

2012

# ZONING ORDINANCE CODE

ZONING DOCUMENT

ZONING  
VILLAGE OF SPRING LAKE



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## ORDINANCE NO. 191

### SPRING LAKE VILLAGE ZONING ORDINANCE

AN ORDINANCE to establish zoning regulations for the Village of Spring Lake, Ottawa County, Michigan, to, among other things, establish zoning districts regulating the use of land, buildings and structures to adopt for such zoning districts provisions designating or limiting the location, height, number of stories and size of buildings and structures, to provide for the regulation of the area of yards and other open spaces, to establish regulations governing nonconforming uses, structures and buildings, to provide for the administration, enforcement and amendment of such zoning regulations, to provide for the enforcement of the provisions of this Ordinance and penalties and other relief for the violation of this Ordinance, and to provide for conflicts with other ordinances or regulations, all in accordance with the provisions of Michigan Act 207 of 1921, as amended.

THE VILLAGE OF SPRING LAKE ORDAINS:

# CHAPTER 1

## TITLE, PURPOSES AND SCOPE

### Section 1.1 TITLE.

This Ordinance shall be known and may be cited as “Spring Lake Village Zoning Ordinance.”

### Section 1.2 PURPOSES.

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

### Section 1.3 SCOPE.

- A. Where any provision of this Ordinance 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) and other **use**, activity or conduct which is regulated by this Ordinance, than any comparable restriction, limitation, condition or requirement contained in any other provision of this Ordinance 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.
- B. This Ordinance shall not abrogate or annul any easement, covenant or private agreement. Where any provision of this Ordinance is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this Ordinance shall govern.

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 Ordinance.

C. The regulations herein established shall be the minimum regulations for promoting and protecting the public health, safety and welfare.

**Section 1.4 VALIDITY AND SEVERABILITY CLAUSE.**

This Ordinance and the various parts, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any court of competent jurisdiction shall declare any part of this Ordinance to be invalid, such ruling shall not affect any other provisions of this Ordinance not specifically included in said ruling. Further, if any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular **lot, use, building, or structure**, such ruling shall not affect the application of said provision to any other **lot, use, building, or structure** not specifically included in said ruling.

**Section 1.5 EFFECTIVE DATE.**

This Ordinance was adopted by the Village Council on April 2, 1990, and is ordered to take effect on April 23, 1990.

**Section 1.6 REPEAL OF PRIOR ORDINANCE.**

Ordinance No. 46 and all amendments thereto, and all prior zoning ordinances of the Village of Spring Lake, are hereby repealed effective coincident with the effective date of this Ordinance. The repeal of said ordinances shall not have the effect to release or relinquish any penalty, forfeiture, or liability incurred under said ordinances, or any part thereof, and such ordinances shall be treated as still remaining in force for the purpose of instituting or sustaining any proper action for the enforcement of such penalty, forfeiture, or liability.

**Section 1.7 LEGAL BASIS.**

This Ordinance is enacted in accordance with Michigan Public Act 207 of 1921, as amended.

# CHAPTER 2

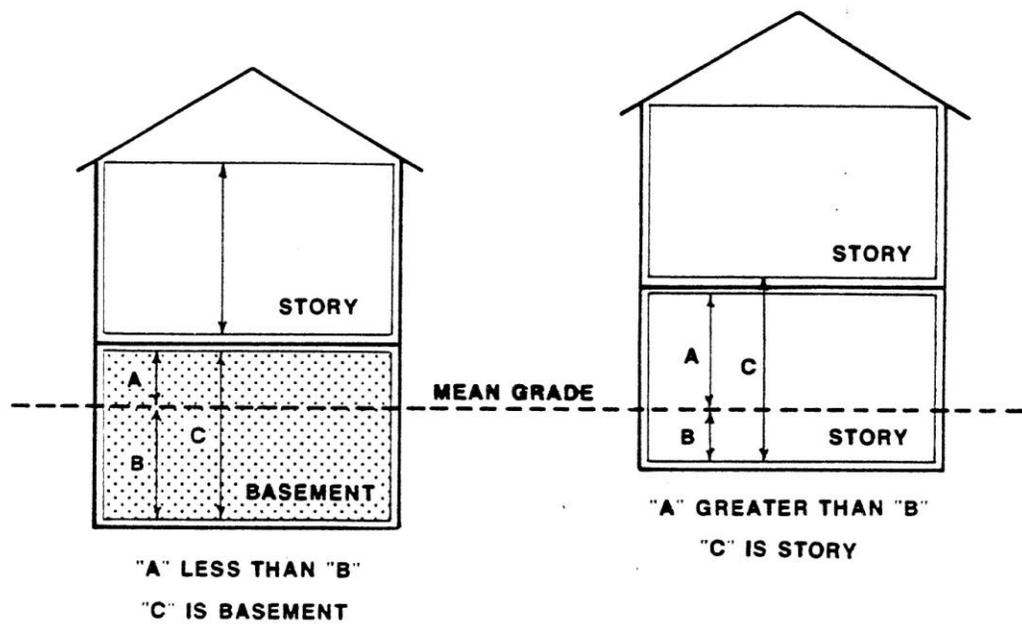
## DEFINITIONS

### Section 2.1 GENERAL CONSTRUCTION.

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

1. Except with respect to the headings contained in Section 2.2, the headings which title a chapter, section, or subsection of this Ordinance are for the purpose of convenience only and are not to be considered in any construction or interpretation of this Ordinance, or as enlarging or restricting any of its terms and provisions in any respect.
2. 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 text shall govern.
3. When not inconsistent with the context, words used in the present tense shall include the future tense, words in the singular number shall include the plural number and words in the plural number shall include the singular number.
4. The word “shall” is always mandatory and not merely discretionary. The word “may” is permissive.
5. A “**building**” or “**structure**” includes any part thereof.
6. 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.
7. The words “used” and “occupied” as applied to any land, **building** or **structure**, shall be construed to include the phrases “intended to be”, “arranged to be”, or “designed to be” used or occupied.
8. 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.

**FIGURE 1**  
**BASEMENT AND STORY**



9. The particular shall control the general.
10. Terms not herein defined shall have the meanings customarily accepted.

## **Section 2.2 DEFINITIONS.**

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

### Accessory Building

A **building** or **structure**, or a portion thereof, supplementary and/or subordinate to a **main building** or **structure** on the same **lot**, occupied by or devoted exclusively to an **accessory use**.

### Accessory Use

A **use** customarily incidental to and subordinate to the **main use** of the land, **lot**, **building** or **structure**.

### Automobile Service Station

A **building** and premises wherein gasoline, oil, grease, tires, batteries and other automobile supplies and accessories may be sold at retail and installed, and where 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.

### Basement

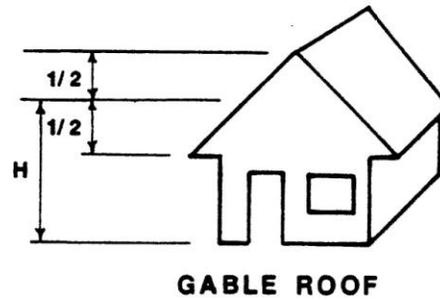
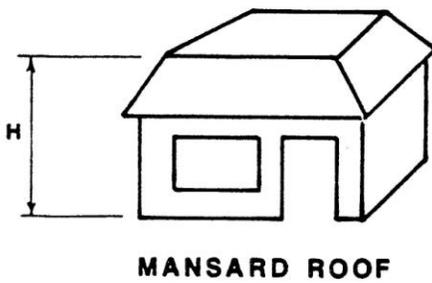
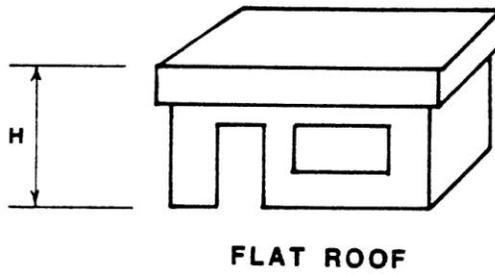
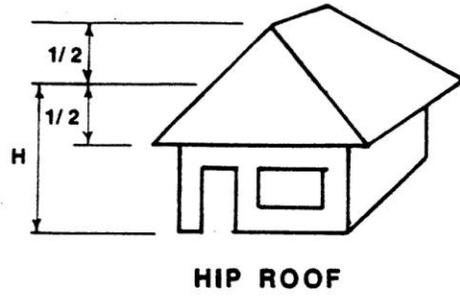
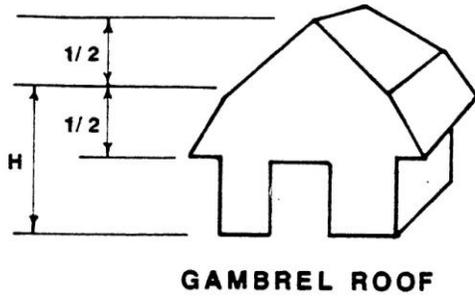
That portion of a **building** which is partly or wholly below **grade** but so located that the vertical distance from the **mean grade** to the floor is greater than the vertical distance from the **mean grade** to the ceiling (See Figure 1).

### Bed and Breakfast Establishment

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.

### Board of Appeals

**FIGURE 2**  
**BUILDING HEIGHTS**



The term “**Board of Appeals**” refers to the Village of Spring Lake Zoning Board of Appeals.

### Building

Any **structure** 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 Height

The vertical distance from the established **grade** at the center of the front of the **building** to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean elevation level between eaves and ridge of a gable, hip or gambrel roof (See Figure 2).

### Building, Main

A **building** in which the principal or **main use** of the **lot** on which it is situated occurs.

### Community Support Facility

A charitable facility 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 multi-family facility. Community Support Facility does not include the following

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

### Council

The term “Council” refers to the Village Council of the Village of Spring Lake.

### Day Care Facility, 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 Home, Family

A **single-family dwelling** occupied as such 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 Home, Group

A **single-family dwelling** occupied as such 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**.

#### Drive Through Business

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**.

#### Dwelling Unit

A **building**, or part thereof, providing complete living facilities, including provisions for sleeping, cooking, eating and sanitation, for exclusive **use** by one **family**, with no ingress or egress through any other **dwelling unit**.

#### Dwelling, Multiple Family

A **building** containing three (3) or more **dwelling units** designed for exclusive **use** and occupancy by three (3) or more families.

#### Dwelling, Single Family

A **building** designed for exclusive **use** and occupancy as a **dwelling unit** by one (1) **family**.

#### Dwelling, Two Family

A **building** containing two (2) **dwelling units**, designed for exclusive **use** and occupancy by two (2) **families**.

#### Essential Public Services

The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface or overhead gas, electrical, steam

or water transmission or distribution systems, collection, communication 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**.

### 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.

### Floor Area, Gross

For the purpose of computing the required number of parking spaces, the sum of the horizontal areas of each story of a **building**, measured from the interior faces of the exterior walls, and the centerlines of interior walls, exclusive of mechanical areas, elevator shafts, stairwells and vent shafts for more than one floor, and uninhabitable attics or **basements** having headroom of seven (7) feet or less.

### Floor Area, Residential

For the purpose of computing the floor area of a residential **dwelling unit**, the sum of the horizontal areas of each story of a **dwelling unit**, measured from the interior faces of the exterior walls, exclusive of areas of **basements**, unfinished attics, attached **garages**, carports, breezeways and enclosed or unenclosed porches.

### Foster Care Family Home

A **single-family dwelling** occupied as such in which one (1) but not more than four (4) but less than seven (7) minor children, 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** occupied as such in which more than four (4) but less than seven (7) minor children, 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.

### Garage

Part of a **main building** or an **accessory building** used primarily for the parking or storage of **vehicles** necessary in connection with the permitted **use** of the **main building**, where there is no **vehicle** servicing for compensation.

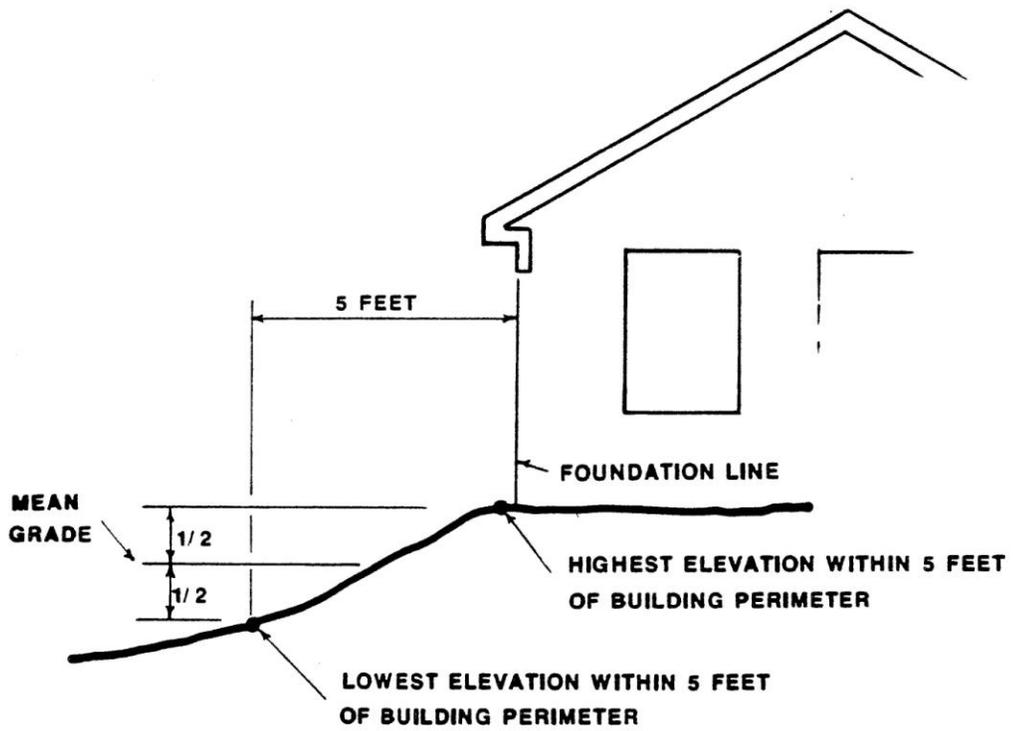
### Grade

A reference plane representing the finished ground level adjoining a **building** or **structure**.

### 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** (See Figure 3).

**FIGURE 3**  
**MEAN GRADE**



### Greenbelt

A strip of land which shall be of sufficient width and density of planting materials to screen adjacent properties from view. Unless additional, more stringent requirements are imposed by the Planning Commission as a condition of approval of a special land use, pursuant to Chapter 20, or as a condition of approval of a site plan, pursuant to Chapter 19, or by the Village Council as a condition of approval of a planned unit development, pursuant to Chapter 6, a **greenbelt** shall be defined as follows: a planting strip which shall be at least ten (10) feet in width, composed of deciduous or evergreen trees not less than twelve (12) feet in height and spaced not more than twenty (20) feet apart and 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.

### Home Occupation

A gainful occupation traditionally and historically conducted in a **dwelling unit** as an activity clearly incidental and secondary to the use of the **building** as a **dwelling unit**.

### Hotel

Any establishment in which individual cabins, courts, rooms, suites or similar **structures** or units are rented to transients for temporary periods of time. A “**hotel**” shall include tourist cabins and homes and motels, but shall not include **bed and breakfast establishments**. A **hotel** shall not be considered or construed to be a **multiple family dwelling**.

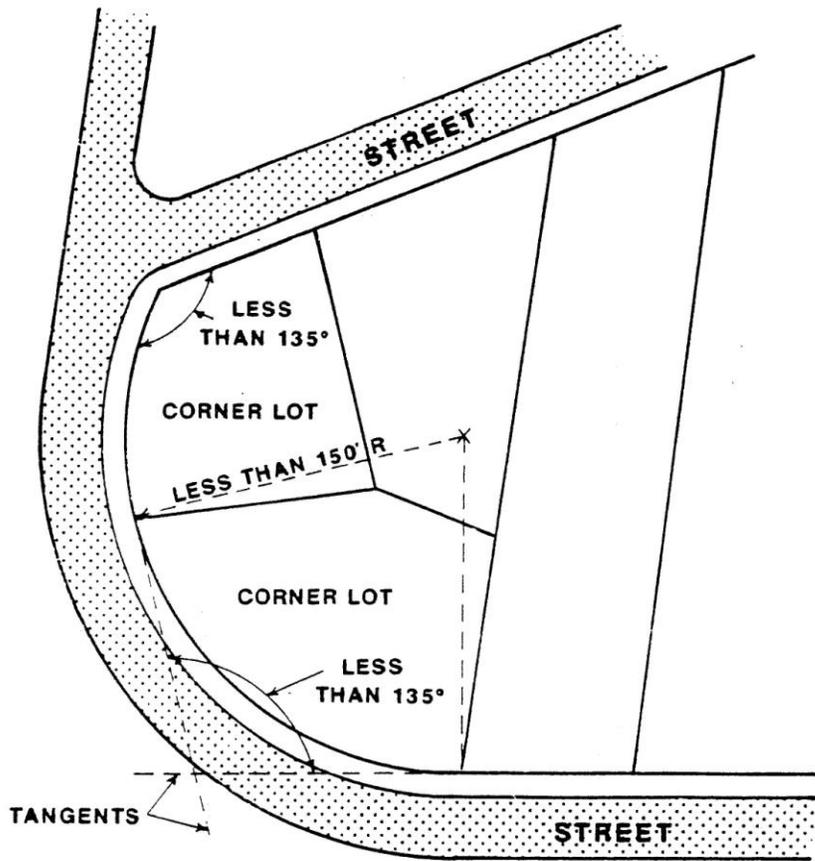
### Kennel

Any land, **building** or **structure** where four (4) or more cats and/or dogs over six (6) months of age are either permanently or temporarily boarded, housed, bred or sold.

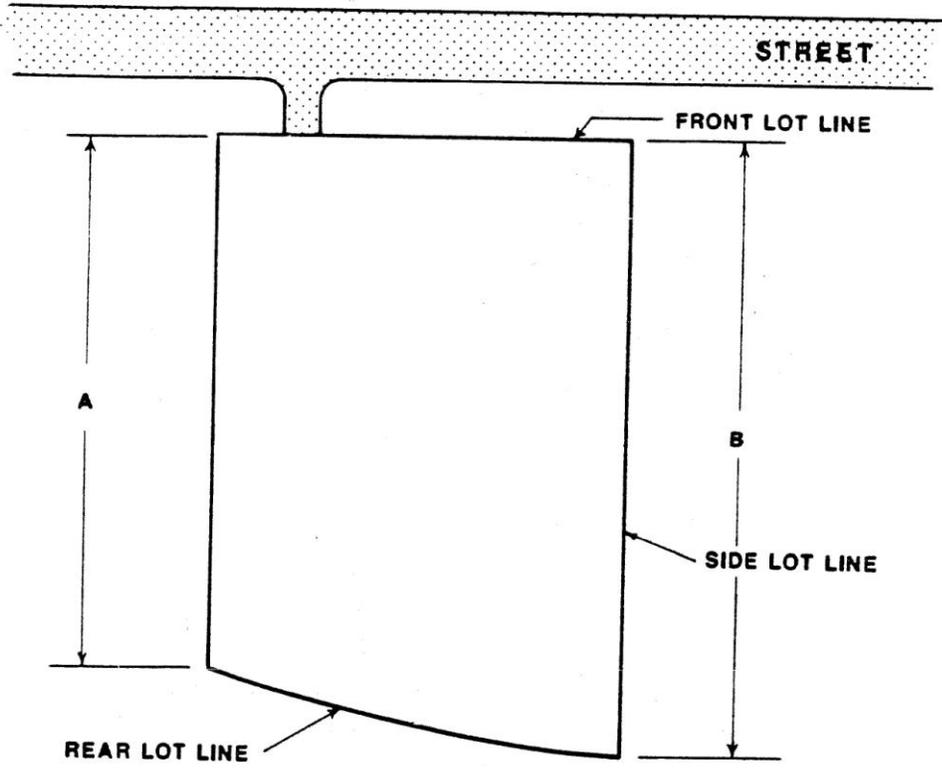
### Lot

An undivided portion of land occupied or intended for occupancy by a **main building** or a group of such **buildings** and **accessory buildings**, or utilized for a **main use** and **accessory uses**, together with such **yards** and parking areas as may be present or required under the provisions of this Ordinance.

