Separation. The following separation requirements shall apply to all towers for which a special use permit is required:
- a. Separation of towers from off-site uses/designated areas. Tower separation shall be measured from the perimeter or outside edge of the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1. The separation distance shall be measured by drawing or following a straight line between the base of the proposed tower and the offsite uses or designated areas, pursuant to a site plan of the proposed tower.
 - 1) Separation requirements for towers shall comply with the minimum standards (listed in linear feet) established in Table 1.

Table 390-163.01. Separation Distances

Off-Site Use/Designated Area	Separation Distance ²
Single-family or two-family dwelling units ¹	200 feet or 1.5 times the height of the tower, whichever is greater
Unimproved single-family or multiple-family residential land which is platted, has preliminary subdivision plan approval which is not expired, or has PUD approval which is not expired	200 feet or 1.5 times the height of the tower, whichever is greater
Other unimproved residentially zoned lands ³	100 feet or the height of the tower, whichever is greater
Existing multiple-family dwelling units	100 feet or the height of the tower, whichever is greater
Nonresidentially zoned lands or nonresidential uses, if not covered by any of the above categories	None; only setbacks established by this Chapter apply
¹ Includes modular homes and manufactured homes used for living purposes.	
² Separation measured from base of tower to closest building setback line.	
³ Includes any unplatted residentially zoned properties without a preliminary subdivision plan or development approval, and any Multiple-Family Residential Zoning District land.	

b. Separation distances between towers.

- 1) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.
- 2) Separation distances between towers shall comply with the minimum distances (listed in linear feet) established in Table 2.

Table 390-162.02 Existing Towers – Types

Proposed Tower	Lattice	Guyed	Monopole 75 Feet in Height or Greater	Monopole Less than 75 Feet in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

- 3) Security fencing. Towers for which a special use permit is required shall be enclosed by security fencing not less than six feet in height. The towers shall also be equipped with appropriate anti-climbing devices.
- 4) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required. The required landscaping shall be maintained for the duration of the special use permit.
 - a) Tower facilities shall be landscaped with a buffer area of plant materials that effectively screens the view of the tower compound from property then used for dwellings, one-family or multifamily, or included in a residential zoning district. The standard buffer area shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
 - b) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Planning Commission may conclude that natural growth around the property perimeter may be a sufficient buffer area.

Section 390-164. Accessory utility buildings.

All utility buildings and structures accessory to a tower or an antenna shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the zoning district where the tower or antenna is located. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

Section 390-165. Removal of abandoned antennas and towers.

Notwithstanding anything to the contrary elsewhere in this Chapter, any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the 90 days shall be grounds for the Village to proceed under applicable State of Michigan law to remove the tower or antenna at the owner's expense. If the owner fails to promptly reimburse the Village for the expense, the Village may add the cost of removal to the next tax statement sent to the owner of the real property. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

Section 390-166. Expansion of nonconforming use.

Notwithstanding any other provisions of this Chapter to the contrary, towers that are constructed and antennas that are installed in accordance with this article shall not be deemed to be the expansion of a nonconforming use or structure.

ARTICLE XXII, PRIVATE ROADS

Section 390-167. Purpose.

The regulations in this article have been adopted to assure that:

- A. Private roads are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger vehicles, service vehicles and emergency services vehicles in all seasons of the year;
- B. Private roads are constructed of suitable materials to ensure safe passage and long-term use;
- C. Private roads will be constructed so as to protect against or to minimize soil erosion and to prevent damage to the lakes, streams, wetlands, and natural environment of the Village;
- D. Private roads specifications meet current fire and safety standards.

Section 390-168. Effect.

- A. This article shall apply to all private roads constructed from and after the effective date of this article, except as otherwise provided in this article.
- B. Private roads existing before the effective date of this article shall continue to exist as they previously did. When an existing private road is extended and/or expanded, it shall comply with these regulations.

Section 390-169. Definitions.

The following definitions shall apply to the interpretation of the regulations in this article:

CLEAR AND PASSABLE. That the area is free of roots, brush, shrubs, trees, debris or any other obstruction.

CURRENT FIRE AND SAFETY STANDARDS. The current fire and safety standards as adopted from time to time by the Village Council.

DRAIN COMMISSIONER. The Ottawa County Water Resources Commissioner.

FIRE CHIEF. The chief officer of the Fire Department serving the jurisdiction, or a duly authorized representative.