**FIGURE 4**  
**CORNER LOT**



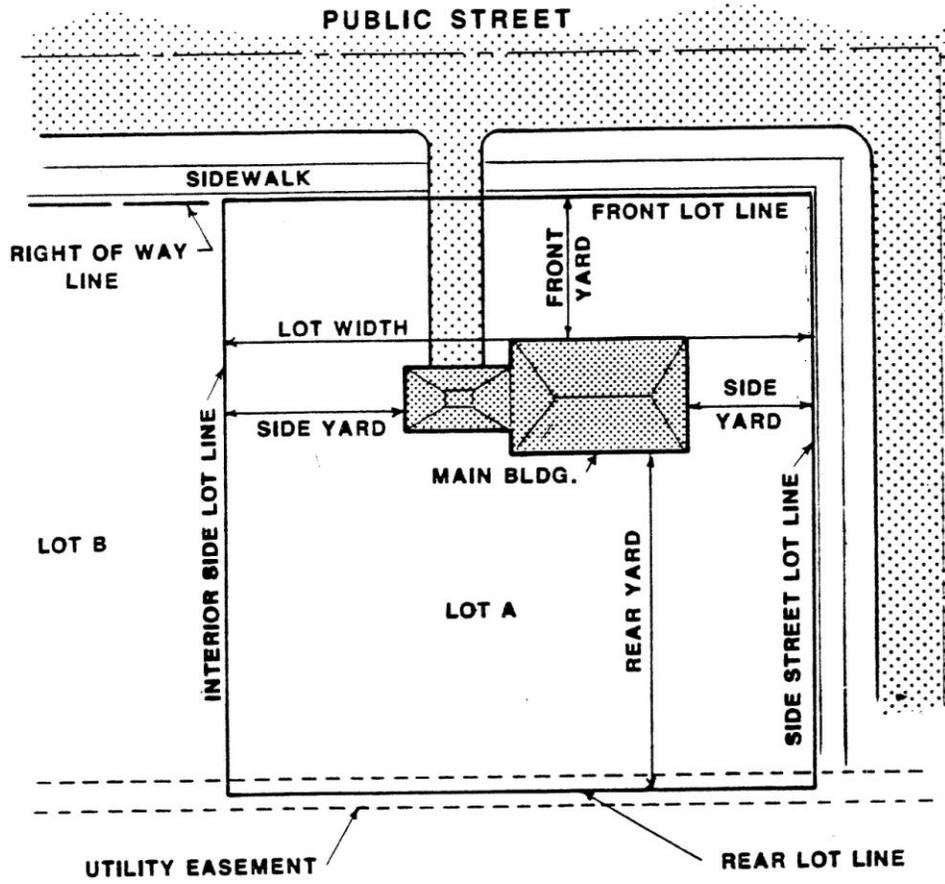
**FIGURE 5**  
**LOT DEPTH**



LOT DEPTH=DISTANCE A + DISTANCE B

2

FIGURE 6  
LOT LINES AND YARDS



### Lot Area

The total horizontal area within the **lot lines** of a **lot**.

### Lot, Corner

A **lot** where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty five (135) degrees. A **lot** abutting upon a curved street or streets shall be considered a **corner lot** if the curve is of less radius than one hundred and fifty (150) feet, and the tangents to the curve, at the two points where the **side lot lines** meet the curve, form an interior angle of less than one hundred and thirty five (135) degrees (See Figure 4).

### Lot Coverage

A part or percent of a **lot** occupied by **buildings** or **structures**.

### Lot Depth

The arithmetic mean of the shortest and longest distances from the **front lot line** to the **rear lot line** (See Figure 5).

### Lot Lines

- A. Front Lot Line: In the case of an interior **lot**, abutting upon one (1) public or private street, the **front lot line** shall mean the line separating such **lot** from such right of way (See Figure 6).
- 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**, a line at least ten (10) feet in length, entirely within the **lot**, and generally parallel to and most distant from the **front lot line** (See Figure 6).
- C. Side Lot Line: Any **lot line** not a **front** or **rear lot line**. A **side lot line** separating a **lot** from a street is a **side street lot line**. A **side lot line** separating a **lot** from another **lot** or **lots** is an **interior side lot line** (See Figure 6).
- D. In the case of a **lot** fronting on 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.

### 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 Width

The horizontal distance between **side lot lines**, measured parallel to the front **lot line** at the front setback line.

### Manufactured Home

A **mobile home**, residential **building**, **dwelling unit**, dwelling room or rooms, or a **building** component which is designed for long term residential use and is wholly or substantially constructed at an off-site location, transported to a site and erected.

### Mobile Home

A **structure**, transportable in one or more sections, which is built on a chassis and designed to be used with or without a permanent foundation as a **dwelling unit**.

### Motor Home

A self-propelled, licensed **vehicle** prefabricated on its own chassis, intended for recreational activities and temporary occupancy.

### Nonconforming Building or Structure

A **building** or **structure** lawfully existing on the effective date of this Ordinance, or amendments thereto, which does not conform to the regulations 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 lawful **use** of a **building**, **structure** or land lawfully 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.

### Parapet articulation

A low wall or railing with architectural design which projects above a flat roof line.

### 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 the Planned Unit Development chapter of this Ordinance.

### Recreational Vehicles

**Vehicles** intended and designed primarily for recreational use, such as **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.

### Satellite Dish Antenna

A parabolic, spherical or similarly-shaped antenna used for reception of communications signals transmitted from a satellite in planetary orbit.

### Screen

A **structure** such as a fence or wall, providing enclosure and a visual barrier between the area enclosed and the adjacent property.

### Setback

A horizontal distance measured from all points along a **lot line**, which describes an area within which no **building** or **structure** may be placed, except in conformance with this Ordinance.

### Shoreline

The line between upland and bottomland which 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.

### 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.

### 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.

## Use

The purpose for which land, or a **building** or **structure** thereon, is designed, arranged or intended or for which it is occupied or maintained, let or leased.

## Use, Main

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.

## Vehicle

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

## Vehicle Repair or Storage Establishment

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.

## 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.

## Yard

- A. A space open to the sky and unoccupied or unobstructed, except by encroachments specifically permitted by this Ordinance, on the same **lot** with a **building** or **structure**. A **required yard** is measured between the applicable **lot line** and the nearest foundation line of a **building** or **structure**.
- B. Front Yard: A **yard** extending across the full width of the **lot**, the depth of which is the distance between the **front lot line** and the foundation line of the **building** or **structure**. In the case of a **waterfront lot**, the **yard** on the street side shall be the **front yard** (See Figure 6).
- C. Rear Yard: A **yard** extending across the full width of the **lot**, the depth of which is the distance between the **rear lot line** and rear foundation line of the **main building** (See Figure 6).

D. Side Yard: A **yard** between the foundation line of the **main building** and the **side lot line** extending from the **front yard** to the **rear yard** (See Figure 6).

Zoning Act

Michigan Act 207 of 1921, as amended.

# CHAPTER 3

## GENERAL PROVISIONS

### Section 3.1 REQUIRED AREA OR SPACE.

- A. No **lot**, adjacent **lots** in common ownership, **required yard**, parking area or other required open space shall be created, divided or reduced in dimensions or area below the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, 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 Ordinance. **Lots** or **yards** created after the effective date of this Ordinance shall comply with the requirements of this Ordinance.
- B. **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 Ordinance concerning required yards.

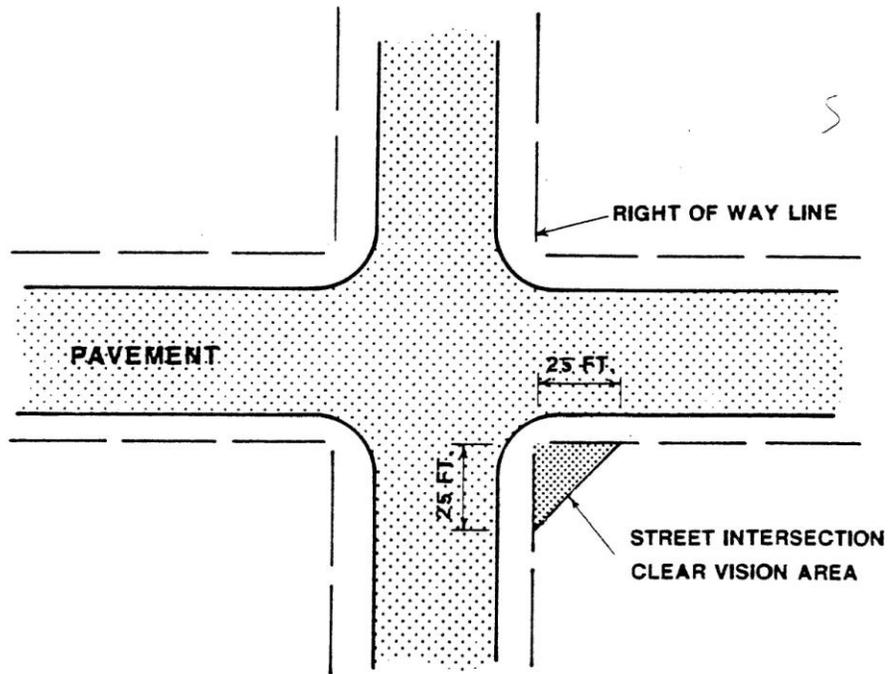
### Section 3.2 PROJECTIONS INTO YARDS.

- A. Certain architectural features, such as cornices, eaves, gutters, chimneys, pilasters and similar features may project (i) no further than three (3) feet into a **required front yard**; (ii) no further than five (5) feet into a **required rear yard**; and (iii) no further than two (2) feet into a **required side yard**.
- B. An enclosed stoop, deck, balcony or window awning may project (i) no further than eight (8) feet into a **required front yard**, and (ii) no further than fifteen (15) feet into a **required rear yard**. Projection of such building appurtenances into a **required side yard** shall be prohibited. In no case shall a balcony, stoop, deck or awning be placed closer than five (5) feet to any **front or rear lot line**, with the exception of the CBD zoning district.

### Section 3.3 BUILDING HEIGHT EXCEPTIONS.

The **building height** restrictions of all zoning districts shall be subject to the following exceptions: parapet walls not exceeding four (4) 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, and penthouses or roof **structures** housing necessary mechanical appurtenances.

**FIGURE 7**  
**CLEAR VISION AREA**



**CLEAR VISION AREA--STREET INTERSECTION**

### Section 3.4 FENCES, WALLS AND SCREENS.

Unless otherwise stated in this Section, fence, walls and screens shall require a Land Use Permit issued by the Zoning Administrator.

A. In all zoning districts, fences must comply with the following requirements:

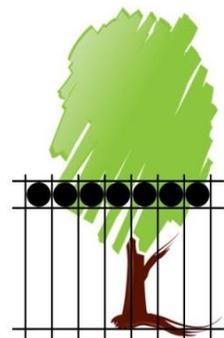
1. No fence, wall or **screen** shall be erected within any public right-of-way.
2. No fence, wall or **screen** or planting of any material shall be erected or maintained in such a way as to obstruct the vision of **vehicle** drivers within the triangular area formed by the intersection of the street 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 (See Figure 7).
3. The use of electric current or charge on any fence or part thereof is prohibited.
4. 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 may not be limited to wood or composite wood planks, aluminum, wrought iron, chain link and poly vinyl.

B. Fences within the SFR-A, SFR-B, MFR-A and MFR-B zoning districts shall comply with the following requirements:

1. Unless specifically authorized elsewhere in this Ordinance, no fence, wall or **screen** located within the required **front yard** shall exceed a height of three and one half (3-½) feet, or be in excess of forty nine (49) percent (%) solid or impervious.
  - a. Where the front yards for existing main 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 fence, wall or screen located within the front yard for the subject lot shall be the average of existing main buildings on the same side of the street and entirely of partially within 200 feet of the side lot lines of the subject lot, subject to subsections (2) and (3) below.
  - b. The reduction permitted in subsection (1) above, shall only be permitted if there are two or more lots occupied by main buildings within the area described in subsection (1) above, for computing the average front yard.
  - c. Unless specifically authorized elsewhere in this Ordinance, no fence, wall or **screen** located within the **required side yard** or **required rear yard** in any zoning district shall exceed a height of six (6) feet, except if the lot abuts or is directly adjacent to the water. No fence, wall, or screen located within the required side yard or required rear yard of a waterfront lot in any zoning district shall exceed 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.

C. Fences within the C, EED, CBD, CBD-1, O and P zoning districts shall have an ornamental character as well as a utilitarian function. All fences 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 at least five (5) feet of landscaped area.



2. Unless specifically authorized elsewhere in this Ordinance, no fence, wall or screen located within any yard shall exceed a height of four (4) feet or be in excess of forty-nine (49) 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 Commission, fences shall be constructed of wood, composite wood, rigid vinyl, wrought iron or aluminum. Chain link fences are prohibited.
- D. Fences within the I zoning district shall comply with the following requirements:
1. No fence, wall or screen shall exceed a height of eight (8) feet.
  2. **Use** of barbed wire on any fence shall be permitted, but in no instance shall barbed wire be placed at a height less than five and one half (5 ½) feet above **grade**. Use of sharpened metal tape on any fence is prohibited.



*(Ordinance No. 294, Dated: November 13, 2006)*

*(Ordinance No. 331, Dated: December 17, 2012)*

### **Section 3.5 STREET ACCESS.**

- A. Any **lot** created after the effective date of this Ordinance shall have frontage upon a public street right-of-way or legally recorded access 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 schedule:

Driveways serving:	Required pavement width:
1-8 <b>dwelling units</b>	15 feet
9 or more <b>dwelling units</b>	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.

### **Section 3.6 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.

### **Section 3.7 ESSENTIAL PUBLIC SERVICES.**

The erection, construction, alteration or maintenance of **essential public services** shall be permitted in any zoning district; it being the intention thereof to exempt such erection, construction, alteration or maintenance from the application of this Ordinance.

### **Section 3.8 LITTER, RUBBISH, JUNK STORAGE AND DISPOSAL.**

- A. Except as is provided in subsection C, no unwholesome substance shall be deposited, dumped or accumulated by any person on any place or premises, private or public, situated in the Village, unless such place or premises is a landfill fully licensed as required by law for the receipt and disposal of the unwholesome substance or unless the unwholesome substance is completely shielded from public view and view from adjoining properties by being housed within a **building** or **structure** or by being enclosed by a fence provided, however, that any such fence shall be erected and maintained in compliance with this Ordinance and any other applicable Village Ordinance.
- B. As used in this section only, those terms which appear below are defined as follows:
  - 1. The term “building material” shall be defined as all items used or useful in the construction of a **building** or **structure** including, but not limited to, lumber, bricks, concrete blocks, cinder blocks, plumbing materials, electrical wiring and equipment, heating ducts and equipment, shingles, mortar, concrete, cement, sand and gravel.
  - 2. The term “inoperable vehicle” shall be defined to mean any **vehicle** which lacks any or all of the necessary component parts to make it operative and serviceable and/or which is not currently licensed, to the extent required, for use upon the highways of the State of Michigan.

3. The term “junk” shall be defined to mean parts of machinery, **vehicles** or boats, used stoves or other appliances, plumbing fixtures, furniture stored in the open, iron, steel and other ferrous or nonferrous materials, batteries, remnants of wood, and, in general, any other cast-off material of any kind, whether or not the same could be put to any reasonable use.
  4. The term “motor vehicle body” shall be defined to mean any motor vehicle (i) which is unable to be driven upon a highway under its own power and/or which lacks all of the necessary component parts to make it operative and serviceable as a motor vehicle or (ii) which is not currently licensed for use upon the highways of the State of Michigan.
  5. The term “trash” shall be defined to mean all of the following: (i) garbage, i.e. all organic refuse and rejected food waste; (ii) ashes, i.e. the residue left from burning of paper, leaves, weeds, wood and coal; (iii) kitchen rubbish, i.e. all types of food containers and wrappings, including cans, bottles, jars, broken glass, crockery, paper and wood boxes, and metal objects; (iv) household rubbish, i.e. all types of household materials commonly discarded such as newspapers, magazines, books, wrappings, cartons, boxes, crates, excelsior, rags, clothing, bedding, floor covering, wallpaper, leather objects and sweepings; and (v) yard rubbish, i.e. all materials which grow on the property such as grass clippings, weeds, leaves, plants, garden trash, clippings from hedges and shrubs, branches, limbs, roots and stumps.
  6. The term “unwholesome substance” shall be defined to mean any trash, motor vehicle body, inoperable vehicle, stone, junk, offal, refuse, rubbish, debris, animal wastes, filth, **building** material (unless (i) there is in force a valid **building** permit for construction on the property where the **building** materials are located and **building** materials are to be used as part of that construction or (ii) the **building** materials are for sale as part of a commercial business), inoperable boat, or any other material which constitutes a threat or menace to the health, safety, or general welfare of the public.
- C. Notwithstanding subsection A above, it shall not be unlawful to deposit grass clippings, weeds, leaves, plants, garden trash, clippings form hedges and shrubs and other yard debris and products adjacent to the street right of way at any time after 6:00 p.m. local time on the day preceding a scheduled garbage pick up or collection by a garbage carrier licensed to pick up garbage in the Village pursuant to Chapter 9 of the Code of Ordinances of the Village or a Village-sponsored brush, leaf or trash pickup. Grass clippings, weeds, leaves, plants, garden trash, clippings form hedges and shrubs and other yard debris and products to be collected by licensed waste haulers, shall be enclosed or boxed in such a manner to prevent the debris and products from dispersing, scattering or littering in any manner whatsoever. Such debris and products shall be contained in disposable plastic bags and containers only and shall not be housed in any permanent container or can.

Materials to be picked up as part of a Village sponsored program shall be placed adjacent to the street in the manner specified by the Village.

- D. Notwithstanding the provisions of subsections A and B above, it shall not be unlawful to establish and maintain on the premises of a residential use facilities for the organic decomposition or composting of **yard** rubbish and vegetable food waste, provided the following conditions are met:
1. Accumulation of materials for composting shall not be permitted in a front or side yard.
  2. No materials not generated by or originating from the premises on which the composting is conducted shall be permitted.
  3. The volume of material accumulated for composting on a single premises shall not exceed eight (8) cubic yards.
  4. Materials to be composted shall not be located within three (3) feet of a **side** or **rear lot line**.
  5. No products of animal origin, including meat, fat, grease or bones, or any human or animal excrement, shall be included in any material to be composted.
  6. Materials accumulated for composting shall be treated and handled in a manner to prevent the creation of noxious or offensive odors beyond the premises, or the harboring of rodents or other animal pests.

### **Section 3.9 RECREATIONAL VEHICLE PARKING.**

- A. Parking of **recreational vehicles** may be permitted in the **required front yard** provided the following restrictions are met:
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 public 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 (3) feet from the **lot line**.

### **Section 3.10 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 forty eight (48) hours in duration or which require the **vehicle** to be immobile or inoperable in excess of forty eight (48) hours shall be carried out within 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 semi-trailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use in construction being conducted on such **lot**.

### **Section 3.11 ILLEGAL DWELLINGS.**

- A. The use of any portion of the **basement** of a partially completed **building**, or any **garage** or **accessory building** for dwelling or sleeping purposes in any zoning district is prohibited.
- B. **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 (7) day period and for no more than one (1) such period in any thirty (30) consecutive days.

### **Section 3.12 SWIMMING POOLS.**

- A. Every person owning land on which there is located a swimming pool, spa, hot tub, or similar device (below ground or above ground) which contains twenty-four (24) inches or more of water in depth at any point, shall erect and maintain thereon a fence or enclosure approved by the Building Inspector surrounding the device sufficient to make such device inaccessible to small children. Such fence or enclosure, including the gates, shall not be less than four (4) feet or greater than (6) feet above **grade**. All gates shall be self-latching with latches placed no less than four (4) feet above **grade** or otherwise made inaccessible from the outside to small children.
- B. Swimming pools, spas, hot tubs and similar devices two (2) feet or less above **grade** at any point shall not be located less than four (4) feet from any **lot line**.

- C. Swimming pools, spas, hot tubs and similar devices in excess of two (2) feet above **grade** at any point shall not be located less than ten (10) feet from any **lot line**.
- D. Swimming pools, spas, hot tubs and similar devices shall not be located in any **front yard**.

**Section 3.13 ANTENNAS AND TOWERS IN RESIDENTIAL ZONING DISTRICTS.**

Radio or television antennas or towers, including **satellite dish antennas** and 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:

1. Placement:

- a. An antenna or tower, with the exception of a **satellite dish antenna**, shall be located only in a **side** or **rear yard**. A **satellite dish antenna** shall be located only in a **rear yard**.
- b. No portion of an antenna, including a **satellite dish antenna**, shall be located closer than five (5) feet, measured on a horizontal plane, from any **side** or **rear lot line**.
- c. A **satellite dish antenna** located in a **yard** fronting on a public street shall be screened from such street by a **greenbelt**.

2. Height:

- a. The height of an antenna, with the exception of a **satellite dish antenna**, shall not exceed fifty (50) feet above **mean grade** in any residential zoning district, and shall not exceed one hundred (100) feet above **mean grade** in any other zoning district.
- b. The height of a **satellite dish antenna**, including any platform or **structure** upon which the antenna is mounted, shall not exceed fifteen (15) feet above **mean grade**.
- c. Notwithstanding the above, a **satellite dish antenna** having a diameter of twenty-four (24) inches or less may be attached to the roof of a **building**, provided that no portion of the **satellite dish antenna** extends more than thirty-six (36) inches above the highest point of the roof.

3. General provisions:

- a. The installation of an antenna, including a **satellite dish antenna**, shall require issuance of a building permit prior to erection.
- b. No advertising or identification display shall be placed on any portion of an antenna or tower, including a satellite dish antenna.

- c. No more than one (1) antenna, including a **satellite dish antenna**, shall be located on the same **lot** as a **main building**. Antennas are permitted only in connection with, incidental to on the same **lot** as a **main use** or **building**.

### **Section 3.14 MAIN USE.**

No **lot** may contain more than one **main building** or **use**, excepting groups of **multiple family dwellings** or retail business **buildings** or other groups of **buildings** the Zoning Administrator deems to be a **main use** collectively.

### **Section 3.15 ACCESSORY BUILDINGS AND USES.**

- A. **Accessory uses** and **buildings** are permitted only in connection with, incidental to and on the same **lot** with a **main 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 **main use** on a **lot**.
- C. No **accessory use** or **building** shall be occupied or utilized unless the **main structure** to which it is accessory is occupied or utilized. No **accessory building** or **use** may be placed on a **lot** without a **main use** or **building**.
- D. **Accessory buildings** shall not be erected in any **required side yard**, unless located a minimum of seventy-five (75) feet from the **front lot line**, or except as permitted in the Waterfront Overlay District, Chapter 5. All **accessory uses** and **buildings** combined shall cover no more than thirty percent (30%) of the **required rear yard**. 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 **main building**, street right-of-way, or any **side** or **rear lot line**.
- F. When the **main 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.
- G. When the **main 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 (1) detached **garage**, shall not exceed three hundred (300) square feet.
  3. The **gross floor area** of any single detached **accessory building**, exclusive of one (1) 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**.
- H. The **maximum building height** of any detached **accessory building** shall be fourteen (14) feet.

### **Section 3.16 REGULATIONS APPLICABLE TO SINGLE-FAMILY DWELLINGS.**

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

1. If the **dwelling unit** is a **mobile home**, the **mobile home** must either be (i) new and certified by the manufacturer and/or appropriate inspection agency as meeting the Mobile Home Construction and Safety Standards of the U.S. Dept. of Housing and Urban Development, as amended, or any similar successor or replacement standards which may be promulgated, or (ii) used and certified by the manufacturer and/or appropriate inspection agency as meeting the standards referenced in subsection (i) above, and found, on inspection by the Building Inspector or his designee, to be in excellent condition and safe and fit for residential occupancy.
2. The **dwelling unit** shall comply with all applicable building, electrical, plumbing, fire, energy and other similar codes which are or may be adopted by the Village, provided, however, that where a **dwelling unit** is required by law to comply with any federal or state standards or regulations for construction, and where such standards or regulations for construction are different than those imposed by the Village codes, then and in such event such federal or state standard or regulations shall apply. Appropriate evidence of compliance with such standards or regulations shall be provided to the Building Inspector.
3. The **dwelling unit** shall comply with all restrictions and requirements of this Ordinance, including, without limitation, the minimum **lot area**, minimum **lot width**, minimum **residential floor area**, **required yard** and maximum **building height** requirements of the zoning district in which it is located.
4. If the **dwelling unit** is a **mobile home**, the **mobile home** shall be installed with the wheels removed.

5. The **dwelling unit** shall be firmly attached to a permanent continuous foundation constructed on the building site, such foundation to have a wall of the same perimeter dimensions as the **dwelling unit** and to be constructed of such materials and type as required by the building code for on-site constructed **single-family dwellings**. If the **dwelling unit** is a **mobile home**, its foundation shall fully enclose the chassis, undercarriage and towing mechanism.
6. If the **dwelling unit** is a **mobile home**, it 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.
7. The **dwelling unit** shall have a minimum horizontal dimension across any front, side, or rear elevation of twenty (20) feet.
8. 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 **main building**, or in a detached **accessory building** which is in compliance with all other applicable provisions of this Ordinance pertaining to **accessory buildings**.
9. Permanently attached steps or porch areas at least three (3) 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**.
10. The pitch of the main roof of the **dwelling unit** shall not be less than three (3) feet of rise for each twelve (12) feet of horizontal run.
11. 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.
12. The **dwelling unit** shall be so placed on the **lot** that that portions nearest the principal street frontage are at least thirty (30) feet in dimension parallel to the street.
13. 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**.

### **Section 3.17 PRIVATE BOAT DOCKS.**

- A. No more than one (1) dock per **dwelling unit** shall be permitted for **single family dwellings** and **two family dwellings**.

- B. No more than one (1) boat slip per **dwelling unit** shall be permitted for **multiple family dwellings**.

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 private or public marina as a special land use, pursuant to Chapter 20.

**Section 3.18 NONCONFORMING LOTS, NONCONFORMING USES OF LAND, NONCONFORMING STRUCTURES AND NONCONFORMING USES OF STRUCTURES.**

- A. Intent.

Upon the adoption of this Ordinance or subsequent amendments, there may exist **lots, structures, and uses** of land and **structures** which were lawful prior to the adoption of this Ordinance, or amendment thereto, but which are not in conformance with the provisions of this Ordinance, or amendment thereto. It is the intent of this Ordinance 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 Land Use Plan, the spirit of this Ordinance is to reduce, rather than increase, such nonconformance.

- B. Nonconforming lots.

1. In any zoning district, notwithstanding limitations imposed by other provisions of this Ordinance, where an existing **lot of record**, which does not abut any other **lot** or **lots of record** in the same ownership, fails to meet the requirements for minimum **lot area**, minimum **lot width**, or both, of the zoning district in which it is located, such **lot** may be used for the permitted uses of the zoning district, provided that the requirements not involving **lot area, lot width**, or both, of the zoning district in which such **lot** is located are complied with.
2. In any zoning district, where two or more abutting **lots of record** in the same ownership do not, when considered individually, meet the requirements for minimum **lot area**, minimum **lot width**, or both, 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 Ordinance, including subsection B.1, above.

- C. Nonconforming Uses of Land.

The lawful **use** of any land, not involving a **building** or **structure**, existing and lawful on the effective date of this Ordinance, or amendment thereto, may be continued even though such **use** does not conform with the provisions of this Ordinance, or amendment thereto, subject to the following provisions:

1. No such **nonconforming use** shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of this Ordinance, or amendment thereto.
2. 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 this Ordinance, or amendment thereto.
3. If any such **nonconforming use** of land ceases for any reason for a period of more than six (6) months, any subsequent **use** of such land shall conform to the requirements of this Ordinance. Seasonal **uses** of land, such as boat storage, shall be excepted from this provision.

#### D. Nonconforming structures

**Structures**, including **buildings**, which are existing and lawful on the effective date of this Ordinance, or amendment thereto, may be continued, even though such **structure** does not conform with the provisions of this Ordinance, or amendment thereto, subject to the following provisions:

1. No **nonconforming structure** may be enlarged or altered in a way which increases its nonconformity with the provisions of this Ordinance, unless authorized by the Planning Commission, following a public hearing held in accordance with the procedures for approval of a special land use contained in Chapter 20. In authorizing such enlargement or alteration, the Planning Commission shall consider the following:
  - a. Whether the proposed enlargement or alteration will change the essential character of the area.
  - b. Whether the proposed enlargement or alteration will have an adverse impact on adjoining property or the general welfare of the Village, by reason of its nonconformity with the provisions of this Ordinance.
  - c. Whether there are reasonable and practical alternative means to achieving the desired enlargement or alteration in a manner which does not increase the degree of nonconformity of the **structure** with the provisions of this Ordinance.
2. In the event that any **nonconforming structure** shall be damaged, by any means or in any manner, to the extent that the cost of reconstruction or restoration exceeds one-half (1/2) the value of such **structure** prior to the damaging occurrence, as determined by the most recent assessment of the market value of the **structure**, exclusive of the market value of the land, for purposes of taxation, such reconstruction or restoration shall only be permitted in conformity with the provisions of this Ordinance.

In the event that any **nonconforming structure** shall be damaged, by any means or in any manner, to the extent that the cost of reconstruction or restoration is equal to or less than one-half (1/2) the value of such **structure** prior to the damaging occurrence, as determined by the most recent assessment of the market value of the **structure**, exclusive of the market value of the land, for purposes of taxation, such reconstruction or restoration shall be permitted, providing a building permit for such reconstruction or restoration is issued within one (1) year of the occurrence of such damage.

3. If any **nonconforming structure** is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later re-established or increased.

#### E. Nonconforming Use of Structures

The lawful **use** of any **structure** existing and lawful on the effective date of this Ordinance, or amendment thereto, may be continued, even though such **use** does not conform with the provisions of this Ordinance, or amendment thereto, 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 this Ordinance, or amendment thereto, but no such **use** shall be extended to occupy any land outside such **building**.
2. No existing **structure** devoted to a **nonconforming use** shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the **use** of the **structure** to a **use** permitted in the zoning district in which it is located.
3. If a **structure** which conforms with the provisions of this Ordinance, but which is occupied by a **nonconforming use**, is damaged by any means or in any manner to the extent that the cost of reconstruction or restoration exceeds one-half (1/2) the value of such **structure** prior to the damaging occurrence, as determined by the most recent assessment of the market value of the **structure**, excluding the value of land, of purposes of taxation, such **structure** may be reconstructed or restored only if its **use** conforms with the provisions of this Ordinance.
4. If a **nonconforming use** of any **structure** is terminated and replaced by a permitted **use**, such **nonconforming use** shall not be later re-established.
5. When a **nonconforming use** of a **structure** or **structure** and land in combination, is discontinued or abandoned for six (6) consecutive months, the **structure**, or **structure** and land in combination, shall not thereafter be **used** except in conformance with the regulations of the zoning district in

which it is located. **Structures** occupied by seasonal **uses** shall be excepted from this provision.

6. 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.
7. A **nonconforming use** of a **structure** may be changed to another **nonconforming use**, subject to the prior approval of the Board of Appeals. The Board may approve such change only if it complies with all of the following standards:
  - a. The proposed **use** does not substantially differ from the existing **use** in terms of compatibility with the character of the area in which it is located.
  - b. The proposed **use** does not increase the degree of nonconformity existing prior to such change of **use**.
  - c. No structural alteration of the existing **structure** will be required to accommodate the new **use**.

#### F. Repairs and Maintenance

On any **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.

Nothing in this Ordinance 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.

#### G. Structures Under Construction

Any **structure** on which actual construction was lawfully begun prior to the effective date of this Ordinance, or amendment thereto, shall be considered existing and lawful. Nothing in this Ordinance shall be deemed to require any change in the plans, construction or **use** of such **structure**. Actual construction is hereby defined to include 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 actual construction.

### Section 3.19 PERMITTED FRONT SETBACK REDUCTIONS.

- A. Where the **front yards** for existing **main 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.
- B. The **front yard** reduction permitted in subsection A, above, shall only be permitted if there are two (2) or more **lots** occupied by **main buildings** within the area described in subsection A, above for computing the average **front yard**.
- C. In no case shall the **required front yard** resulting from the application of subsections A and B, above be less than fifteen (15) feet.

**Section 3.20 TEMPORARY BUILDINGS AND STRUCTURES.**

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

- 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 Chapter 16. A building permit for such **building** or **structure** shall be issued by the Building Inspector prior to installation.
- 3. Temporary **buildings** and **structures** shall be removed from the **lot** within fifteen (15) days after an occupancy permit is issued by the Building Inspector for the permanent **structure** on such **lot**, or within fifteen (15) days after the expiration of a building permit issued for construction on such **lot**.

**Section 3.21 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 Ordinance, 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 **waterfront development** by the Planning Commission or **Council**, any construction authorized under the provisions of this Ordinance shall be completed within one (1) year from the date of issuance of a building permit for such construction.

**Section 3.22 KEEPING OF ANIMALS.**

- A. The keeping of household pets, including dogs, cats, fish, birds, hamsters and other animals generally regarded as household pets is permitted as an **accessory use** in any residential zoning district. However, no more than three (3) dogs or cats, six (6) months of age or older, in any combination thereof, shall be kept or housed in or at one (1) **dwelling unit**.
- B. The keeping of animals not normally considered household pets, including, but not limited to, horses, pigs, sheep, cattle, poultry, reptiles and wild animals, is prohibited in all zoning districts.

### **Section 3.23 WITHHOLDING OF APPROVAL.**

The Planning Commission or **Council** may withhold granting of approval of any **use**, site plan, PUD Plan or other approval required by this Ordinance pending approvals which may be required by state or Federal agencies or department.

### **Section 3.24 PUBLIC NOTICE.**

All applications for development approval requiring a public hearing shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and the other provisions of this Section with regard to public notification.

- A. Responsibility: When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village of Spring Lake and mailed or delivered as provided in this Section.
- B. Content: All mail, personal and newspaper notices for public hearings shall:
  - 1. Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
  - 2. Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used *such as a tax parcel identification number, identifying the nearest cross street, or including a map showing the location of the property*. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
  - 3. When and where the request will be considered: Indicate the date, time and place of the public hearing(s).

4. Written comments: Include a statement describing when and where written comments will be received concerning the request. *Include a statement that the public may appear at the public hearing in person or by counsel.*
5. Handicap access: Information concerning how handicap access will be accommodated if the meeting facility is not handicap accessible.

### C. Personal and Mailed Notice

1. General: When the provisions of this Ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
  - a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
  - b. Except for rezoning requests involving eleven (11) or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property subject to the request and one occupant of all structures within three hundred (300) feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Village of Spring Lake. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
  - c. All neighborhood organizations, public utility companies, railroads and other persons which have requested to receive notice pursuant to Subsection 3.23(E) below, Registration to Receive Notice by Mail.
  - d. *Other governmental units or infrastructure agencies within one week of the property involved in the application.*
2. Notice by mail/affidavit: Notice shall be deemed mailed by its deposit during normal business hours for delivery with the United States postal service or other public or private delivery service. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

- ### D. Timing of Notice:
- Unless otherwise provided in the Michigan Zoning Enabling Act, PA 110 of 2006, or this Ordinance where applicable, notice of a public hearing shall be provided as follows:

1. For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than fifteen (15) days before the date the application will be considered for approval.
2. For any other public hearing required by this Ordinance: Not less than 15 days before the date the application will be considered for approval.

E. Registration to Receive Notice by Mail.

1. General: Any neighborhood organization, public utility company, railroad or any other person may register with the Zoning Administrator to receive written notice of all applications for development approval pursuant to Section 3.23(c)(1)(c), Personal and Mailed Notice, or written notice of all applications for development approval within the zoning district in which they are located. The Zoning Administrator shall be responsible for providing this notification. Fees may be assessed for the provision of this notice, as established by the legislative body.
2. Requirements: The requesting party must provide the Zoning Administrator information on an official form to ensure notification can be made. All registered persons must register bi-annually to continue to receive notification pursuant to this Section.

*(Ordinance No. 308, Dated: January 19, 2009)*

**Section 3.25 BUILDING DEMOLITION**

- A. No building shall be demolished until a permit has been obtained from the Building Inspector who shall be authorized to require a performance bond in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (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 Inspector may prescribe, from time to time, including filling of excavations and proper termination of utility connections. If the building is safely demolished and the site cleaned as specified in the permit, then the bond shall be returned within thirty (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.
- B. 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.

- C. 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 Inspector may require construction of a suitable fence around the work site where conditions indicate that the safety of the public requires such fence.
- D. 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 shall remain.
- E. The premises shall be cleared of all debris and components of the building or structure, and the site filled, leveled and seeded within seven (7) days of completion of the demolition.

*(Ordinance No. 312, Dated: June 26, 2009)*

**Section 3.26 MOVING OF BUILDINGS.**

- A. No existing building or structure of any type or kind shall be moved into the Village or moved from one lot in the Village to another lot in the Village unless authorized by a special use permit approved by the Planning Commission, after the Building Inspector has evaluated the building or structure in question and submitted a written report thereon to the Planning Commission. In considering the granting of such authorization, the following standards shall be considered:
  - 1. The type and kind of construction of the existing building or structure in relation to its strength and whether or not said building or structure may be a fire hazard.
  - 2. Whether or not the type and age of the building or structure to be moved is in keeping with the type and age of such buildings and structures which are adjoining and in the neighborhood surrounding the lot to which the building or structure is to be moved.
  - 3. Whether or not the type and kind of materials used in the construction of the building or structure to be moved relate to or are in keeping with the type and kind of materials used in the construction of other buildings and structures adjoining and in the neighborhood surrounding the lot to which the building or structure is to be moved.
- B. Following Planning Commission approval, a building permit shall be obtained prior to moving and relocating the building or structure.
  - 1. The relocated building or structure shall comply with all the requirements of the zoning district in which the relocation site is located.

2. The building to be relocated shall be inspected, at the expense of the applicant, by the Building, Electrical, Mechanical, and Plumbing Inspectors prior to being moved to verify that the building meets all the current Michigan Construction Code requirements. If any code violations or deficiencies are found during the inspection, the building must be brought into compliance prior to occupancy.
- C. The permit holder shall be responsible to pay for all costs incurred by the Village which are attributable to the building relocation.
  - D. The premises from which the building or structure is moved shall be cleared of all debris and components of the building or structure as required in Section 3.25.D, and the site filled, leveled, and seeded within seven (7) days of the building or structure relocation.
  - E. The Village may require a performance bond to ensure against damage to Village roads or public property, to cover the costs expected to be incurred by the Village attributable to the building relocation, and to provide for timely completion of the relocation of the building and site restoration of the previous site.
  - F. The applicant shall notify in writing all property owners and occupants along the proposed relocation route regarding the time of the move, route, and approximate times of street blockages, trees proposed to be trimmed or removed, and times of the interruption of services such as electric service, phone service, and cable TV and internet connections. Such notice shall be given a minimum of 48 hours in advance of the proposed move. The applicant shall provide a list to the Village of the owners and occupants notified.
  - G. As part of the application for Special Use Permit, the applicant shall provide a projected timetable for the move including the following:
    1. Primary date and rain date of the move.
    2. Site restoration of the original building location.
    3. Schedule of construction on the new building site.
    4. Date final occupancy of the building will occur.