LATERAL CROWN. The slope of the horizontal cross section of a private road, measured from the highest point of the road's upper surface to the lowest point of the road's upper surface.

PRIVATE ROAD. Any privately owned, improved and maintained roadway, path or trail which provides primary means of ingress and egress from a private right-of-way for more than one Lot or Site Condominium Unit.

ROAD AUTHORITY. The Village of Spring Lake Zoning Administrator or current agency in charge of the roads within the Village.

Section 390-170. General regulations.

- A. Authorized private roads are permitted in all zoning districts.

- B. Frontage requirements. A parcel served by a private road shall maintain frontage along the private road right-of-way equal to the minimum lot width required for the zoning district in which the parcel is located.
- C. Extensions and/or expansions. Any extension of and/or expansion to a private road in the Village shall be considered part of that private road, and shall be constructed in a manner that complies with the requirements of this article.
- D. Stormwater. The private road shall be constructed with a stormwater runoff management system as deemed necessary by the Village Engineer and/or the Drain Commissioner to maintain predevelopment rates of runoff from parcels served by the proposed private road and for the right-of-way for the private road.
- E. Watercourse or wetlands. The crossing of any watercourse or wetlands by a private road shall be accomplished in a manner that satisfies the requirements of the Village and any county or state agency having jurisdiction.
- F. Signage. The private road shall be given a name, as approved by the Road Authority, the Village Assessor, and the Fire Chief. Street signs for the private road shall be designed and installed in accordance with the standards of the Road Authority. Temporary street signs shall be installed at all street intersections when construction of new roadways allows passage by vehicles. The addresses of the lots serviced by the private road shall be permanently displayed on the dwellings located on those lots and on their mailboxes. If the address displayed on the dwelling cannot be seen clearly from where the driveway meets the private road, then a permanent address must be placed where the driveway meets the private road. Cost of all signs shall be the responsibility of the permit holder for construction of the road.
- G. Debris. Any debris resulting from the construction of a private road shall be removed for appropriate disposal by the owner within thirty (30) days after completion.
- H. Other ordinances. All Village water and sewer requirements and any other relevant requirements of Village ordinances must be satisfied with the construction of any private road.

Section 390-171. Private road construction permit.

- A. No private road shall be constructed, extended or relocated unless a private road construction permit has been applied for and obtained under this article.
- B. An application for a private road construction permit shall consist of the following materials and documents.
 - 1. A completed application form containing the name(s) of the owner(s) and any other parties having any legal interest in the proposed private road, the property on which it is to be constructed, and the property it is to serve;
 - 2. A survey of the proposed private road right-of-way prepared by a Michigan registered and licensed land surveyor;
 - 3. A joint maintenance agreement which meets the requirements of this article; and
 - 4. Twelve copies of a scale drawing, prepared by a Michigan registered and licensed engineer, showing the following:

- a. The exterior boundaries of the lot or parcel on which the private road will be constructed;
- b. The proposed layout, grade, elevation, dimensions, and design of the private road right-of-way and roadway, including the location of the proposed ingress and egress from the adjoining street(s);
- c. The location of all public utilities, including water, sewer, telephone, gas, electricity and television and/or media cable to be located in or within 20 feet of the private road right-of-way;
- d. The location of any lakes, streams, wetlands, drains, septic systems or private sewer systems within one hundred (100) feet of the private road right-of-way;
- e. The proposed layout and location of lots to be served by the proposed private road;
- f. The location of any other building or structures located or to be located within one hundred (100) feet of the private road right-of-way;
- g. The location of all existing buildings or structures to be serviced by the private road;
- h. A stormwater management plan for water runoff from the private road.

Section 390-172. Review and approval procedure.

- A. Application for private road construction permits shall be subject to the procedures applicable to site plan approval outlined in Article XVII of this Ordinance.
- B. Applicable fees shall be paid when a completed application is presented for a private road permit.

Section 390-173. Maintenance and repairs.

- A. Private roads shall be maintained in a manner that complies with the provisions of this article.
- B. All private roads shall be continuously maintained in such a way that they will not constitute a danger to the health, safety and welfare of the Village's inhabitants or visitors. All private roads shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather.
- C. All costs for the maintenance and repair of a private road shall be the responsibility of the property owners served by the private road, as specified in the joint maintenance agreement required by this article.

Section 390-174. Indemnity.