*(Ordinance No. 312, Dated: June 26, 2009)*

### **Section 3.27 SITE PREPARATION AND EXCAVATION**

- A. Land filling, mining, and other land-form 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 Ordinance 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 a Development Permit.

- B. Any excavation or foundation to be left open overnight and/or for more than twenty-four (24) hours must be fenced to prevent endangerment of life or property.

*(Ordinance No. 312, Dated: June 26, 2009)*

### **Section 3.28 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 right of ways, by minimizing brightly lighted 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 luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this Zoning Ordinance.

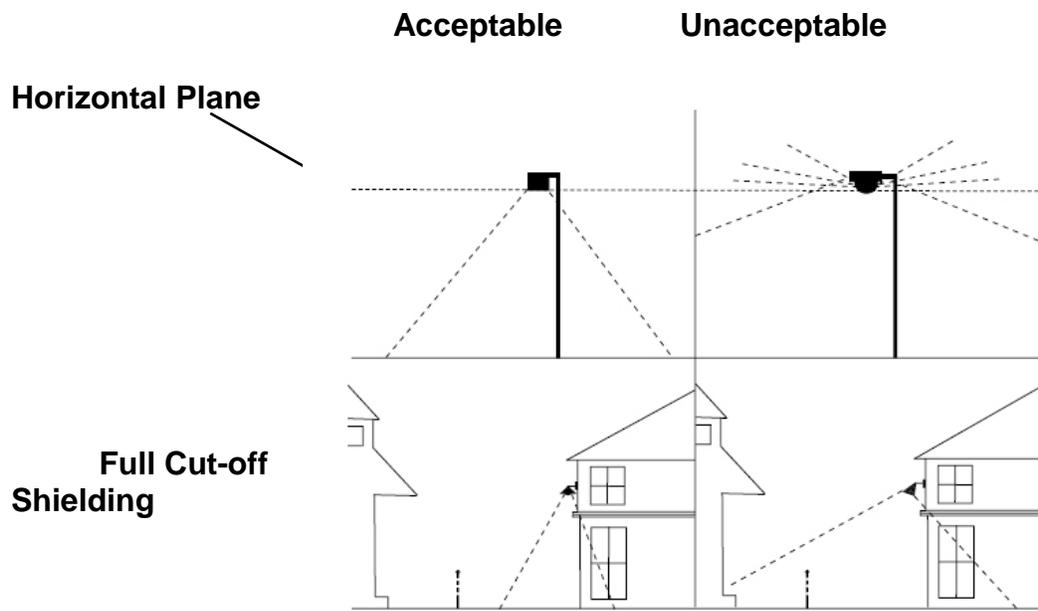
- B. General Standards:

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 façade 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 (1) inch equaling no more than thirty (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 article. Diagrams shall indicate illumination levels at ground level based on no greater than a twenty-five (25) foot on-center grid and shall project twenty-five (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) “cut-off” 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 free-standing, 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:
- a. Lighting design shall ensure that direct or directly reflected light is confined to the development site and pedestrian pathways.
  - b. Lamps and luminaries 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 ten (10) footcandles within any part of the site and one (1) foot candle at any property line, except where the property abuts a Residential District or use where a maximum of 0.5 footcandles is permitted.
  - e. All light fixtures, including building mounted fixtures, shall be full cut-off fixtures as defined by IESNA and shall have one hundred (100%) percent cut off 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.

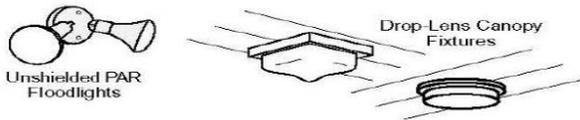
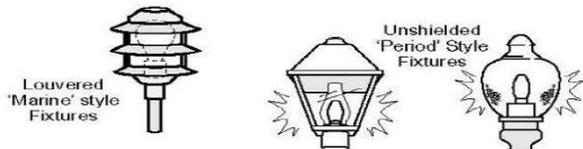
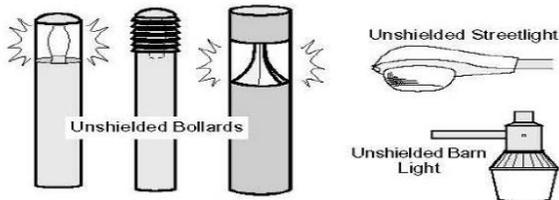
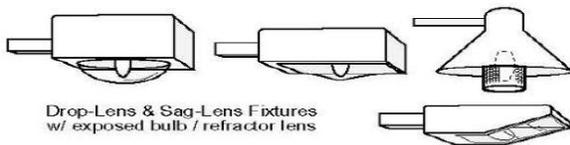
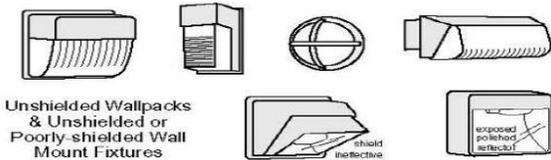
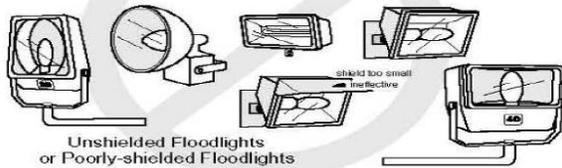
- f. No light fixture may be mounted higher than twenty (20) feet above the average grade of the site, except for approved outdoor recreation area lighting.
  - g. Outdoor recreation area lighting may use standard color metal halide sources and standard sports lighting fixtures if they are mounted at 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 flood lights are prohibited.
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 100 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 Chapter 17 hereof.
  - c. Lighting necessary for road or utility construction or emergencies.
  - d. Street lights located within a public right-of-way.
  - e. Lighting for a permitted temporary event such as a circus, fair, carnival, or civic event.

*(Ordinance No. 312, Dated: June 26, 2009)*



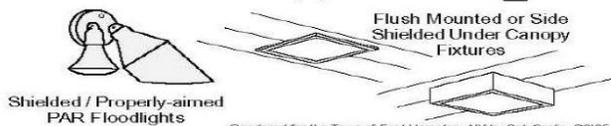
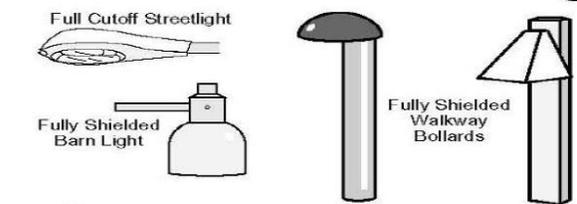
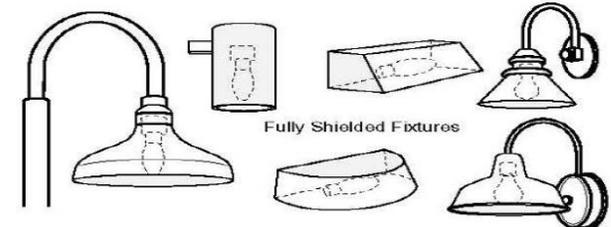
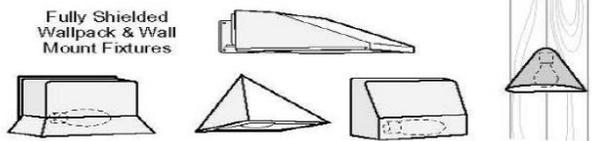
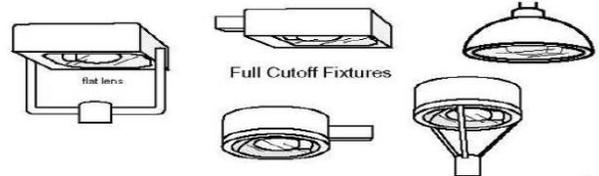
## Unacceptable / Discouraged

Fixtures that produce glare and light trespass



## Acceptable

Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



Rendered for the Town of East Hampton, NY by Bob Crean ©2005

Source: Dark Sky Society, [www.darksksociety.org](http://www.darksksociety.org)

## CHAPTER 3.A

### SEXUALLY ORIENTED BUSINESSES

#### **Section 3.A.1      PURPOSE.**

The purpose and intent of the Chapter 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 Chapter 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 Chapter following the removal, reduction or revision of any portion of this Chapter found to be invalid or unconstitutional.

#### **Section 3.A.2      DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this Chapter 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 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 subsections a or b.

- a. 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
- b. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve offering for sale or rental the material identified in subsections a and b, 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 twelve (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 twelve (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 non-therapeutic purposes. The systematic and scientific manipulation of the soft tissues of the human body by a state license health care professional for therapeutic and/or rehabilitative purposes shall be considered a therapeutic massage and not restricted by this Chapter.

#### Massage Parlor

Any commercial establishment where non-therapeutic 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 non-therapeutic 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 pays 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: (1) Adult Arcade; (2) Adult Bookstore or Adult Video Store; (3) Adult Entertainment Booking Agency; (4) Adult Cabaret; (5) Adult Motel; (6) Adult Motion Picture Theater; (7) Adult Theater; (8) Dating Service; (9) Escort Agency; (10) Massage Parlor; (11) Massage School; (12) Nude Model Studio; and (13) 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 a through c above.

### **Section 3.A.3 ZONING DISTRICT.**

Notwithstanding any provisions of this Ordinance 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 3.A.4 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.

For purposes of this subsection a, and subsections b and c below, the distance between a proposed Sexually Oriented Business and (1) another Sexually Oriented Business, (2) the boundary of any land zoned residential, or approved as a planned unit development for residential purposes, or (3) land used for any single or multiple family residence, Village, county or state park, school, library, licensed childcare facility, playground, church or place of worship, 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 (1) the nearest property line of the parcel of land used for the other Sexually Oriented Business, (2) the nearest boundary of the land zoned residential, or approved as a planned unit development for residential purposes, or (3) the nearest property line of the parcel of land used for a single or multiple family residence, Village, county or state park, school, library, licensed childcare facility, playground, church or place of worship.

- 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 childcare facility, playground, church or place of worship.
- d. No Sexually Oriented Business shall be located within any principal or accessory building or structure already containing a Sexually Oriented Business.
- e. The proposed **use** shall conform to all requirements of the zoning district in which it is located.
- f. 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.

- g. 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.
- h. Any sign or signs proposed for the Sexually Oriented Business shall comply with the provisions of Chapter 17 of this Ordinance, 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 (2) inches in height stating that: 1) "Persons under the age of 18 are not permitted to enter the premises", and 2) "No alcoholic beverages or any type are permitted within these premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

- i. 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 public or private road or a neighboring property.
- j. Hours of operation shall be limited to 10:00 AM to 10:00 PM, Monday through Saturday. All Sexually Oriented Businesses shall remain closed on Sundays and legal holidays.
- k. All off-street parking areas shall comply with Chapter 18 of this Ordinance 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 foot candle, with a 3:1 uniformity ratio. The illumination shall not reflect on and shall be screened from adjoining properties.
- l. 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 3.A.5 APPLICATION FOR SPECIAL LAND USE APPROVAL.**

Notwithstanding any provisions of this Ordinance to the contrary, applications for special land use permits and site plan approval submitted by **Sexually Oriented Businesses** will be governed by this Chapter.

1. An application for a Special Land Use Permit provided under this Chapter 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 has been provided to the Village by the applicant or the applicant's agents and representatives.
2. The application shall be accompanied by 12 copies of a site plan as required by and provided for in Chapter 19, and any other data required by the Zoning Administrator indicating how the proposed Sexually Oriented Business will conform to the requirements set forth in Section 3.A.4.
3. 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.
4. 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 3.A.6 HEARING ON APPLICATION FOR SPECIAL LAND USE APPROVAL.**

Notwithstanding any provisions of this Ordinance to the contrary, the Planning Commission shall hold a public hearing on the proposed special land use not more than forty-five (45) days following the date the Zoning Administrator receives the completed application. At least five (5) but not more than fifteen (15) days in advance of such hearing, notice shall be published in a local newspaper of general circulation and shall be sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all **structures** within

300 feet of the boundary of the property in question. The notice of the public hearing shall contain the time and place of the hearing, the description of the property in question, the **use** being proposed, and when and where written comments will be accepted.

### **Section 3.A.7 DECISION ON APPLICATION FOR SPECIAL LAND USE APPROVAL.**

Notwithstanding any provisions of this Ordinance to the contrary, a final decision on the special land use application and site plan approval shall be made by the Planning Commission within seventy-five (75) days of the receipt of the completed application by the Zoning Administrator. The Planning Commission shall base its decision upon the applicant's compliance with the requirements set forth in Section 3.A.4. The decision on the site plan approval shall be made according to the standards set forth in Section 19.5 of this Ordinance.

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 the Zoning Ordinance.

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 3.A.8 APPEALS.**

The decision of the Planning Commission shall be final. Notwithstanding any provisions of this Ordinance to the contrary, in the event the Planning Commission denies an application for special land use permit, or approval of a site plan, or both, 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 prompt judicial review of the Planning Commission's decision in any court of competent jurisdiction.



# CHAPTER 3.B

## HOME OCCUPATIONS

**Section 1. HOME OCCUPATIONS.** The Zoning Ordinance of the Village of Spring Lake shall be amended to include a new Chapter 3.B concerning Home Occupations, which shall state in its entirety as follows:

### **Section 3.B.1 PURPOSE.**

The purpose and intent of this Chapter 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 Chapter, and shall be located and constructed so that the average neighbor, under normal circumstances, will not be aware of its existence.

### **Section 3.B.2 DEFINITIONS.**

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

#### **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.

#### **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.

#### **PRIMARY CAREGIVER.**

Means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has never been convicted of a felony involving illegal drugs.

### **Section 3.B.3 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 from time to time. The registration form shall be accompanied by such information as is necessary to demonstrate compliance with this Chapter.
  - (a) 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.
- (2) 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.
- (3) 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.
- (4) No person, other than members of the family residing in the dwelling, shall be engaged in the conduct of the home occupation.
- (5) The use of the dwelling for a home occupation shall be clearly incidental and subordinate to its use for residential purposes, and not more than twenty (20%) percent of the floor area of the dwelling shall be used for the conduct of the home occupation.
- (6) There shall be no change in the outside appearance of the dwelling or any other visible evidence of the conduct of the home occupation.
- (7) The home occupation shall be conducted entirely within the confines of the dwelling.
- (8) There shall be no sale of products or services on the premises where the home occupation is located except those that are produced or used in the normal conduct of the home occupation. *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.
- (9) 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 ten (10) vehicular trips per day. Any need for parking generated by the conduct of the home occupation shall be met with the provision of suitable off-street parking to be located without utilizing any portion of any required yard.
- (10) 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.
- (11) No outdoor storage or display of materials, equipment, merchandise or products shall be permitted.
- (12) 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.
- (13) Home occupations shall not require exterior alterations or involve construction features not customary in dwellings. No new external entrance to the space devoted to the home occupation shall be created.
- (14) 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 AM to 8:00 PM. 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) No sign is permitted for a home occupation.
- (16) The home occupation shall comply with the following standards:
- (a) The home occupation shall be 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 home occupation shall 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.
  - (c) The home occupation shall not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.

- (17) 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 Chapter. Nothing in this Chapter, 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 Chapter, 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 (1,000) foot radius from any school, or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended MCL 333.7410, to insure community compliance with Federal "Drug-Free School Zone" requirements.
  - (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 (1) 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 (1) 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 devises 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 Spring Lake Ferrysburg Police Department. Marijuana 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 PM to 7:00 AM 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 marijuana plants is prohibited.
- (j) Marijuana shall not be consumed in any area visible to the public or occupants of adjacent properties.
- (k) Nothing in this Section shall be construed to encourage or condone violations of state or federal law.
- (l) 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 ordinance or any amendment to this ordinance.
- (m) Based on the interpretation of the Michigan Department of Community Health no marijuana dispensary, growing cooperative or compassion club, as these terms are commonly used in reference to the use and dispensation of medical marijuana, shall be permitted anywhere in the Village of Spring Lake.

*(Ordinance No. 320, Dated: December 20, 2010)*



# CHAPTER 4

## ZONING DISTRICTS AND MAP

### Section 4.1 ZONING DISTRICTS.

For the purposes of this Ordinance, the Village of Spring Lake is hereby divided into the following zoning districts:

- |     |       |                                 |
|-----|-------|---------------------------------|
| 1.  | SFR-A | Single Family Residential – A   |
| 2.  | SFR-B | Single Family Residential – B   |
| 3.  | MFR-A | Multiple Family Residential – A |
| 4.  | MFR-B | Multiple Family Residential – B |
| 5.  | C     | Community Commercial            |
| 6.  | CBD   | Central Business District       |
| 7.  | CBD-1 | Central Business District Core  |
| 8.  | O     | Office                          |
| 9.  | P     | Public, Semi-Public             |
| 10. | I     | Light Industrial                |
| 11. | WOD   | Waterfront Overlay District     |

### Section 4.2 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 Ordinance 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 4.3 INTERPRETATION OF THE 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:

1. Where the boundaries are indicated as approximately following streets, alleys or highways, the centerlines of said streets, alleys or highways or such lines extended shall be construed to be such boundaries.

2. Boundaries indicated as approximately following **lot lines** shall be construed as following such **lot lines**.
3. Boundaries indicated as approximately following Village boundary lines shall be construed as following such Village boundaries.
4. Boundaries indicated as approximately following railroad lines shall be construed as following the centerline of the railroad right-of-way.
5. Boundaries indicated as approximately parallel to the centerlines of streets or highways 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.
6. 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**.
7. Boundaries indicated as approximately following the centerlines of rivers, lakes, bayous or other bodies of water shall be construed to follow such centerlines.
8. In every case where land has not been specifically included with a zoning district, the same is hereby declared to be in the SFR-A District.

#### **Section 4.4 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 4.5 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 Ordinance 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 Ordinance for the land from which the **use** emanates.

# CHAPTER 5

## WATERFRONT OVERLAY DISTRICT

### Section 5.1 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 Ordinance, 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 5.2 PERMITTED USES.

- A. 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.
- B. All **uses** of land, **structures** and **buildings** in this zoning district shall be considered as special land **uses** subject to the procedures and standards contained in this Chapter, regardless of their inclusion as permitted uses by right in the underlying zone district.

### Section 5.3 APPLICATION PROCEDURES.

The following materials shall be submitted to the Zoning Administrator at least twenty-one (21) days prior to the meeting at which the Planning Commission is to consider the request for approval of a **waterfront development**:

Twelve (12) copies of a site plan containing all information required by Chapter 19, provided that the Zoning Administrator may waive any of the submittal requirements contained in Chapter 19, if, in his opinion, such information is not necessary for the review of the proposed **waterfront development**.

1. A legal description, either by metes and bounds or subdivision lot and block, and a street address.
2. A completed application on a form provided by the Village.

3. Payment of the application fee, which shall be non-refundable, as established from time to time by Resolution of the Village Council.

#### **Section 5.4 NOTICE AND HEARING.**

- A. Upon receipt of an application for approval of a **waterfront development**, the Zoning Administrator shall cause notice to be given, in accordance with the **Zoning Act**. The notice shall:
  1. Describe the nature of the proposed **waterfront development**.
  2. Describe the property which is the subject of the application, by both legal description and street address.
  3. State when and where a public hearing on the proposed **waterfront development** will be held.
  4. State when and where written comments will be received concerning the proposed **waterfront development**.
- B. Following notice, the Planning Commission shall hold a public hearing on the proposed **waterfront development**, for the purpose of receiving public comment on the request.