As a condition of applying for and obtaining a private road construction permit, all applicants for a private road construction permit and all owners of a private road shall agree to indemnify and hold the Village, and anyone else authorized by and acting on behalf of the Village to assist in the private road review process, harmless from any claims for personal injury or property damage arising out of the construction, use, maintenance, inspection, review or repair of a private road.

Section 390-175. Maintenance agreement.

Applicants for a private road construction permit, and owners of the property bordered by and serviced by a private road, shall provide the Village with a recordable private road maintenance agreement. The maintenance agreement shall be in a form satisfactory to the Village and shall provide that the private road shall be privately maintained and repaired to assure safe travel for all emergency vehicles at all times and during all seasons of the year. This maintenance agreement shall be recorded at the Ottawa County Register of Deeds and shall be a recordable covenant running with the land, binding on all lots served by and bordered by the private road. The maintenance agreement shall include the following:

- A. Financing improvement and/or maintenance. The maintenance agreement shall include a method of initiating and financing any improvement or maintenance of the private road as is necessary to keep it in a reasonably good, usable, and safe condition.
- B. Method of apportioning costs. The maintenance agreement shall include a method of apportioning the cost of improvement or maintenance of the private road, together with a method to enforce payment by providing that any amount remaining unpaid by the owner of a lot serviced by the private road shall become a lien against that lot.
- C. Village's option to improve and/or maintain. The maintenance agreement shall include a procedure whereby the Village may, in its discretion but without obligation, improve or maintain the private road and assess the cost thereof to the owners of lots serviced by the private road in a reasonably proportionate manner, such as road front footage, without the need for any additional petition for the improvements or maintenance from the lot owners.
- D. Noninterference provision. The maintenance agreement shall include a provision that the owner of each lot using the private road shall not prohibit, restrict, limit or in any way interfere with normal ingress and egress and other use(s) of the private road by the owners of the remaining lots with an interest in the private road, including family members, guests, trades people and others with legitimate purposes who are traveling to or returning from any of the lots with an interest in the private road.
- E. Indemnity provision. The maintenance agreement shall include a provision that all of the owners of lots with an interest in the private road shall indemnify the Village and individuals associated with the Village from any liability whatsoever arising from the purchasing, planning, constructing, inspecting, repairing, maintaining, using and dedicating of the private road.

Section 390-176. Certificate of compliance.

- A. Upon completion of construction of the private road, the permit holder shall provide the Building Official with a set of "as built" drawings and sealed documentation from a Michigan-registered engineer certifying that the private road has been completed in accordance with the requirements of the permit issued. Authorized Village personnel may inspect the private road to determine whether it complies with the approved plans and permits as issued, but this inspection shall not detract from the Village's ability to rely on the certification of a Michigan-registered engineer concerning the private road. A certificate of compliance shall be issued by authorized Village personnel if it is determined that the private road has been constructed in compliance with approved plans and the permit as issued.

- B. If the completed private road does not satisfy the requirements of the issued permit, the applicant(s) shall be notified of the noncompliance in writing and shall be given a reasonable period of time within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this Chapter.
- C. Authorized Village personnel shall have the right to enter upon the property where the private road is or will be located to conduct such inspections as may be necessary to administer these regulations and guarantee continued compliance.

Section 390-177. Fees.

Application fees for permits required by this article shall be set by the Village Council from time to time by resolution.

Section 390-178. Building permits for parcels on private roads.

No building permit shall be issued for any building, dwelling or structure provided access by and having frontage on a private road unless the maintenance agreement is recorded, a private road construction permit has been issued by the Village, and an inspection by the Fire Chief has determined that there is acceptable access in compliance with current fire and safety standards.

Section 390-179. Approval by Road Authority.

No permit shall be issued for a private road until the applicant has presented the Village with a curb-cut permit issued by the Road Authority, or a letter from the Road Authority indicating that no such permit is required.

Section 390-180. Performance guarantee.

- A. The Village may require the applicant to post a bond or some other performance guarantee in the form of cash, a bank letter of credit, or other surety to ensure compliance with the requirements of this article.
- B. If required, the amount of the performance guarantee shall be equal to the total estimated cost of construction of the private road as approved by the Village.
- C. The performance guarantee, or unspent portions of it, will be returned to the applicant by the Village upon completion of the private road to the standards required by this article.
- D. The performance guarantee shall be processed in accordance with the requirements of this article, and in accordance with the requirements of this Chapter, including the requirement for periodic rebates of the performance guarantee as portions of the construction of the private road are completed.

Section 390-181. Miscellaneous provisions.

For purposes of this article, the following definitions or rules shall apply:

- A. The length of a private road shall be measured along the centerline of the road from the center line of the street that the private road touches to the end of the private road.

- B. All parcels developed after the construction of the private road that have frontage on the private road shall take their primary access from the private road, and not an adjacent street.
- C. All private roads are subject to periodic inspection by the Fire Department in order to ensure that they are being properly maintained according to current fire and safety standards.
- D. The terms "maintenance" and "repair" include, but are not limited to, the following: snow removal, grading, tree trimming, tree removal, and reconstruction of a private road.
- E. This article shall apply to all private roads which are constructed after the effective date of this article, and to all private roads lawfully existing at the time of the effective date of this article if they are subsequently improved, extended, or expanded to serve a greater number of lots or site condominium units.
- F. These regulations replace in their entirety any other regulations applicable to the construction of private roads in the Village.
- G. Construction of a private road is to be commenced within one year of issuance of the permit, and the applicant is to proceed diligently to completion of the road. If construction is not commenced within such period and pursued diligently to completion, the permit shall expire and the applicant shall reapply as provided in this article if the applicant later decides to proceed. The period within which construction must be commenced is subject to extension by the Village Council for good cause shown and, as a condition of extension, the Village Council may increase the amount of performance guarantee required.
- H. The improved portion and the cleared and passable portion of any private road shall be located in the middle of the right-of-way for the private road.

Section 390-182. Standards and requirements for private roads.

All private roads shall be subject to the following standards and requirements.

- A. Less than seven lots or site condominium units served. Private roads which serve more than one and less than seven lots or site condominium units shall have the following minimum improvements.
 1. A subbase of granular material (MDOT Class II) which is at least twelve (12) inches in depth.
 2. An aggregate base course of compacted gravel, crushed concrete, slag, or similar material which is at least six inches in depth for the entire length of the road.
 3. The minimum width of the right-of-way shall be at least thirty-three (33) feet for the entire length.
 4. The minimum width of both the subbase and the aggregate base course shall be at least fourteen (14) feet for the entire length of the road.
 5. The road shall have a vertical clearance of at least thirteen (13) feet six inches for its entire length.
 6. Roads which are at least four hundred (400) feet but less than six hundred (600) feet in length shall provide a passing lane twenty (20) feet wide and sixty (60) feet in length. Roads which are at least six hundred (600) feet but less than eight hundred (800) feet in

length will provide two such passing lanes. Private roads greater than eight hundred (800) feet in total length shall provide an adequate number of passing lanes so as to allow uninterrupted Fire Department operations. These passing lanes shall be constructed in the same manner as the private road, using the same materials.

7. The road grade shall not exceed ten (10) percent.
 8. The minimum width of the aggregate base course and an additional two (2) feet on each side must be clear, passable, and maintained.
 9. The private road shall have a minimum lateral crown of two (2) percent and a maximum lateral crown of seven (7) percent.
 10. The owner of the property on which the private road shall be constructed must record an easement for ingress and egress purposes directly to and from a street for the benefit of the owners and users of the lots or site condominium units which are served by the private road. The easement shall also provide for the construction, maintenance, and repair (as well as reconstruction) of the private road and utilities. In addition, a public easement shall be required for municipal water and sanitary sewer. The easement shall benefit the lots or site condominium units which front on or abut to the private road. Additionally, the owner of the property over which the private road is to be constructed shall grant an easement to or for each utility company or municipality which provides utility or emergency services to any parcel which is accessed by the private road; the form and location of the easement for utilities or emergency service must be reviewed and approved by the utility company or municipality prior to recording of the easement.
 11. The owner of the property on which the private road shall be constructed must record a maintenance agreement with the Ottawa County Register of Deeds which complies with the requirements of this article.
 12. Any private road with less than seven (7) lots or site condominium units which was developed or approved in conjunction with a development with seven or more lots or site condominium units must follow the standards of Section 390-182.
 13. The design layout, including but not limited to radius of turns and culs-de-sac, shall be reviewed by the Fire Department to ensure that emergency equipment can readily traverse the private road. The review by the Fire Department shall be based on the current fire and safety standards. Any private road which dead ends shall have a cul-de-sac which is designed and constructed in accordance with the specifications of the current fire and safety standards and/or the Road Authority. Standards of a private road system and intersections with public roads shall provide adequate clear vision, safe turning and safe travel at the posted speed limit as determined by the Road Authority, as if the private road were a street under the jurisdiction of the Road Authority.
- B. Commercial zone or seven (7) or more lots or site condominium units serviced. Private roads which are in a commercial zone or which serve seven (7) or more lots or site condominium units shall have the following minimum improvements.
1. A subbase of granular material (MDOT Class II) which is at least twelve (12) inches in depth.
 2. An aggregate base course of compacted gravel, crushed concrete, slag, or similar material which is at least six (6) inches in depth for the entire length of the private road.