#### **Section 5.5 PLANNING COMMISSION ACTION; STANDARDS FOR APPROVAL.**

- A. Following the public hearing, the Planning Commission may approve, approve with conditions or deny the proposed **waterfront development**, based upon its review and consideration of materials submitted with the application and comments received at the public hearing. The Commission shall approve, or approve with conditions, a **waterfront development** only upon a finding that all of the following standards for approval are complied with:
  1. **Waterfront development** shall be designed so as to be harmonious with the existing or intended character of the resort waterfront area of the Village as expressed in the Village of Spring Lake Master Land Use Plan.
  2. **Waterfront development** shall be served adequately by public services and facilities, such as streets, police and fire protection, drainage **structures**, refuse disposal, water and sewer facilities and schools.
  3. **Waterfront development** shall comply with the design requirements contained in Section 5.6, with applicable special land use specific requirements contained in Chapter 20, and with applicable site plan review standards contained in Chapter 19.

#### **Section 5.6 DESIGN REQUIREMENTS FOR WATERFRONT DEVELOPMENT.**

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

1. **Waterfront developments** shall maintain, to a reasonable extent, open and unobstructed views to the waterfront from adjacent properties, roadways, and pedestrian ways.
2. **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.
3. When construction of the pedestrian pathways required in paragraph 2, above, would not result in a functional or useful pedestrian circulation route, because of the lack of completion of planned facilities on adjacent property, the construction of such pathways may be deferred, provided that such construction shall be secured by a performance guarantee in accordance with Chapter 22 of this Ordinance.
4. 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.
5. **Waterfront developments** shall be designed in accordance with the site plan review standards contained in Chapter 19.

## **Section 5.7 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 stringent, in which case the limitations of the underlying zoning district shall be complied with:
  1. When any part of a **building** is located less than fifty (50) feet from a **shoreline**, the part of the **building** so located shall be subject to a **maximum building height** of twenty-five (25) feet.

2. When any part of a **building** is located between fifty (50) and one hundred (100) feet from a **shoreline**, the part of the **building** so located shall be subject to a **maximum building height** of thirty-five (35) feet.
  3. When any part of a **building** is located greater than one hundred (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 stringent of the two limitations shall apply.

**Section 5.8      PARKING.**

As required in Chapter 18.

**Section 5.9      SIGNS.**

As required in Chapter 17 for the underlying zoning district.

# CHAPTER 6

## PLANNED UNIT DEVELOPMENT (PUD)

### Section 6.1 INTENT.

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 Chapter.

The primary purpose of this Chapter is to encourage the creation of a 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 Chapter to authorize the consideration and use of a PUD for 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.

In order to accomplish these objectives, this Chapter 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 Chapter.

### Section 6.2 QUALIFYING CONDITIONS

A PUD may be considered for any portion of 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.

The provisions of this Chapter are not intended as a device for ignoring the Zoning Ordinance, or the planning upon which it has been based. A PUD shall not be accepted for consideration unless the following requirements are met:

1. Shall be designed, constructed, and maintained to be an integrated and harmonious development, appropriate in appearance with the existing or intended character of the general vicinity.
2. Shall be served adequately by essential public facilities and services, such as highways, streets, pedestrian ways, police and fire protection, drainage structures, refuse disposal, water and sewer, telecommunications;
3. Shall be compatible with the capacities of public services and facilities it may affect;
4. Shall be developed in accordance with the intent for a Planned Development as contained herein.
5. The parcel shall be under the control of one (1) owner or group of owners and shall be capable of being planned and developed as one (1) integral unit. Applications for a PUD must be made with the written authorization of all owners of the site.
6. Shall result in a development that is substantially consistent with this ordinance and sound planning principles.
7. 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 provide waterfront enhanced access for all waterfront developments.

### **Section 6.3 PERFORMANCE STANDARDS**

A proposed PUD shall take into account the following design considerations, as they are necessary to ensure compliance with all applicable regulations and to ensure the compatibility of the project with adjoining properties and the general area in which the property is located. The Planning Commission shall review the preliminary development plan to evaluate whether each of the following standards are appropriately addressed in the design and development plan. In all instances the Planning Commission may recommend exceptions where the imposition of the following standards would result in patterns of development that would be out of character with the development and/or with the surrounding area.

1. Every PUD shall adhere to the standards of the underlying zoning district, unless specifically waived by the Planning Commission. The proposed plan shall support the intent of the underlying zoning district and Sections 6.2 and 6.3 of this Chapter.
2. Every PUD shall adhere to the minimum design standards of the CBD-1 Zoning District and the principles of the Village Design Manual, except that the Planning Commission may waive these standards under the following conditions:
  - a. Minimum height may be waived if a taller structure would not fit the character of the immediate vicinity.
  - b. Building material standards may be waived for building faces not in the immediate view of the public.
  - c. Shared wall requirements would not be practical in the scope of the proposed design.
3. Fumes and Odors: No fumes or odors shall be permitted at any property line.
4. Dust and Litter: During construction of a PUD, the terms of the debris management and dust abatement shall be followed. Following completion of development, no dust or litter

shall be permitted to leave a development site.

5. **Artificial Light:** Artificial lighting shall be aesthetically designed and shielded to prevent light from casting off the property, to the greatest extent possible. Building surface reflectivity, on-site lighting and landscape screening shall be planned and executed such that the degree of light cast off the site shall not exceed one (1) foot candle at the PD boundary. Exceptions may be made for decorative fixtures.
6. **Traffic and Access:** Maximum daily traffic volumes shall be estimated prior to development and the site design shall be developed to accommodate such volumes safely. In addition, the Planning Commission may require a traffic impact study and contingency provisions within the development to manage volumes that exceed such estimate. Access shall be provided to regional arterial roadway through on-site access or off-site cross access easements. Where possible, non-residential development shall provide cross access easements to adjoining non-residential development.
7. Stormwater runoff shall comply with the Village's Stormwater Management Ordinance.
8. Every PUD shall comply with the Village's Tree Ordinance
9. **Visual Screening:** A visual barrier, preferably consisting of mixed evergreens and deciduous vegetation, shall be established to provide a permanent opaque screen of service areas, dumpsters and loading docks and a partial buffer to parking areas and similar less intrusive elements, from surrounding residentially zoned or used property. Where natural landscaping is not feasible, fences or walls may be substituted if they are designed to complement the proposed development and buildings and are generally compatible with surrounding uses.
10. **Outdoor Storage:** All outdoor storage, if permitted, shall be completely screened from view from all offsite points with natural landscaping. If natural landscaping is not feasible, fences or walls may be substituted, if designed to complement and enhance the proposed development and buildings and are generally compatible with surrounding uses.
11. Exterior signage shall conform to the requirements of Chapter 17 and the signage plan submitted as part of the Preliminary Development Plan.
12. Landscaping shall conform to the requirements of Chapter 16B and submitted as part of the Preliminary Development Plan.
13. Off-street parking shall be provided in accord with the requirements of Chapter 18 of the zoning ordinance. In a mixed-use development, the applicant shall propose shared parking arrangements to reduce pavement within the development. For such shared parking arrangement, the applicant shall provide for an enforceable mechanism to assure cooperation among future building owners and occupants to assure the viability of a shared parking arrangement. The minimum number of off-street parking spaces shall be determined by considering each proposed use and its likely peak hour parking demand. A maximum daily parking demand matrix will be used to determine the peak hour demand for all combined uses and the proposed PUD shall provide for not less than the greatest peak hour requirement for the combined uses reflected in such matrix. The use of deferred parking areas (or reserved interim green areas) may be considered to calibrate the required parking standards with evolving conditions.
14. All PUDs shall comply with the following guidance standards unless specifically waived by the Planning Commission. The standards shall be used as a guide in evaluating the size, bulk and dimensions of a proposed PUD. For PUDs proposing more than one type of land use, the appropriate guidance standards shall be applied for each such type of use.

## **Section 6.4 STANDARDS FOR APPROVAL**

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

1. The proposed PUD is consistent with and promotes the intent of this Chapter and represents a development opportunity for the community that could not be achieved through conventional zoning.
2. The proposed PUD complies with all of the qualifying conditions of Section 6.2.
3. The proposed PUD is compatible with surrounding uses of land, the natural environment and the capabilities of public services and facilities affected by the PUD.
4. The PUD is consistent with the public health, safety and welfare of the Village.
5. 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.
6. The design and placement of buildings and other structures, parking, lighting, signs, refuse storage, landscaping and other elements of the proposed PUD are compatible with surrounding properties and properties within the PUD.

## **Section 6.5 APPLICATION PROCESS AND REQUIREMENTS**

The procedure for application, review and approval of a PUD shall be a two-part process. The first part shall be an application and approval of a Preliminary Development Plan, which shall require review and approval by both the Planning Commission and Village Council. The second part of the review and approval process shall be the application for approval of a Final Development Plan for the entire project or for each phase of the project as identified in the Preliminary Development Plan review. During the Final Development Plan review, a PUD Agreement will also be developed by the Planning Commission with final approval by the Village Council.

**6.5.1 Pre-Application Conference:** Prior to the submission of an application for a PUD, the applicant shall meet with the Planning and Development Team for the Village (which shall consist of those individuals so designated by the Village Manager). The applicant shall present at such conference a sketch plan of the development and the following information:

1. A description of the property and disclosure of ownership interest;
2. Total number of acres included in the project;
3. A description of proposed land uses including the approximate number of residential units and/or approximate number/type and square footages of non-residential 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;
4. The relationship of the development to the surrounding neighborhood;
5. The approximate area of the proposed PUD to be devoted to each use;
6. A description of how the proposed PUD will relate to the goals and objectives of the Village's Master Plan;
7. All known natural resources, historical sites and natural features including any views from the site to important natural features and any impediments to development;

8. The benefits that are expected to result from the PUD pertaining to the subject site
9. Anticipated phasing plan with approximate time frame for each phase.

Based on the information presented, the Planning and Development Team will 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 Planning and Development Team shall not be regarded as either conclusive or complete and the application shall be so advised.

**6.5.2 Preliminary Development Plan:** Following the Pre-Application Conference, the applicant shall submit for Preliminary Development Plan approval. The review process will be as follows:

1. Work Session. The applicant shall meet with the Planning Commission in a work session prior to the required public hearing. At the work session, the Planning Commission shall review the Preliminary Development Plan and shall make reasonable inquiries of the applicant. The Planning Commission shall determine whether the application is complete and may ask questions of the applicant and seek further information. The Planning Commission shall review the Preliminary Development Plan for consistency with the PUD provisions of this ordinance and may provide the applicant with initial comments. Provided however, that the Planning Commission shall not render any judgments concerning the PUD request prior to the public hearing and the applicant shall be advised that any initial comments of the Planning Commission provided at the Work Session are subject to change and shall not be construed as a final judgment of the Village.
2. Public Hearing. Following the Work Session, the Planning Commission shall schedule and conduct a public hearing in accordance with the requirements of section the Michigan Zoning Enabling Act of 2006 as amended.
3. Planning Commission Approval: Following the public hearing, the Planning Commission may proceed to render a judgment on the proposed PUD preliminary development plan or table the matter for further information and/or consideration. Any decision made on the PUD Preliminary Development Plan shall be made as a recommendation 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.
4. Village Council Approval: Upon a recommendation by the Planning Commission, the Preliminary Development Plan will be presented to the Village Council for review and the Council shall approve, deny, or approve with conditions the PUD application and Preliminary Development Plan.

Applicants for approval of a PUD shall submit a complete application for review of a Preliminary Development Plan to the Zoning Administrator at least twenty one (21) days prior to review by the Planning Commission. Such application shall contain all of the following:

1. All the information required for the Pre-Application Conference
2. A complete application on a form supplied by the Village.
3. The name, address, and phone number of the applicant
4. The name, address and seal of the professional engineer, planner or architect that prepared the plan.

5. A boundary and topographic survey including date, north arrow, and scale which shall not be more than 1" = 100'.
6. A small scale sketch of the vicinity of the subject property, locating the property in relation to properties, structures, streets and uses within 500 feet of the PUD.
7. Legal description of property including common street address(es).
8. All lot or property lines with dimensions.
9. General location of all buildings within one hundred (100) feet of the property lines.
10. General location and size of all existing structures on the site.
11. General location, size and architectural character of all proposed structures on the site.
12. General location and dimensions of all existing and proposed streets, driveways, parking areas, including total number of spaces and typical dimensions.
13. General size and location of all areas devoted to open space.
14. Details on the abutting zoning district(s) and the general dimensions and approaches planned to achieve a gradual transition between the proposed PUD and the surrounding neighborhood.
15. Location of existing vegetation, natural features and general location and size of proposed landscaped areas and buffer strips.
16. A general signage plan, showing the type, location and dimensions of all signs.
17. A plan for debris management and dust abatement during construction.
18. An illustration of parking areas including traffic flow diagrams and a detailed estimate of parking demand based on all proposed uses.
19. A narrative describing:
  - a. The nature and concept of the project.
  - b. The proposed density, number, and types of dwelling units if a residential PUD.
  - c. How the proposed project will be served by public water, sanitary sewer, storm drainage, electric, gas, and telecommunications which shall be prepared by a registered professional engineer
  - d. The phasing plan or staging plan
  - e. Proof of ownership or legal interest in the property

**6.5.3 Final Development Plan:** After receiving approval of the Preliminary Development Plan by the Village Council, the applicant shall submit a Final Development Plan for review and approval by the Planning Commission prior to starting any construction.

1. Standards for Final Development Plan Approval. Upon receipt of a complete application for Final Development Plan, the Planning Commission shall review said application and either approve, deny or approve with conditions the Final Development Plan. In making its decision, the Planning shall find that the proposed PUD meets the intent and qualifying conditions of this Chapter and that it is consistent with the Preliminary Development Plan.
2. Conditions. In approving a Final 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 the Zoning Ordinance and the preliminary development plan, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

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 upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are unchanged. The Final 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.

The Final Development Plan shall be submitted at least twenty-one (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, the information listed below as well as any other information specifically requested by the Planning Commission in its review of the Preliminary Development Plan.

1. Twelve (12) copies of a final development plan, containing all of the information required of a preliminary development plan, and in addition thereto, all of the following:
  - a. Proposed site elevation contours at two (2) foot intervals, superimposed over existing site elevation contours at two (2) foot intervals.
  - b. Layout and dimensions of all existing and proposed driveways, sidewalks, curb openings and parking areas; parking areas shall include layout of proposed parking spaces and aisles, with typical dimensions, total number of spaces and method by which required number of spaces was calculated noted.
  - c. A detailed utility plan including location and type of drainage, drainage calculations, size and location of existing and proposed water and sewer lines, hydrants, natural gas, electric, telephone, cable television and any other proposed utility lines.
  - d. Detailed architectural elevations of all sides of each principal building type included in the PUD, drawn at scale of one (1) inch equals eight (8) feet.
  - e. A detailed landscape plan in compliance with Chapter 16.B.
  - f. Location, height and design of proposed fencing.
  - g. Location, height and design of proposed exterior lighting, including a photometric plan.
  - h. Details on proposed signage including an illustration of all proposed signage, location, their surface area, height and nature of illumination.
2. Summary data schedules containing the following:

- a. Dwelling unit density
- b. Number and sizes of proposed dwelling units.
- c. Number of bedrooms per dwelling unit.
- d. Area and percentage of site covered by buildings.
- e. Area and percentage of site covered by pavement.
- f. Area and percentage of total open space.
- g. List of commercial or ancillary uses, with square footages identified for each use.

**6.5.4 PUD Agreement:** Prior to the issuance of any building permits or the commencement of any site work and/or construction on any portion of the PUD, the applicant shall enter into a PUD Development Agreement with the Village. The Agreement shall be in recordable form and shall set forth the applicant’s obligations with respect to the PUD. The Agreement shall describe all improvements to be constructed as part of the PUD, and shall incorporate by reference the Final Development Plan submitted with the PUD application, other documents which comprise the PUD, and all conditions attached to the approval. The Agreement shall also establish the remedies of the Village in the event of default by the applicant carrying out the PUD, and shall be binding upon all successors in interest to the applicant. All documents shall be executed and recorded in the office of the Ottawa County Register of Deeds.

A draft of the Agreement shall be prepared and reviewed by the Planning Commission during the Final Development Plan Review. The Planning Commission may submit its recommendation on the PUD Agreement to the Village Council for consideration. Village Council must approve the Agreement before any building permits can be issued and before any site work and/or construction on any portion of the PUD can commence.

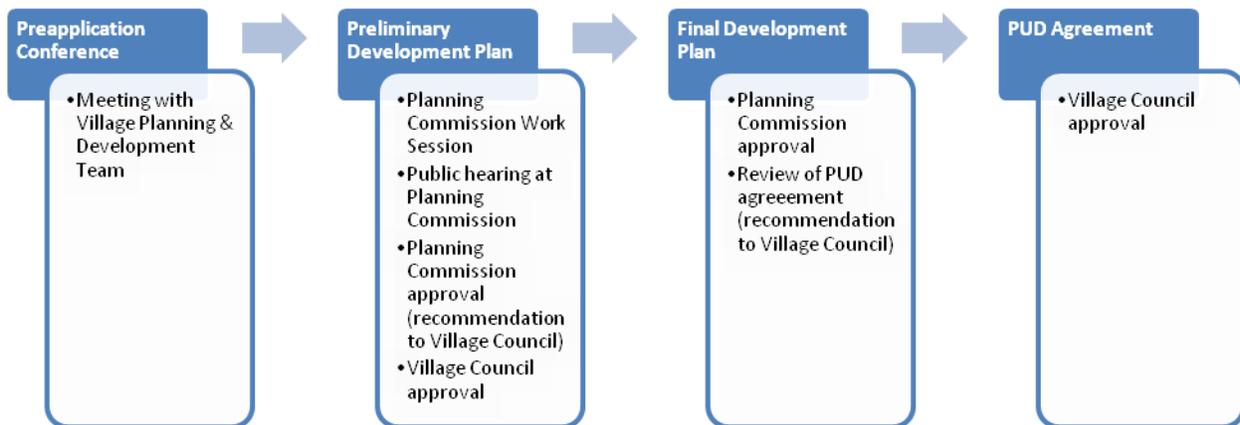


Figure 1: Graphic representation of PUD approval process.

**Section 6.6 CHANGES TO AN APPROVED PUD**

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

1. The holder of an approved PUD Final Development Plan shall notify the Zoning Administrator of any desired change to the approved PUD.

2. Minor changes may be approved by the Planning Commission 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 the following:
  - a. Reduction of the size of any building or sign;
  - b. Movement of buildings or signs by no more than ten (10) feet;
  - c. Landscaping approved in the Final Development Plan that is replaced by similar landscaping to an equal or greater extent;
  - d. Changes in floor plans, of up to five (5) percent of the total floor area, which do not alter the character of the use or increase the amount of required parking;
  - e. Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design;
  - f. 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;
  - g. Change of phases or sequence of phases, only if all phases of the PUD have received final approval.
3. A proposed change not determined by the Planning Commission 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.

#### **Section 6.7 TIME LIMIT FOR APPROVED PUD**

- 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. If the Zoning Administrator determines this requirement is not being complied with, the Zoning Administrator shall notify the owner/applicant in writing at least fourteen (14) days prior to the expiration of this one (1) year time period.
- B. The owner or applicant of the PUD may apply to the Planning Commission for one (1) extension of the original approval for an additional term of one (1) year. The Planning Commission may, in its discretion, authorize this extension. In considering such authorization, the Planning Commission shall consider the following standards:
  - a. The PUD has encountered unforeseen difficulties beyond the reasonable control of the owner/applicant.
  - b. 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 time period, or the one permitted extension thereof, then the PUD approval shall be automatically invalid and void.