3. The minimum width of the right-of-way shall be at least sixty-six (66) feet for the entire length.
4. Bituminous paving overlay of the base course is required. The bituminous paving and the bituminous mixture or content must meet or exceed the then-current standards of the Village for local streets, excluding the requirement for curb, gutter and storm sewer installation. The paving must also be able to support the live load requirement of current fire and safety standards.
5. The private road shall have a vertical clearance of at least thirteen (13) feet six (6) inches for its entire length.
6. The minimum width of the aggregate base course and an additional two (2) feet on each side must be clear, passable and maintained.
7. The private road shall have a minimum lateral crown of two (2) percent and a maximum lateral crown of seven (7) percent.
8. The owner of the property over which the private road shall be constructed must record an easement for ingress and egress purposes directly to and from a public street for the benefit of the owners and users of the lots or site condominium units which are served by the private road. The easement shall also provide for the construction, maintenance, and repair (as well as reconstruction) of the road and utilities. In addition, a public easement shall be required for municipal water and sanitary sewer. The easement shall benefit the lots or site condominium units which front on or abut to the private road. Additionally, the owner of the property over which the private road is to be constructed shall grant an easement to or for each utility company or municipality which provides utility or emergency services to any parcel which is accessed by the private road; the form and location of the easement for utilities or emergency service must be reviewed and approved by the utility company or municipality prior to recording of the easement.
9. The owner of the property over which the private road shall be constructed must record a maintenance agreement with the Ottawa County Register of Deeds which complies with the requirements of this article.
10. The design layout, including but not limited to radius of turns and culs-de-sac, shall be reviewed by the Village Fire Department to ensure that the Village's equipment can readily traverse the private road. The review by the Village Fire Department shall be based on the current fire and safety standards. Any private road which dead ends shall have a cul-de-sac which is designed and constructed in accordance with the specifications of the current fire and safety standards and/or the Road Authority. Standards of a private road system and intersections with public roads shall provide adequate clear vision, safe turning and safe travel at the posted speed limit as determined by the road authority, as if the private road were a street under the jurisdiction of the Road Authority.
11. Maximum separation. A private road right-of-way which intersects a street right-of-way shall have a minimum separation from any other private road right-of-way and any other street right-of-way equal to what the Road Authority would require as a minimum separation between two (2) streets.

ARTICLE XXIII, WIND ENERGY TURBINES (WETS)

Section 390-183. Purpose.

The purpose of this article is to establish guidelines for siting wind energy turbines (WETs). The goals are as follows:

- A. To promote the safe, effective, and efficient use of a WET in order to reduce the consumption of fossil fuels in producing electricity.
- B. To preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a WET.
- C. To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a WET shall be governed.

Section 390-184. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings described to them in this section, except where the context clearly indicates a different meaning:

AMBIENT SOUND LEVEL. The amount of background noise at a given location prior to the installation of a wind energy turbine (WET) which may include, but not be limited to, traffic, machinery, lawn mowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scale as defined by the American National Standards Institute.

ANEMOMETER. A temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine (WET) at a given site. This includes the tower, base plate, anchors, cables and hardware, wind direction vanes, booms to hold equipment, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

DECIBEL. A unit of measure used to express the magnitude of sound pressure and sound intensity. Decibels shall be measured on the dB(A) weighted scale as defined by the American National Standards Institute.

DECOMMISSIONING. The process of terminating operation and completely removing a wind energy turbine (WET) and all related buildings, structures, foundations, access roads, and equipment.

NACELLE. The encasement which houses all of the generating components, gear box, drive tram, and other equipment in a wind energy turbine (WET).

NET-METERING. A special metering and billing agreement between utility companies and their customers, which facilitates the connection of renewable energy generating systems to the power grid.

OCCUPIED BUILDING. A residence, school, hospital, church, public library, business, or any other building used for public gatherings.