*(Ordinance No. 327, Dated: April 16, 2012)*



# CHAPTER 7

## SINGLE FAMILY RESIDENTIAL – A DISTRICT

### SFR – A

#### Section 7.1 INTENT.

The intent of this district is to provide for a sound and stable environment primarily for **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.

#### Section 7.2 PERMITTED USES.

Land, **buildings** and other **structures** in this zoning district may only be **used** for the following purposes by right:

1. **Single family dwellings**, including **manufactured homes**;
2. **Foster care family homes**;
3. **Family day care homes**; and
4. **Home Occupations**.

*(Ordinance No. 320, Dated: December 20, 2010)*

#### Section 7.3 SPECIAL LAND USES.

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20.

1. **Group day care home**.
2. **Bed and breakfast establishments**.

*(Ordinance No. 320, Dated: December 20, 2010)*

#### Section 7.4 DISTRICT REGULATIONS.

As required in Chapter 16.

**Section 7.5      PARKING.**

As required in Chapter 18.

**Section 7.6      SIGNS.**

As required in Chapter 17.

**Section 7.7      SITE PLAN REVIEW.**

As required in Chapter 19.

# CHAPTER 8

## SINGLE FAMILY RESIDENTIAL – B DISTRICT

### SFR – B

#### Section 8.1 INTENT.

The intent of this district is to provide for a sound and stable environment primarily for **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.

#### Section 8.2 PERMITTED USES.

Land, **buildings** and other **structures** in this zoning district may only be **used** for the following purposes by right:

1. **Single family dwellings**, including **manufactured homes**;
2. **Foster care family homes**;
3. **Family day care homes**; and
4. **Home occupations**.

*(Ordinance No. 320, Dated: December20, 2010)*

#### Section 8.3 SPECIAL LAND USES.

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20.

1. **Two-family dwellings**;
2. **Group day care homes**;
3. **Foster care group homes**;
4. **Funeral homes**; and
5. **Bed and breakfast establishments**.

*(Ordinance No. 320, Dated: December20, 2010)*

**Section 8.4 DISTRICT REGULATIONS.**

As required in Chapter 16.

**Section 8.5 PARKING.**

As required in Chapter 18.

**Section 8.6 SIGNS.**

As required in Chapter 17.

**Section 8.7 SITE PLAN REVIEW.**

As required in Chapter 19.

## CHAPTER 9

### MULTIPLE FAMILY RESIDENTIAL – A DISTRICT

#### MFR – A

##### **Section 9.1 INTENT.**

The intent of this district is to provide for a variety of housing types and compatible, related **uses** at a moderate density of development. **Uses** within this district should be sensitive to adjacent **uses**. Housing developed within this district should have the same degree of living quality expected from any other residential district.

##### **Section 9.2 PERMITTED USES.**

Land, **buildings** and other **structures** in this zoning district may only be **used** for the following purposes by right:

1. **Single family dwellings**, including **manufactured homes**;
2. **Two-family dwellings**;
3. **Multiple family dwellings**;
4. **Foster care family homes**;
5. **Family day care homes**; and
6. **Home occupations**.

*(Ordinance No. 320, Dated: December 20, 2010)*

##### **Section 9.3 SPECIAL LAND USES.**

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20.

1. **Group day care homes**;
2. **Foster care group homes**; and
3. **Bed and breakfast establishments**.

*(Ordinance No. 320, Dated: December 20, 2010)*

**Section 9.4 DISTRICT REGULATIONS.**

As required in Chapter 16.

**Section 9.5 PARKING.**

As required in Chapter 18.

**Section 9.6 SIGNS.**

As required in Chapter 17.

**Section 9.7 SITE PLAN REVIEW.**

As required in Chapter 19.

# CHAPTER 10

## MULTIPLE FAMILY RESIDENTIAL – B DISTRICT

### MFR – B

#### Section 10.1 INTENT.

It is the intent of this district to provide for a variety of housing types and compatible, related **uses** at a density of development slightly higher than the MFR – A district. Housing developed within this district should have the same degree of living quality expected from any other residential district.

#### Section 10.2 PERMITTED USES.

Land, **buildings**, and other **structures** in this district may only be **used** for the following purposes by right:

1. **Multiple family dwellings;**
2. **Foster care family homes;**
3. **Family day care homes; and**
4. **Home occupations.**

*(Ordinance No. 320, Dated: December 20, 2010)*

#### Section 10.3 SPECIAL LAND USES

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20:

1. **Group day care homes;**
2. **Foster care group homes; and**
3. **Bed and breakfast establishments.**

*(Ordinance No. 320, Dated: December 20, 2010)*

#### Section 10.4 DISTRICT REGULATIONS.

As required in Chapter 16.

**Section 10.5    PARKING.**

As required in Chapter 18.

**Section 10.6    SIGNS.**

As required in Chapter 17.

**Section 10.7    SITE PLAN REVIEW.**

As required in Chapter 19.

# CHAPTER 11

## COMMUNITY COMMERCIAL DISTRICT – C

### Section 11.1 INTENT.

It is the intent of this district to provide areas outside of the central business district for a wide variety of commercial **uses**. These **uses** should be designed to fit into the neighborhood and not intrude upon the character of surrounding **uses**.

### Section 11.2 PERMITTED USES.

Land, **buildings** and other **structures** in this district may only be **used** for the following purposes by right:

1. Retail food establishments whose primary business is the sale of food products not prepared on the premises for consumption off the premises, excluding gasoline sales.
2. Bakeries.
3. Retail businesses conducted entirely within an enclosed **building**.
4. Restaurants, not including **drive-through** restaurants.
5. Personal service establishments which perform personal services on the premises, including barber or beauty shops, health and fitness salons, photographic studios, laundry and dry-cleaning services, self-service laundries or similar **uses**.
6. Offices, executive and administrative.
7. Medical offices and clinics, not including the operation of a licensed primary caregiver pursuant to the Michigan Medical Marihuana Act.

*(Ordinance No. 320, Dated: December 20, 2010)*

8. Banks, credit unions, savings and loan institutions, not including **drive-through** facilities.
9. Business services, including mailing, photocopying and printing services, data processing services, employment agencies, secretarial and court reporting services, and similar uses.
10. Municipal parking areas.

11. **Dwelling units**, provided they are located on the second or higher **story** of a **building** in which the first floor is occupied by a Commercial use.

### **Section 11.3 SPECIAL LAND USES.**

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20.

1. Restaurants including **drive-through** facilities.
2. **Hotels**, motels.
3. **Automobile service stations.**
4. Car washes, automatic or self-service.
5. **Bed and breakfast establishments.**
6. Banks, credit unions, savings and loan institutions including **drive-through** facilities.
7. Gasoline sales.
8. Retail businesses, a portion of which is conducted in the open air, such as new and used auto, boat, **recreational vehicle** or **manufactured home** sales or rental, nurseries, and greenhouses, lawn and garden centers, produce markets and other similar uses.
9. **Vehicle repair or storage establishments.**
10. Veterinary offices.
11. Funeral homes.
12. Wholesale establishments and warehouses which sell packaged or repackaged products on the premises.
13. Assembly operations consisting only of limited assembly, fastening and packaging or repackaging of previously manufactured components.

### **Section 11.4 DISTRICT REGULATIONS.**

As required in Chapter 16.

### **Section 11.5 PARKING.**

As required in Chapter 18.

**Section 11.6 SIGNS.**

As required in Chapter 17.

**Section 11.7 SITE PLAN REVIEW.**

As required in Chapter 19.



# **CHAPTER 11.A**

## **EASTERN ENTRYWAY DISTRICT - EED**

### **Section 11.1A INTENT**

The intent of the Eastern Entryway District (EED) is to maintain an attractive gateway to the Village through the careful transition of existing properties fronting Savidge Street. It is further the intent to retain attractive elements of Village character found in the district. Special attention is given to design elements that protect the integrity of surrounding residential uses. It is the intent of the design regulations to protect historic structures, 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 11.2A PERMITTED USES**

Land and/or buildings in the Eastern Entryway District may be used for the following purposes by right:

1. Residential units as part of a business use (e.g., a “home-work” unit with a first floor shop and second floor or rear living area).
2. Retail establishments of less than ten thousand (10,000) square feet, without drive-through facilities, conducted entirely within an enclosed building.
3. Restaurants without drive-through facilities.
4. Personal service establishments which perform personal services on the premises, including barber or beauty shops, health and fitness salons, and photographic studios.
5. Offices, executive and administrative.
6. Medical Offices and Clinics, not including the operation of a licensed primary caregiver pursuant to the Michigan Medical Marihuana Act.

*(Ordinance No. 320, Dated: December 20, 2010)*

7. Business services, including mailing, photocopying and printing services, data processing services, employment agencies, secretarial and court reporting services and similar uses.

### **Section 11.3A SPECIAL LAND USES**

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20:

1. Bed and breakfast establishments.
2. Day care centers.
3. Funeral homes.
4. Banks, credit unions, savings and loan institutions, which may include drive-through facilities, provided:
  - 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 100% cut-off fixtures directed downward. All lighting shall be directed away from adjacent properties and streets.
5. Pharmacies which may include drive-through facilities, provided:
  - 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 100% cut-off fixtures directed downward. All lighting shall be directed away from adjacent properties and streets.
6. Vehicle repair or vehicle towing establishments provided the storage area complies with Section 19.5(7).
7. Other similar retail business or service establishments as determined by the Planning Commission and when authorized by the Planning Commission as a special land use. In considering such authorization, the Planning Commission shall ensure the following standards and those of Chapter 20 are met:
  - a. The size, nature and character of the proposed use fit the scale and character of abutting properties.

- b. The proximity of the proposed use to adjoining properties does not create unreasonable negative impacts on the use and enjoyment of nearby residential properties.
- c. The parking facilities provided for the proposed use are safe, adequately sized and conveniently located
- d. Any traffic congestion or hazard which will be occasioned by the proposed use can be adequately mitigated.
- e. The design of the proposed use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.

**Section 11.4A PROHIBITED USES**

- 1. Drive-through restaurants.
- 2. Gasoline sales and automobile service stations with gasoline sales.
- 3. Car washes, automatic or self-service.
- 4. Retail businesses, a portion of which is conducted in the open air, such as new and used auto, boat, recreational vehicle or manufactured home sales or rental, nurseries and greenhouses, lawn and garden centers and other similar uses.

**Section 11.5A DESIGN STANDARDS**

A. Sidewalk and Buffer area

Immediately adjacent to the road right-of-way, the following shall be provided:

- 1. A five (5') foot wide sidewalk placed on the outermost edge of the public right-of-way to optimize green space between the roadway and a pedestrian.
- 2. One (1) street tree for each 25 feet of frontage, consistent with the provisions of Chapter 16.B, Landscape Requirements.

*(Ordinance No. 319, Dated: July 1, 2010)*

- 3. Wrought iron fence with brick pier accents shall be provided along the roadway of any new development or substantially redeveloped property (see Section 11.5A.D.13).

B. Lighting and Irrigation:

- 1. On-site lighting shall comply with Section 18.6 (B) and 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. All lighting shall be 100% cut-off fixtures directed downward and away from adjacent properties and streets.

2. Landscaped areas shall be irrigated.

#### C. Parking and Access

1. Only one (1) row of parking shall be provided in the front setback and only if there is sufficient space for parking after the required buffers 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. Traffic calming measures may be required as part of the site plan review process.
5. Where property depth permits, a rear access drive shall be provided with cross access easements granted to adjacent properties.

#### D. Site and Building Standards

All new structures, major exterior structural renovations, and additions to structures, shall adhere to the following design standards:

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.
2. All new structures, shall have a residential character which incorporates the following:
  - a. Shingled, pitched or hip roof with a minimum pitch of 6:12;
  - b. A minimum of forty percent (40%) windows on the face of any structure fronting a street. Conversely, a maximum of sixty percent (60%) windows shall be provided on the front face of any structure.
  - c. Windows shall be provided on one side elevation but are not required on rear elevations.
3. Blank walls shall not face a public street. For building facades exceeding 75 feet in length which face public streets, rights-of-way and/or parks no more than 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:

- i. Recesses and projections along the building façade; variations in depth must be a minimum of 18 inches.
    - ii. 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.
    - iii. 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 30 foot requirement may be varied by up to 5 feet depending on actual building design, entry placement, and other factors that make the 30 foot requirement impractical.
4. The adaptive reuse of existing residential structures is preferred over demolition of existing homes.
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. Non-reflective glass
  - d. Horizontal clapboard siding
  - e. Commercial grade horizontal vinyl siding mimicking wood (at least .044 inch thickness)
6. Window awnings shall mimic classic designs depicted in the Village Design Manual. 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 façade containing the principal customer service entrance.
9. Zero-lot line may be permitted on one 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 public sidewalk, pedestrian ties between properties and to adjacent neighborhoods or parks are strongly encouraged.
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 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 Chapter to developed sites which existed prior to the adoption of this Chapter. Therefore, when an existing site is undergoing improvement or expansion, the objective of this Chapter is to gradually transition the existing site into compliance with the minimum standards of the Chapter in relation to the extent of the expansion or change on the site. Compliance with the minimum standards of this Chapter is strongly encouraged.
  - a. Additions to existing buildings which are 20% 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. The Zoning Administrator shall keep a log of the original size of the structure prior to the addition. Subsequent additions are permitted under this provision only up to 20% of the size of the structure at the time of adoption of this Chapter. Additional enlargement of the building beyond 20% of the original size is subject to the standards of this Chapter.
  - b. Alterations to existing buildings, the cost of which is less than one-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. The Zoning administrator shall keep a log of those structures altered under this provision. Each structure may only be altered under this provision one time. Additional alterations require compliance with the standards of this Chapter.
  - c. In the case of a building addition or alteration which meets the criteria established in Section 11.5A.D.12 (a & b) above the design standards in Sections 11.5A. A – C may be waived under the following circumstances:
    - i. The addition or alteration does not include any change to the front setback area, sidewalk area, site landscaping or parking areas
    - ii. The expansion does not require an increase in the parking requirement
    - iii. No site lighting will be changed or added

## **Section 11.6A DEVIATIONS**

1. For the purpose of this Section, a “deviation” is defined as a modification of one (1) or more of the requirements of this Section.
2. Deviations:

- a. Deviations from the requirements of 11.5A (D) 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 development standards and requirements; and
  - (2) The applicant proves a practical difficulty in complying fully with the provisions of this Section, 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 deviation is no more than what is necessary to relieve the applicant's practical difficulty.
  - (4) That the site plan otherwise meets the requirements of this ordinance.
3. Any person aggrieved by a decision rendered by the Planning Commission as allowed by this Section may appeal the decision to the Zoning Board of Appeals.

**Section 11.7A DISTRICT REGULATIONS**

As required in Chapter 16.

**Section 11.8A PARKING**

As required in Chapter 18.

**Section 11.9A SIGNS**

As required in Chapter 17.

**Section 11.10A SITE PLAN REVIEW**

As required in Chapter 19.

*(Ordinance No. 302, Dated: April 29, 2008)*



## CHAPTER 12

### CENTRAL BUSINESS DISTRICT – CBD

#### Section 12.1 INTENT.

It is the intent of this district to provide for a central shopping and service area to serve the Village residents and others shopping in the district. A wide variety of **uses** are allowed in order to provide for the needs of these shoppers.

#### Section 12.2 PERMITTED USES.

Land, **buildings** and other **structures** in this district may only be **used** for the following purposes by right:

1. Retail food establishments whose primary business is the sale of un-prepared food products not prepared on the premises for consumption off the premises, excluding gasoline sales.
2. Bakeries.
3. Retail businesses conducted entirely within an enclosed **building**.
4. Restaurants, not including **drive-through** facilities.
5. Personal service establishments which perform personal services on the premises, including barber or beauty shops, health and fitness salons, photographic studios, laundry and dry-cleaning services, self-service laundries or similar **uses**.
6. Offices, executive and administrative.
7. Medical offices and clinics, not including the operation of a licensed primary caregiver pursuant to the Michigan Medical Marihuana Act.

*(Ordinance No. 320, Dated: December 20, 2010)*

8. Banks, credit unions, savings and loan institutions, not including **drive-through** facilities.
9. Business services, including mailing, photocopying and printing services, data processing services, employment agencies, secretarial and court reporting services, and similar uses.
10. Public and private parking areas.

11. **Dwelling units**, provided they are located on the second or higher **story** of a building in which the first floor is occupied by a Commercial use.

### **Section 12.3 SPECIAL LAND USES.**

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20.

1. Restaurants including **drive-through** facilities.
2. **Automobile service stations.**
3. Car washes, automatic or self-service.
4. Banks, credit unions, savings and loan institutions including **drive-through** facilities.
5. **Hotels**, motels.
6. Funeral homes.
7. Indoor commercial recreation establishments, such as bowling alleys, billiard parlors, and arcades.
8. Retail businesses, a portion of which is conducted in the open air, such as new and used auto, boat, **recreational vehicle** or **manufactured home** sales or rental, nurseries, and greenhouses, lawn and garden centers, produce markets and other similar uses.
9. Marinas.
10. Gasoline sales.
11. **Vehicle repair and storage establishments.**
12. Veterinary offices.

### **Section 12.4 DISTRICT REGULATIONS.**

As required in chapter 16.

### **Section 12.5 PARKING.**

As required in Chapter 18.

### **Section 12.6 SIGNS.**

As required in Chapter 17.

**Section 12.7 SITE PLAN REVIEW.**

As required in Chapter 19



# CHAPTER 12.A

## CBD-1, CENTRAL BUSINESS DISTRICT-Core

### Section 12.1A INTENT.

It is the intent of the CBD-1 District to promote 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 a concentration of specialty retail and service uses with cultural and social activities that support a high level of non-motorized activity in the downtown core. The district is further established to improve the sense of place in the Village; improve the environment for business, including smaller, locally-owned businesses, to support a healthy economy by providing a vibrant mix of uses including accessory residential units; and to strike a balance between the needs of the car and pedestrian by creating pleasant and safe surroundings. The area contained within the CBD-1 district is bound by Park Street, Exchange Street, Buchanan Street, and the Grand Trunk Railroad right-of-way.

### Section 12.2A PERMITTED USES.

Land, building and other structures in this district may only be used for the following purposes by right:

1. Retail establishments, without drive-through facilities, conducted entirely within an enclosed building.
2. Restaurants, not including drive-through facilities.
4. Establishments serving alcoholic beverages.
5. Offices, executive and administrative
6. Medical Offices and Clinics, not including the operation of a licensed primary caregiver pursuant to the Michigan Medical Marihuana Act.
7. Governmental offices, libraries, museums and community centers
8. Banks, credit unions, savings and loan institutions, not including drive-through facilities.
1. Business services, including mailing, photocopying and printing services, data processing services, employment agencies, secretarial and court reporting services and similar uses.

2. Personal service establishments which perform personal services on the premises, including barber or beauty shops, health and fitness salons, photographic studios, and drop-off laundry facilities and dry cleaning services.

*(Ordinance No. 300, Dated October 15, 2007)*

### **Section 12.3A SPECIAL LAND USES.**

1. Residential dwellings above the first floor provided a minimum of forty (40) square feet of outdoor open space be provided for each dwelling unit. Roof or balcony areas are acceptable open space.
2. Outdoor dining, roof or sidewalk cafes.
3. Banks, credit unions, savings and loan institutions, with drive-through facilities.
4. Day Care center.
5. Indoor commercial recreational establishments.
6. Home occupations.
7. Hotels and motels.
8. Produce market

### **Section 12.4 A PROHIBITED USES**

1. Restaurants with drive-through facilities.
2. Automobile Service stations
3. Car washes, automatic or self-service.
4. Funeral homes.
5. Retail businesses, a portion of which is conducted in the open air, such as new and used auto, boat, recreational vehicle or manufacture homes sales or rental, nurseries and greenhouses, lawn and garden centers and other similar uses.
6. Gasoline sales.
7. Vehicle repair or storage establishments.
8. Any use not specifically mentioned in this Chapter.

## Section 12.5A 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.

1. All structures shall be a minimum of two (2) 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 five hundred and seventy (570) square feet.
2. All buildings with flat roofs shall include parapet articulation on the facade(s) of each building facing the street.
3. No side yards are permitted except that one pedestrian access way 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 access way within one hundred (100) feet unless approved by the Planning Commission. Access ways shall be landscaped in accordance with the provisions of this ordinance. Access way width shall be a minimum of five (5) feet and a maximum of ten (10) feet in width.
4. Buildings shall adjoin and align with neighboring structures. If an adjacent structure does not exist, the front setback shall be no more than fifteen (15) feet from the street right-of-way line. The front setback shall be landscaped in accordance with the provisions of this ordinance and have appropriate amenities (benches, bike racks, etc.) to enhance the street atmosphere.
5. Detached accessory structures shall be behind the principal building and a minimum of three (3) feet from the side and rear property line and a minimum of ten (10) feet from an alley.
6. No off-street parking or delivery areas shall be permitted in the front yard of the property.
7. Any façade facing the street or rear yard shall have an entrance for the public. Where building frontages exceed fifty (50) feet in width, doors or entrances with public access shall be provided at intervals averaging no greater than fifty (50) feet apart.
8. For buildings facing the street, no more than fifty (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:
  - a. Recess and projections along the building façade. Variation in depth must be a minimum of ten (10) feet.

- b. Architectural details or features.
  - c. Enhanced ornamentation around building entryways.
9. All building walls which face a public road shall be comprised of at least sixty (60%) percent windows on the first floor and at least forty (40%) windows on upper floors. 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.
  10. All windows shall have lintels and sills. Rectangular window openings shall be oriented vertically.
  11. Window awnings shall mimic classic design depicted in the Village Design Manual. High-gloss, or bubble awnings are prohibited.
  12. Non-windowed areas of the first story of structures shall be comprised of any combination of the following:
    - a. Brick or composite mimicking brick;
    - b. Decorative concrete block;
    - c. tone or composite mimicking stone;
    - d. Horizontal clapboard siding;
    - e. Commercial grade horizontal vinyl siding mimicking wood (at least .44 gauge.)
  13. Areas above the first story may also be comprise of stucco or cement board.
  14. In no case shall vertical siding, cinder block, or sheet metal, be considered an acceptable building cover.
  15. All sides of a building shall be finished with complimentary color and materials as the major façade containing the principal customer service entrance.

**Section 12.6A. Exceptions**

1. For the purpose of this Section, an “exception” may be defined as a request to waive one (1) or more of the requirements of section 12.5A, 1-15.
2. 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:
  - b. The proposed construction is consistent with the overall intent of these minimum design requirements; and
  - c. The applicant proves a practical difficulty in complying with the provisions of this Section, 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.

- d. That the site plan meets the requirements of this ordinance.
  - e. That the exception is no more than what is necessary to relieve the applicant's practical difficulty.
3. Any person aggrieved by a decision rendered by the Planning Commission as allowed by this Section may appeal the decision to the Board of Zoning Appeals.

**Section 12.7A DISTRICT REGULATIONS.**

As required in Chapter 16.

**Section 12.8A PARKING.**

As required in Chapter 18.

**Section 12.9A SIGNS.**

As required in Chapter 17.

**Section 12.10A SITE PLAN REVIEW.**

As required in Chapter 19.



# CHAPTER 13

## OFFICE DISTRICT – O

### Section 13.1 INTENT.

It is the intent of this district to provide for less intensive office and office-related **uses** providing services to residents of the Village and surrounding areas.

### Section 13.2 PERMITTED USES.

Land, **buildings** and other **structures** in this district may only be **used** for the following purposes by right:

1. Offices, executive and administrative.
2. Medical offices and clinics, not including the operation of a licensed primary caregiver pursuant to the Michigan Medical Marihuana Act.
3. Personal service establishments which perform personal services on the premises, including barber or beauty shops, health and fitness salons, photographic studios, laundry and dry-cleaning services, self-service laundries or similar **uses**.
4. **Group day care homes**.
5. Banks, credit unions, savings and loan institutions, not including **drive-through** facilities.
6. Business services, including mailing, photocopying and printing services, data processing services, employment agencies, secretarial and court reporting services, and similar uses.

### Section 13.3 SPECIAL LAND USES.

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20:

1. Banks, credit unions, savings and loan institutions including **drive-through** facilities.
2. Funeral homes.
3. Veterinary offices.

**Section 13.4 DISTRICT REGULATIONS.**

As required in Chapter 16.

**Section 13.5 PARKING.**

As required in Chapter 18.

**Section 13.6 SIGNS.**

As required in Chapter 17.

**Section 13.7 SITE PLAN REVIEW.**

As required in Chapter 19.

# CHAPTER 14

## PUBLIC AND SEMI-PUBLIC DISTRICT – P

### Section 14.1 INTENT.

It is the intent of this district to provide land for a variety of public and semi-public **uses**.

### Section 14.2 PERMITTED USES.

Land, **buildings**, and other **structures** in this district may only be **used** for the following purposes by right:

1. Churches and related facilities, such as youth centers and parsonages, when located on the same **lot** or on a **lot** abutting the **lot** on which the principal church **building** is located.
2. Public parks.
3. Governmental offices.
4. Public and private schools.
5. Libraries, museums and community centers.
6. Marinas, with no facilities for boat storage or boat repair.
7. Offices - Administrative

### Section 14.3 SPECIAL LAND USES.

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20:

1. Governmental facilities, including, but not limited to, fire and police stations, **vehicle** and equipment storage and maintenance facilities, water and waste treatment facilities, water storage facilities.
2. Electric substations and gas regulator stations.
3. Parking **Lots**.
4. Adult day care facilities.
5. Community Support Facility.

**Section 14.4 DISTRICT REGULATIONS.**

As required in Chapter 16.

**Section 14.5 PARKING.**

As required in Chapter 18.

**Section 14.6 SIGNS.**

As required in Chapter 17.

**Section 14.7 SITE PLAN REVIEW.**

As required in Chapter 19.

# CHAPTER 15

## LIGHT INDUSTRIAL DISTRICT – I

### Section 15.1 INTENT.

It is the intent of this district to provide areas for low intensity industrial facilities. The industrial **uses** permitted in this district are, by necessity, of a light manufacturing and processing variety. The limited amount of land in the Village which is suitable for these **uses** and the close proximity of residential **uses** in virtually all areas of the Village do not permit heavier industrial processes to occur without substantial harm to these areas.

It is not the intent of this district to permit **uses** which, by reason of the production of fumes, odors, noise, vibration, waste products, toxic materials or other such nuisances, may be potentially harmful to the environment or well-being of the Village and its residents.

### Section 15.2 PERMITTED USES.

Land, **buildings** and other **structures** in this district may only be **used** for the following purposes by right:

1. Manufacturing, fabrication, processing, packaging and assembling from previously prepared materials of food products, textile products, metal products, plastic products, paper products, apparel goods, furniture and fixtures, industrial machinery and equipment, electronic and electric components and products and precision instruments.
2. Wholesale establishments and warehouses not selling retail on the premises.
3. Offices.

### Section 15.3 SPECIAL LAND USES.

The following special land uses may be approved by the Planning Commission subject to the applicable general and specific standards in Chapter 20:

1. **Vehicle repair or storage establishments.**
2. **Automobile service stations.**
3. Tool and die machinery shops.
4. Industrial plating.

#### **Section 15.4 DISTRICT REGULATIONS.**

As required in Chapter 16.

#### **Section 15.5 PARKING.**

As required in Chapter 18.

#### **Section 15.6 SIGNS.**

As required in Chapter 17.

#### **Section 15.7 SITE PLAN REVIEW.**

As required in Chapter 19.

#### **Section 15.8 PROHIBITED USES.**

The following **uses** are prohibited from locating within the Village:

1. Bulk storage of flammable liquids, liquid petroleum, acids, gases and explosives.
2. Manufacturing of gas, coke or coal tar products, ammunition, fireworks, or explosive manufacture and/or storage, stock yards, slaughtering of animals or storage of animal offal or garbage, blast furnace, drop forging, petroleum refining or other similar factories or **uses**.
3. Other **uses** which, in the opinion of the Zoning Administrator, by reason of the production of fumes, noise, vibrations, odors, waster products, toxic materials or other such nuisances, may be potentially harmful to the environment or well-being of the Village and its residents.

#### **Section 15.9 INDUSTRIAL PERFORMANCE STANDARDS**

All **uses** in this zoning district shall comply with the following standards, which are deemed to be maximum permissible levels compatible with health, safety and welfare of the residents of the Village:

1. Sound: Every **use** shall be so operated that the volume of sound generated does not exceed seventy (70) decibels, with a maximum increase of ten (10) decibels permitted for a maximum of fifteen (15) minutes in any hour at any point on the **lot lines** of the **lot** on which the **use** is located.
2. Vibration: Every **use** shall be so operated that the ground vibration inherently and recurrently generated is not perceptible without use of measuring instruments at any point on the **lot lines** of the **lot** on which the **use** is located.

3. Smoke emission: Every **use** shall be so operated that it does not emit smoke equal to or exceeding a density of No. 2 on the Ringelman Chart, as published by the United States Bureau of Mines, for any period or periods aggregating more than four (4) minutes in any one-half (1/2) hour.
4. Emission of Particulate Matter: Every **use** shall be so operated that it does not emit particulate matter exceeding two tenths of one (0.2) grains per cubic foot of flue gas at a stack temperature of five hundred (500) degrees Fahrenheit.

Odor: Every **use** shall be so operated that it does not emit noxious odor in such quantity as to be readily detectable at any point on the **lot lines** of the **lot** on which the **use** is located, when diluted in the ratio of one (1) volume of odorous air to four (4) or more volumes of clean air, or so as to produce a public nuisance or hazard.

5. Emission of Glare and Heat: Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any adjoining **lot**.
6. Electromagnetic Radiation: Applicable rules and regulations of the Federal Communications Commission in regard to propagation of electromagnetic radiation are hereby made a part of this Ordinance.
7. Gases: The escape of or emission of any gas which is injurious or destructive or explosive shall be unlawful and may be summarily caused to be abated.



# CHAPTER 16

## DISTRICT REGULATIONS

### Section 16.1 REGULATIONS APPLICABLE TO FRONT YARDS.

- A. Parking of **vehicles** in the **front yard** in the SFR-A and SFR-B zoning districts 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 any point one-third (1/3) of the **lot width**, or twenty (20) feet, whichever is greater.
- B. With respect to **multiple family dwellings** in the MFR-A and MFR-B zoning districts, and all **uses** in the I zoning district, the **required front yard** shall not be used for parking, loading, display or storage of equipment or materials.
- C. In the P, C and O zoning districts, 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 or solid hedges, not exceeding twenty-four (24) inches in height, at the **front lot line**.

### Section 16.2 REGULATIONS APPLICABLE TO SIDE YARDS.

- A. A twenty (20) foot **required side yard** shall be provided on the street side of all **corner lots** in all zoning districts, with the exception of the CBD zoning district.
- B. In the C and O zoning districts, **uses** not subject to subsection G above shall provide either a landscape strip or a solid, uniform fence or wall, having a height of six (6) feet along the **side lot line**, as required by the Planning Commission as a condition of site plan approval. If a landscape strip is required, it shall have a minimum width of five (5) feet, when located in the C zoning district, and a minimum width of ten (10) feet, when located in the O zoning district.

*(Ordinance No. 319, Dated: July 1, 2010)*

### Section 16.3 GENERAL DISTRICT REGULATIONS.

- A. In the MFR-A and MFR-B zoning districts, there shall be maintained a minimum distance between adjacent **buildings** on the same **lot** equal to the height of the taller **building**.

B. All **lots** shall be served by public sanitary sewer and water.

*(Ordinance No. 319, Dated: July 1, 2010)*

**SECTION 16.5  
SCHEDULE OF DISTRICT REGULATIONS**

Zoning District and Use	Minimum Lot Area (square feet)	Minimum Lot Width (feet)	Required Front Yard (feet)	Required Side Yard (feet)	Required Rear Yard (feet)	Maximum Building Height (feet)	Minimum Residential Floor Area (1) (square feet)
SFR-A	8,000	66	25	10	25	30	832
SFR-B Single-Family	8,000	66	25	5	25	30	832
Two-Family	8,000	66	25	5	25	30	832 (2)
MFR-A Single-Family	8,000	66	25	5	25	30	832
Two-Family	8,000	66	25	5	25	30	832 (2)
Multi-Family	6,000 (2)	-	30	15	35	35	1 Bdrm.-570 (2) 2 Bdrm.-832 (2)
MFR-B	3,000 (2)	-	30	15	35	35	1 Bdrm.-570 (2) 2 Bdrm.-832 (2)
C	10,000	75	25	5 (3)	25 (4)	30	
CBD	-	-	-	-	-	45	
O	10,000	75	30	10	25	30	
EED	10,000	100	50 feet (5)	15 ft. on one side	10 feet	30 feet	1,000 sq. ft.
P	-	-	-	-	-	45	
I	20,000	100	40	25	40	45	

(1) Square footage for single-family detached dwellings is for ground floor only.

(2) Per dwelling unit.

(3) Where a building may be connected to a building on an adjoining lot by an approved fire wall, the required side yard on the common side lot line may be zero (0) feet.

(4) Where a fence having a minimum height of six (6) feet is provided on the rear lot line and the building walls facing the rear lot line are constructed with the same type of materials and architectural character as the remainder of the building, the required rear yard shall be fifteen (15) feet.

(5) If parking is provided in a side or rear yard, the front setback may be reduced to twenty-five (25) feet, provided existing landmark trees are not eliminated from the site.

*(Ordinance No. 302, Dated April 7, 2008)*



# CHAPTER 16B

## LANDSCAPE REGULATIONS

### Section 16B.1. SCOPE.

A. Intent. Landscaping 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. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other impacts of more intensive, non-residential uses. The provisions in this Chapter are intended to set minimum standards for the design and use of landscaping, greenbelts, and screening, and for the protection and enhancement of the Village's environment. More specifically, the intent of these provisions includes, but is not limited to the following:

1. Promote the implementation of the Master Plan;
2. Define, articulate, and integrate outdoor spaces, architectural elements, and various site elements;
3. Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way;
4. Protect and preserve the appearance, character, and value of the residential uses that abut non-residential 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;
5. Reduce soil erosion and depletion by slowing the effects of erosive winds and water;
6. Increase storm water retention, thereby helping to prevent flooding;
7. Provide reasonable standards to bring developed sites, which existed prior to the adoption of these standards, into compliance with the requirements contained herein;
8. Recognize and preserve the aesthetic value of natural areas such as woodlands, wetlands and floodplains within and adjacent to a development site; and
9. Encourage the preservation of larger, native trees that, once destroyed, can only be replaced after generations.

B. When an Application is Required.

1. No site plan shall be approved unless it shows landscaping consistent with this Section. A separate landscaping plan shall be submitted with all site plans as described in Section 16B.2 below.
2. All required screens, buffers 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 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 22.5, 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.
3. The requirements in this Section shall not apply to single-family and two-family detached homes, unless otherwise specifically noted.
4. Landscaping, screening and/or buffering in compliance with this Section are required for any use other than single-family and two-family detached homes as follows:
  - a. For any work for which a site plan or building permit is required for construction of a new building,
  - b. For any work for which site plan review or a building permit is required for a structural alteration, addition or repair to an existing building where the estimated value of such construction exceeds one hundred percent (100%) of the State Equalized Value (SEV) of the existing building. In such cases where site plan approval or permit is required, the applicant shall be required to meet the requirements of this Section for the entire site,
  - c. Any work for which site plan review or building permit is required where the value of construction is less than one hundred percent (100%) of the State Equalized Value (SEV) of the existing structure, the applicant shall be required to provide landscaping only for the new construction and all areas disturbed during construction.
  - d. Any new parking lot and any addition of ten (10) or more spaces to an existing parking lot.
  - e. Between residential uses and any other use as described in Section 16B.7, below.
  - f. For any other section or provision of this Ordinance which requires the structure or use in question to have landscaping or screening.

5. Creativity in landscape design is encouraged. Accordingly, unless required as part of a screen, required trees and shrubs may be planted at uniform intervals, at random, or in groupings.
6. The requirements of this Section are minimum requirements, and under no circumstances shall they preclude the developer and the Village from agreeing to more extensive landscaping.
7. Nothing in this Section is intended to discourage the owners of single-family and two-family detached homes from planting additional landscaping and/or adding landscaping features such as rain gardens and other water conservation methods.

#### **Section 16B.2. LANDSCAPE PLAN.**

Where landscaping is required, a landscape plan shall be provided for review by the Zoning Administrator or Planning Commission. The landscape plan shall demonstrate that all requirements of this Section 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. The scale of the drawing shall be not more than one inch equals twenty feet (1" = 20').
- B. Contour lines at minimum two foot intervals shall be shown.
- C. Proposed and existing man-made features, including proposed buildings, structures, parking areas, mechanical equipment and fire hydrants.
- D. Setback lines and their dimensions.
- E. Location of existing and proposed driveways and curb cuts.
- F. Location of existing public and private rights-of-way and easements contiguous to and on the property.
- G. Calculations verifying compliance with the minimum numeric requirements for greenbelts, buffer zones, parking lot landscaping, berms, screens and other required landscaping. Required trees can not be double-counted.
- H. Complete description of plant materials shown on the plan, including common and botanical names, quantities, container or caliper sizes, heights, spread and spacing at installation, proposed location of plantings and other elements to illustrate compliance with the standards of this Section.
- I. Identify grass areas and other methods of ground cover.

- J. Description of the types of equipment and methods to be used to irrigate the required landscape areas.
- K. Identify 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. Location, height, elevation/section and material of proposed screening walls, fencing, retaining walls and berming. Berms are to be delineated by one-foot contours.
- M. A tree survey establishing the location, species and assessment of the general health and condition of all existing trees on the site with a six (6) inch or greater diameter at breast height, their approximate height and spread or crown diameter.
- N. Identify which trees and other landscape elements are to be preserved.
- O. 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 drip-line fencing, tree wells and culverts.
- 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 16B.3 GENERAL REQUIREMENTS.**

- A. All areas not covered by buildings, parking or other structures shall be treated with landscape materials including street trees, shrubs and ground covers consistent with these provisions. The selected combination of plant materials shall be a harmonious combination of deciduous and evergreen trees, shrubs, vines and/or ground covers arranged so as to present an aesthetically pleasing whole.
- B. The overall landscape plan shall not contain more than 25 percent (25%) of any one species. The use of trees native to West Michigan, and mixture of trees from the same species association, is encouraged.
- C. All unpaved areas of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant materials. A mixture of evergreen and deciduous trees shall be planted on nonresidential parcels at the rate of one tree per one-thousand (1,000) square feet of any unpaved open area for which specific landscaping requirements do not appear later in this Section.
- D. Where a parkway exists, street trees shall be planted within the parkway along public and private streets in all developments requiring site plan approval. Trees shall be deciduous trees capable of achieving a mature canopy diameter of at

least twenty-five (25) feet and shall comply with the list of suggested trees in this Section.

- E. Landscape areas larger than 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.
- F. Fractional plant requirements shall be rounded to the next highest number.
- G. 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.
- H. All landscaped areas shall be protected by 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.
- I. 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.
  - 1. Dumpster enclosures shall be sturdy and constructed of quality, long-lasting wood, vinyl or masonry materials. If wood is used it shall be finished and treated as often as necessary to maintain the look of new wood. In no case shall wire or cyclone fencing materials be permitted. The enclosure shall be placed on a concrete pad and shall have opaque gates which compliment the screen materials.
- J. The Planning Commission, or Village Council, as a condition of site plan approval, special use permit approval or planned unit development approval, 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.
- K. Landscaping shall be installed and maintained in a healthy, neat and orderly appearance, free from refuse, debris and weeds. All unhealthy and dead plant material shall be replaced in the next appropriate planting period.