OPERATOR, WET. The entity responsible for the day-to-day operation and maintenance of a wind energy turbine (WET).

OWNER, WET. The individual or entity, including their respective successors and assigns, with equity interest in or ownership of a wind energy turbine (WET).

ROTOR DIAMETER. The cross-sectional dimension of the circle swept by the rotating blades of a wind energy turbine (WET).

SHADOW FLICKER. The moving shadow, created by the sun shining through the rotating blades of a wind energy turbine (WET). The amount of shadow flicker created by a WET is calculated by a computer model that takes into consideration turbine location, elevation, tree cover, location of all structures, wind activity, and sunlight.

SMALL STRUCTURE-MOUNTED WIND ENERGY TURBINE (SSMWET). Converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. A SSMWET is attached to a structure's roof, walls, or other elevated surface. The SSMWET has a nameplate capacity that does not exceed ten (10) kilowatts. The total height does not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances.

SMALL TOWER-MOUNTED WIND ENERGY TURBINE (STMWET). A tower-mounted wind energy system that converts wind energy into electricity through the use of equipment which includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components used in the system. The STMWET has a nameplate capacity that does not exceed thirty (30) kilowatts. The total height does not exceed one hundred twenty (120) feet.

STRUCTURE. Any production or piece of work artificially built up or composed of parts joined together in some definite manner, including, but not limited to, buildings, radio and television towers, sheds, signs, and storage bins. As used with wind energy turbines, "structure" means any building or other structure, such as a municipal water tower that is a minimum of twelve (12) feet high at its highest point of roof and is secured to frost-footings or a concrete slab.

TOTAL HEIGHT. The vertical distance measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of a wind energy turbine (WET).

TOWER. A freestanding monopole that supports a wind energy turbine (WET).

UPWIND TURBINE. A wind energy turbine (WET) positioned in a manner so that the wind hits the turbine blades before it hits the tower in order to avoid the thumping noise which can occur if the wind is disrupted by hitting the tower before the blades.

WIND ENERGY TURBINE (WET). Any structure-mounted, small wind energy conversion system that converts wind energy into electricity through the use of a wind generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

Section 390-185. Applicability.

This article shall apply to the following:

- A. This article applies to all WETs proposed to be constructed after the effective date of this article.
- B. Upwind turbines shall be required.
- C. A small structure-mounted wind energy turbine (SSMWET) and a small tower-mounted wind energy turbine (STMWET) shall be considered a permitted use in all zoning districts and shall not be erected, constructed, installed, or modified as provided in this Chapter unless appropriate Village permits have been issued to the WET owner(s) or WET operator(s).
- D. All WETs constructed prior to the effective date of this article shall not be required to meet the requirements of this article; however, any physical modification to an existing WET that materially alters the size, type, equipment or location shall require a permit under this Chapter, in compliance with the standards of this article.

Section 390-186. Siting and design.

All SSMWETs and STMWETs must be sited and designed in accordance with the following:

- A. Visual appearance.
 - 1. A SSMWET or STMWET, including accessory buildings and related structures, shall be a solid, nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SSMWET or STMWET.
 - 2. A SSMWET or STMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or unless otherwise approved by the Planning Commission.
 - 3. A SSMWET or STMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer and safety-related signage.
- B. Ground clearance. The lowest extension of any blade or other exposed moving component of a SSMWET or STMWET shall be at least fifteen (15) feet above the ground (at the highest point of the natural grade within thirty [30] feet of the base of the tower) and, in addition, at least fifteen (15) feet above any outdoor surfaces intended for human use, such as decks, balconies or roof gardens, that are located directly below the SSMWET or STMWET.
- C. Noise control.
 - 1. Where an adjacent parcel contains a residential use or parks, schools, hospitals or churches, the noise produced by the SSMWET or STMWET may not exceed the lowest ambient sound level that exists between the hours of 9:00 p.m. and 9:00 a.m. along any adjacent property line used for such purposes.
 - 2. Where no adjacent parcel contains a residential use or other use listed above, the noise produced by the SSMWET or STMWET may not exceed the lowest ambient sound level that exists between the hours of 9:00 p.m. and 9:00 a.m. on the parcel, plus five decibels dB(A).

- D. Vibration. Vibrations shall not be produced which are humanly perceptible beyond the property on which the SSMWET or STMWET is located.
- E. Shadow flicker. The SSMWET or STMWET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the SSMWET or STMWET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than thirty (30) hours per year, and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed thirty (30) hours per year.
- F. Guy wires. Guy wires shall not be permitted as part of the SSMWET or STMWET.
- G. Height. The total height of a SSMWET shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances. The total height of a STMWET shall not exceed one hundred twenty (120) feet.
- H. Setback. The setback for a SSMWET shall be a minimum of fifteen (15) feet from the lot line, street, private road, or overhead utility lines. The setback shall be measured from the farthest outward extension of all moving parts. The setback for a STMWET shall be at least one hundred fifty (150) feet from any front lot line (or rear lot line in the case of a waterfront lot), and shall be set back a distance equal to or greater than the total height of the STMWET, as measured from the base of the tower, from all other lot lines, public or private streets, public easements, or overhead public utility lines.
- I. Separation. If more than one SSMWET is installed on a lot, a distance equal to the total height of the highest SSMWET must be maintained between the base of each SSMWET.
- J. Location. The SSMWET shall not be affixed to the wall on the side of a structure facing a street or private road. A STMWET may only be located in a rear yard of a lot that has an occupied building. A STMWET may be located in a side yard or front yard of a lot that has an occupied building, provided that it is set back at least one hundred fifty (150) feet from the front lot line (or rear lot line in the case of a waterfront lot), as measured from the base of the tower.
- K. Quantity. No more than three SSMWETs shall be installed on any lot of residentially zoned or used property. The Planning Commission may allow more SSMWETs on commercially zoned properties if appropriate. No more than one STMWET shall be installed on any residentially zoned or used property. The Planning Commission may allow more STMWETs if appropriate. The Planning Commission shall consider the size of the lot, the use of the lot, the location of the proposed WETs, the use of and impact upon adjoining lots, and other relevant factors in determining if additional WETs are appropriate. No more than three SSMWETs or one STMWET shall be allowed on any single lot of residentially zoned or used property, unless specifically approved by the Planning Commission.
- L. Electrical system. All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each lot at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the WET to the tower wiring are exempt from this requirement.

- M. Anemometers. If an anemometer is to be installed prior to, or in conjunction with, a SSMWET or STMWET, it must be done so in accordance with the following provisions:
1. The construction, installation, or modification of an anemometer tower shall require a certificate of zoning compliance and applicable building, electrical or mechanical permits and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
 2. An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety, and decommissioning of this Ordinance that correspond to the size of the SSMWET or STMWET that is proposed to be constructed on the site.

Section 390-187. Certificate of zoning compliance application requirements.

In addition to the standard information required on a certificate of zoning compliance application form, applications for SSMWETs and STMWETs shall also include the following information and documentation:

- A. A site plan (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s) and/or STMWET(s), lot lines, physical dimensions of the lot, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, nonmotorized pathways, public and private streets, and contours. The site plan must also include adjoining lots as well as the location and use of all structures.
- B. The proposed number, type, and total height of SSMWET(s) and/ or STMWET(s) to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
- C. Documented compliance with the noise requirements set forth in this Chapter.
- D. Documented compliance with applicable Village, county, state, and federal regulations, including, but not limited to, all applicable safety, construction, environmental, electrical, communications, and FAA requirements.
- E. Evidence of a net metering agreement with the utility company that contains the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- F. For STMWET applications, a description of the methods that will be used to perform maintenance on the STMWET and the procedures for lowering or removing the STMWET in order to conduct maintenance.
- G. Verification that the SSMWET or STMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
- H. Other relevant information as may be reasonably requested by the Village.

Section 390-188. Safety requirements.

All SSMWETs and STMWETs must be designed to meet the following safety requirements:

- A. If the SSMWET or STMWET is connected to a public utility system for net-metering purposes, it shall meet the requirements for interconnection and operation as set forth in the public utility's then-current service regulations meeting federal, state, and industry standards applicable to wind power generation facilities, and the connection shall be inspected by the appropriate public utility.
- B. The SSMWET or STMWET shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower, rotor blades and other wind energy components unless the manufacturer certifies that a braking system is not necessary.
- C. A clearly visible warning sign regarding voltage shall be placed at the base of the SSMWET or STMWET and on the security fence if applicable. The sign shall not exceed two (2) square feet in area and contain at least the following:
 - 1. Warning of high voltage;
 - 2. Manufacturer's and owner/operator's name; and
 - 3. Emergency contact numbers (list more than one number).
- D. The structural integrity of the SSMWET or STMWET shall conform to the applicable design standards of the International Electrical Commission, or any similar successor standards.
- E. The WET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
- F. All spent lubricants, cooling fluids, and any other hazardous materials shall be properly and safely removed in a timely manner.

Section 390-189. Decommissioning.

Any SSMWET or STMWET that is to be decommissioned shall be done so in accordance with the following requirements:

- A. The WET owner(s) or WET operator(s) shall complete decommissioning within six (6) months after the end of the useful life. Upon request of the WET owner(s) or WET operator(s) of the SSMWET or STMWET, and for a good cause, the Zoning Administrator may grant a reasonable extension of time. The SSMWET or STMWET will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of six (6) months; the end of its useful life may also be established by other facts and circumstances determined by the Zoning Administrator. All decommissioning expenses are the responsibility of the WET owner(s) or WET operator(s).
- B. If the WET owner(s) or WET operator(s) fails to complete decommissioning within the period prescribed above, the Village Council may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the property and added to the next tax statement issued for the property upon which the SSMWET or STMWET is located. If the SSMWET or STMWET is not owned by the lot owner(s), a bond, security deposit or bank letter of credit must be provided to the Village for the cost of decommissioning each SSMWET or STMWET prior to construction.
- C. In addition to the decommissioning requirements listed previously, the STMWET shall also be subject to the following:

1. Decommissioning shall include the removal of each STMWET, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of sixty (60) inches below grade, or to the level of the bedrock if less than sixty (60) inches below grade.
2. The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the WET owner(s) or its assigns. The site shall be seeded to prevent soil erosion.
3. All WET applications shall provide a decommissioning plan and performance bonds as necessary by the Village.
4. Legal agreements may be required between the WET owner/operator and the Village to ensure compliance with all decommissioning requirements.

Section 390-190. Public inquiries and complaints.

Should an aggrieved property owner allege that the SSMWET or STMWET is not in compliance with the noise or shadow flicker requirements of this Chapter, the procedure shall be as follows:

A. Noise complaint.

1. Notify the Village in writing regarding concerns about noise level. If the complaint is deemed sufficient by the Village to warrant an investigation, the Village will request the aggrieved property owner deposit funds in an amount sufficient to pay for a noise level test conducted by a certified acoustic technician to determine compliance with the requirements of this Ordinance.
2. If the test indicates that the noise level is within Ordinance noise requirements, the Village will use the deposit to pay for the test.
3. If the SSMWET or STMWET owner(s) is in violation of the noise requirements, the owner(s) shall reimburse the Village for the noise level test and take immediate action to bring the SSMWET or STMWET into compliance which may include ceasing operation of the WET until Ordinance violations are corrected. The Village will refund the deposit to the aggrieved property owner.
4. If the WET owner(s) fails to correct the violation(s), the Village Council may designate a contractor to make the corrections with the expense thereof to be charged to the violator. If the WET owner(s) fails to reimburse the Village for the noise level test the cost will become a lien against the property and added to the next tax statement issued for the property upon which the WET is located.

B. Shadow flicker complaint.

1. Notify the Village in writing regarding concerns about the amount of shadow flicker. If the complaint is deemed sufficient by the Village to warrant an investigation, the Village will request the aggrieved property owner deposit funds in an amount sufficient to pay for a shadow flicker analysis of the turbine as constructed to determine compliance of the requirements of this Ordinance.
2. If the test indicates that the flicker shadow is within Ordinance noise requirements, the Village will use the deposit to pay for the test.

3. If the SSMWET or STMWET owner(s) is in violation of the Ordinance shadow flicker requirements, the owner shall take immediate action to bring the SSMWET or STMWET into compliance which may include ceasing operation of the WET until the Ordinance violations are corrected. The Village will refund the deposit to the aggrieved property owner.
4. If the WET owner(s) fails to correct the violation(s), the Village Council may designate a contractor to make the corrections with the expense thereof to be charged to the violator. If the WET owner(s) fails to reimburse the Village for the noise level test the cost will become a lien against the property and added to the next tax statement issued for the property upon which the WET is located.

ARTICLE XXIV, MISCELLANEOUS PROVISIONS

Section 390-191. Reserved.

Section 390-193. Repealer/Limitation.

The former Zoning Ordinance of this Village, effective April 23, 1990, and all amendments thereto, are hereby repealed; provided, however, that the same shall remain in force for the purpose of instituting or sustaining any proper action or prosecution for the enforcement of any penalty or liability thereunder.