- L. The Zoning Administrator or Planning Commission may require a performance guarantee per Section 22.5 of this Ordinance to ensure proper installation and maintenance of all required landscaping.
- M. The Planning Commission and Village Council may lessen the requirements of this Section if site conditions make the strict application of these regulations unreasonable, or may impose additional requirements on landscaping, if such modification would further the intent of this ordinance, provide for sufficient buffering between dissimilar uses and between expanses of parking and rights-of-way, if any existing landscaping meets the intent of the ordinance or if native, drought tolerant plant materials are used.
- N. 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. The Planning Commission may permit the removal of trees six (6) inches or larger from other areas of the site if the tree(s) is replaced with a like specimen elsewhere on the site.

**Section 16B.4      SCREENING REQUIREMENTS.**

- A. Where screening is required the screen shall consist of one of the following:
  - 1. A solid uniform wall, fence, or evergreen landscape material having a height of at least six (6) 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. A six (6) foot tall 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 with slopes protected with grass, spreading shrubs, vines or other types of natural ground covers.
  - 3. A berm may be used in conjunction with a wall, fence or landscape screen to achieve the total of six (6) feet in height.
  - 4. 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.

**Section 16B.5      GREENBELTS.**

- A. Where required a greenbelt shall be a landscaped strip at least 10 feet in width.

B. The greenbelt shall be planted with living plant materials including all of the following:

- 1) Deciduous or evergreen trees not less than twelve (12) feet in height. Deciduous trees shall be spaced not more than twenty-five (25) feet apart. Evergreen trees shall be spaced not more than 10 feet apart. One tree is required for every twenty-five (25) feet of greenbelt length; and
- 2) At least one row of dense shrubs not less than five (5) feet in height and spaced not more than five (5) feet apart

**Section 16B.6 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. Deciduous trees shall have a minimum caliper of two and one half (2½) inches at time of planting, measured at four (4) feet from grade.
- C. Evergreen trees shall be a minimum of six (6) feet in height at the time of planting.
- D. Deciduous ornamental trees shall have a minimum caliper of two (2) inches at time of planting, measured at four (4) feet from grade.
- E. Deciduous shrubs shall be at least thirty (30) inches in height at time of planting with a minimum spread of twenty-four (24) inches.
- F. Spreading evergreen shrubs shall have a minimum height of twenty-four (24) inches at time of planting with a minimum width of thirty (30) inches.
- G. Ornamental grasses and perennials shall be a minimum pot size of two (2) gallons when planted.
- H. The following are suggested plant species. Botanical species native to West Michigan are identified with an asterisk (\*). The use of native species is encouraged.

Suggested Plant Species	
Canopy Trees	Oaks*, Hard Maples*, Hackberry*, Sycamore*/Plane Tree, Birch*, Honey Locust* (thornless varieties), Sweetgum, Hophornbeam*, Linden*, Hickory* and Hornbeam*
Evergreen Trees	Fir, Hemlock, Pine* and Spruce
Narrow Evergreens	Red Cedar, Arborvitae and Juniper
Ornamental Trees	Serviceberry*, Redbud*, Dogwood (tree form)*, Hawthorn*, Flowering Crab, Flowering Pear, Magnolia,

	and Rose of Sharon
Large Shrubs	Northern Bayberry, Dogwood (shrub form)*, Cotoneaster, Forsythia, Mock-Orange, Sumac*, Lilac, Viburnum*, Witchhazel*, Euonymus, Ninebark*, Juniper (Hetz, Pfitzer, Savin), Yew (Pyramidal, Japanese), and Dwarf Mugo Pine
Small Shrubs	Bayberry, Quince, Boxwood, Cotoneaster, Euonymus*, Forsythia, Hydrangea, Holly*, Privet, Potentilla*, Currant, Lilac, Viburnum* and Weigela

- I. The following trees are not permitted as they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are 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 developer is may remove plants of these species from the site.

Prohibited Varieties	
Common Name	Botanical Name
Box Elder	Acer Negundo
Tree of Heaven	Ailanthus
Ginkgo	Ginkgo Biloba
Ash	Fraxinus
Honey Locust (with thorns)	Gleditsia Triacanthos (with thorns)
Eastern Cottonwood	Populus Deltoids
Mulberry	Morus Species
Black Locust	Robinia Species
Catalpa	Catalpa Species
Chinese Elm	Ulmus Parvifola
Silver Maple	Acer Saccharinum
Willow	Salix Species

**Section 16B.7 REQUIRED LANDSCAPING.**

- A. The following chart defines site landscaping for front, side and rear yards for each zoning district. In addition, Chapter 11.A, Eastern Entryway District and Chapter 20, Special Land Uses, contain additional landscape regulations.

Required Landscaping for Side and Rear Yards				
Zoning District	Adjacent to	Required Landscape Elements	Location	Additional Requirements
Industrial	All Residential Zones and Uses	Greenbelt <sup>4</sup> and Screen <sup>2</sup>	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 <sup>4</sup>	Along the side and rear property lines	
Industrial	Industrial Zone	Greenbelt <sup>4</sup>	Along the side and rear property lines	
Multiple-Family Dwelling Uses in the MFR-A & MFR-B	SFR-A, SFR-B and one- or two-family uses	Screen <sup>2</sup> or Greenbelt <sup>1,4</sup>	Along the side and rear property line	
Multiple-Family Dwelling Uses in the MFR-A & MFR-B	All other zoning districts	Greenbelt <sup>4</sup>	Along the side and rear property lines	
C, CBD, CBD-1, EED, O & P	All zoning districts	Screen <sup>2</sup> or Greenbelt <sup>1,4</sup>	Along the side and rear property lines	
C, CBD, CBD-1, O & P		Decorative brick and wrought iron fence or solid hedge <sup>1</sup> and a minimum five (5) foot wide landscaped area <sup>3</sup>	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
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 (1) tree for every twenty-five feet and one (1) bush for every five (5) feet of length. 4. No parking, loading or accessory uses are permitted in the greenbelt.				

## Section 16B.8 LANDSCAPING OF OFF-STREET PARKING AREAS.

In addition to the site landscaping required in Section 3.29(H) above, any off-street parking area containing ten (10) or more parking spaces shall be landscaped according to the following requirements:

1. In the case of a shared parking lot, screening and greenbelts shall not be required along the common property line.
2. The interior portion of the parking lot shall contain landscaped areas consisting of one (1) 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 one hundred (100) square feet, or portion thereof, of landscaped area provided.
3. Each landscaped area shall have a minimum of one 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 20% natural mulch materials. The use of washed rock ground cover is prohibited.
  4. At least twenty-five percent (25%) of the deciduous trees within the landscape areas shall be canopy trees.
  5. The minimum size of each landscaped area shall be 100 sq. ft., with a minimum width of five (5) 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. Sizes of plant materials at installation shall comply with the Minimum Landscape Material Standards in Section 3.29(G).
  8. 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 the ordinance to visually enhance the parking lot.

*(Ordinance No. 319, Dated July 1, 2010)*

# CHAPTER 17

## SIGNS

### Section 17.1 SCOPE.

#### A. Intent:

This Chapter is intended to regulate and limit the construction, erection, reconstruction, placement, size and height of **signs**. A **sign** shall not, by reason of its size, location, construction or manner of display, create a hazard, confuse or mislead traffic, or obstruct vision necessary for vehicular and pedestrian safety.

#### B. Signs Not Requiring a Permit:

The following **signs** are exempt from the permit requirements of this Chapter:

1. One 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.
2. Flags and insignia of the governments of the United States, the State of Michigan and the Village of Spring Lake, except when displayed in connection with commercial promotion.
3. **Signs**, pennants and banners announcing civic occasions, festivals, celebrations, sports events or arts and humanities events, as authorized by the Village Council. Advertising symbols, logos or titles identifying contributors to such event or occasion shall be permitted, provided that such identification shall be limited to fifteen (15) percent (%) of the area of the **sign**, pennant or banner.
4. Legal notices and identification, informational or **directional signs** erected or required by governmental bodies.
5. Integral decorative or architectural features of **buildings**, except letters, trademarks, moving parts or moving lights.
6. **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.

7. On-premise directional signs at driveways approved as part of a site plan review process not exceeding two signs per property and not exceeding four (4) square feet in display area or four (4) feet in height.

*Ordinance No. 286, Dated: December 26, 2005*

8. Real Estate signs as regulated in Section 17.5(1).
9. Political signs as regulated in Section 17.5(3).
10. Construction signs as regulated in Section 17.5(4).

C. Existing Nonconforming Sign.

It is the intent of this section to permit the continuance of a lawful use of any nonconforming sign existing as of the effective date of adoption of this section, although such sign may not conform to the provisions of this Chapter. It is the intent that nonconforming signs shall not be enlarged, expanded or extended. Further, it is the intent that nonconforming signs shall be gradually eliminated and terminated upon their natural deterioration or accidental destruction. The continuance of all nonconforming signs within the Village shall be subject to the following requirements:

1. The burden of proving a sign is nonconforming shall rest with the person claiming nonconforming status for the sign.
2. The frame faces, supports, or other parts of any nonconforming sign shall not be structurally changed, altered, substituted, or enlarged unless the resultant changed, altered, substituted, or enlarged sign becomes less nonconforming or conforms to the provision of this Chapter. Any nonconforming sign may be diminished in size or dimension without jeopardizing its nonconforming status.

*(Ordinance No. 286, Dated: December 26, 2005)*

**Section 17.2 DEFINITIONS.**

- A. Construction Sign: A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.
- B. Development Sign: A temporary sign advertising the construction or development of a recorded residential subdivision, site condominium project, apartment complex, manufactured housing community, business or industrial park, or other similar project which is in the process of being developed. A development sign does not include a subdivision sign.

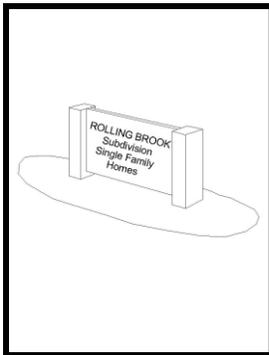
- C. Directional Sign: A **sign** bearing no written advertising, with the exception of corporate logos or names, which directs **vehicles** or pedestrians from a public or private right-of-way to private property for purposes of traffic circulation or safety.
- D. Electronic Message Board: A sign on which copy changes automatically on a lampbank or through mechanical means, e.g., electrical or electronic time and temperature units.

*(Ordinance No. 286, Dated: December 26, 2005)*

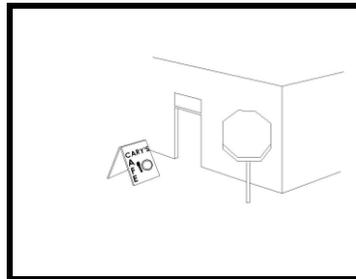
- E. Freestanding Sign: A **sign** structurally separate from and not attached to any **building**, which is attached directly to the ground surface in a permanent manner, or supported by one or more uprights, poles or braces attached to the ground surface in a permanent manner.
- F. Identification Sign: A **sign** that identifies the business, facility, development, owner or resident and/or street address and which contains no other advertising.
- G. Monument Sign: A **freestanding sign** which is placed directly on the ground surface, without the use of uprights, poles or other means to elevate the **sign** face above the surrounding **grade**.
- H. Political Sign: Temporary **signs** or posters advertising a political issue or candidate for political office.
- I. Portable Sign: A **sign** primarily for temporary use, which is designed to be moved easily and is not permanently attached to the ground or to a **building** or other **structure**. A **portable sign** may or may not have wheels and provision for towing behind a **vehicle**.
- J. Projecting Sign: A **sign** attached to the wall of a **building**, with the face of the **sign** which bears a message in plane approximately perpendicular to the plane of such wall.
- K. Pylon Sign: A **freestanding sign** supported by one or more uprights, poles, or other means which elevate the **sign** face above the surrounding **grade**.
- L. Real Estate Sign: A temporary **sign** indicating the availability of a **lot**, business, residence or other facility for sale, lease or rent.
- M. Roof Sign: A **sign** attached to and projecting from the roof surface of a **building**.
- N. Sandwich Board: A sandwich board is a portable A-frame type sign hinged at the apex and folded into a sandwich position when transported or stored.
- O. Sign: Any object or device or part thereof which is used to advertise, identify, display, or direct or attract attention to an object, person, institution, organization,

business, product, service, event or location 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.

- P. Subdivision Entry Sign: A monument sign that identifies or otherwise states the name of a subdivision, site condominium development, apartment complex, manufactured housing community, or other similar development and containing no other advertising. A subdivision entry sign does not include a development sign.



Subdivision Entry Sign



Sandwich Board Sign

- Q. Wall sign: A **sign** attached to the wall of a **building**, with the face of the **sign** which bears 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 a corporate logo or corporate 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**.

*(Ordinance No. 286, Dated: December 26, 2005)*

- R. 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.
- S. Flag Sign: A flag used to identify the name and/or logo of an on-site business or organization, or to signify immediate business activity at the property, such as "open," "sale," "antiques," "live music," etc. a flag sign does not include the flag of the United States of America, the State of Michigan flag, and the Village of Spring Lake flag.
- T. 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, as a device to call attention to a land use or activity.
- U. 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**. The main sign face of a **portable changeable message sign** is designed to hold manually changeable copy.

- V. Temporary Sign: A **sign** designed, constructed, or intended for use for a limited period of time, often associated with special events or sales.

*(Ordinance No. 321, Dated: January 3, 2011)*

- W. Window sign: A **sign** which is applied or attached to, or located within, three feet of the interior of a window on a structure which can be seen through or from the window of the structure.

*(Ordinance No. 326, Dated: February 20, 2012)*

- X. Vehicular Signs: means any sign attached or applied to or painted on a vehicle for the primary purpose of advertising or directing attention to a product, service, entertainment, or commercial activity 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 business advertised.

*(Ordinance No. 329, Dated: June 18, 2012)*

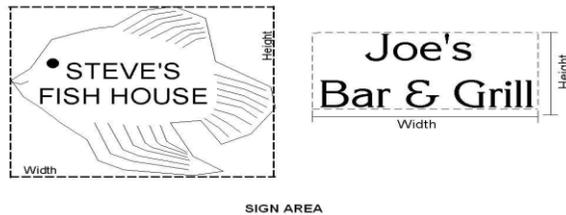
### **Section 17.3 GENERAL PROVISIONS.**

- A. A **sign** not expressly permitted by this Chapter 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 subsection B, below.
- B. Temporary or **portable signs** containing public messages concerning special events sponsored by governmental agencies or non-profit organizations may be erected without a permit in any zoning district, but shall be subject to the following limitations:
1. No more than five (5) such **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.
  2. The display of such **signs** shall be limited to the twenty-one (21) days immediately preceding the special event which is being advertised.
  3. Such **signs** shall have a maximum size of thirty-two (32) square feet in area, and a maximum height of five (5) feet.
  4. Such **signs** shall be removed within forty-eight (48) hours of the conclusion of the special event which is being advertised.
- C. A **sign** which no longer pertains to the **use** of the property on which it is located shall be removed, including the structure for such sign, within six (6) months from the time the use is discontinued.

(Ordinance No. 286, Dated: December 26, 2005)

D. Measurement of Sign Area and Height:

1. The entire area within a circle, triangle or parallelogram enclosing 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.



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 and are at no point more than two (2) feet from one another, the area of the **sign** shall be taken as the area of one (1) face if the two (2) faces are of equal area, or as the area of the larger face if the two (2) faces are of unequal area. In the case of a sphere, the total surface area of the sphere shall be divided by two (2) for purposes of determining the **sign** area.
  3. The height of any **sign** shall be measured from the **mean grade**.
- E. All **signs** shall be stationary, and shall contain no visible moving parts or images. Time and temperature numerals are exempt from this provision.
- F. There shall be no flashing, oscillating or intermittent illumination of any **sign**. There shall be no electronic message board signs. Signs shall be illuminated only by continuous indirect or direct lighting. All sign illumination shall be employed in such a manner so as to prevent intense or brilliant glares or rays of light from being directed at any street or at any adjoining property.

(Ordinance No. 286, Dated: December 26, 2005)

- G. No **sign** shall be placed within or above any public right-of-way or upon any utility pole except as otherwise permitted within the right-of-way of a State designated highway in accordance with the regulations pertaining thereto, and except for

**projecting signs** as permitted in this Chapter. Any **projecting sign** that is to be placed over a Village right-of-way requires a license agreement with the Village prior to installation. Written permission from the Michigan Department of Transportation (MDOT) is required for all signs to be installed over state rights-of-way.

- H. The construction of any **sign** shall be such that it will withstand all wind and vibration forces which can be normally expected to occur within the vicinity. No **sign** shall be allowed to become unsightly through disrepair or action of the elements.
- I. Maintenance: All signs and sign structures shall conform to all applicable codes adopted by the Village. Signs shall be installed in a workmanlike manner and be maintained at all times 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.

*(Ordinance No. 286, Dated: December 26, 2005)*

- J. No **sign** shall be placed in the clear vision area as shown in Chapter 2, Figure 7, nor in a similar clear vision area at the intersection of a driveway or private road or access with a public or private road.
- K. Temporary, searchlights, air filled balloons, signs animated by forced air, and lighter than air signs are prohibited, except as otherwise permitted in this Chapter.

*(Ordinance No. 321, Dated: January 3, 2011)*

- L. Roof Signs: Roof signs shall be prohibited in all zoning districts except as authorized by Special Use Permit in the C – 1, CBD and EED zoning districts only, following a public hearing held in accordance with the procedures for approval of a special land use contained in Chapter 20.
  - 1. In considering granting a Special Use Permit for a roof sign the Planning Commission shall verify that the sign meets the following requirements:
    - a. Physical characteristics of the building, property, or building and property in combination make a wall sign impractical
    - b. The roof sign will take the place of a wall sign
    - c. No portion of the roof sign will extend above the roof peak or ridge line. Roof signs are not permitted on buildings with flat roofs.
    - d. The roof sign will not extend from the roof more than the angle required to be parallel with the building wall below
    - e. That the need for the roof sign has not been created by the applicant.
    - f. That there are extraordinary circumstances or unusual conditions present that would warrant installation of the roof sign.
    - g. That the sign does not impair the intent and purpose of this Chapter.

- h. The total sign area and total number of signs is not increased above what is permitted in the Chapter for wall signs.
  - i. That the roof sign will have no adverse impact on adjoining property or the general welfare of the Village.
  - j. That all other signs for the business meet the requirements of this Chapter.
2. The Planning Commission may impose reasonable conditions in conjunction with approval of a special land use which are deemed necessary to 1) insure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed special land use, 2) protect the natural environment and conserve natural resources and energy, 3) insure compatibility with adjacent **uses** of land, and 4) promote the **use** of land in a socially and economically desirable manner. Conditions imposed shall comply with the Zoning Act.

M. **Temporary Signs** shall meet the following requirements:

- 1. **Banner Signs** are permitted as **temporary signs** in non-residential districts as follows:
  - a. An annual banner and pennant permit is required to display a **banner(s)** and shall be obtained before installation of any such **sign**. An annual banner and pennant permit is required for each business that will display a **banner**.
  - b. The fee for the annual banner and pennant permit shall be established by Village Council and may be amended from time to time.
  - c. 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 the business to continue to display a **banner(s)**.
  - d. The annual banner and pennant permit entitles the business to display up to three (3) **banners** on the premises. **Banners** may be changed periodically while the permit is valid without obtaining additional permits.
  - e. **Banners** shall be displayed for no more than one hundred and twenty (120) days in any one calendar year.
  - f. All **banners** shall refer to the business on the property on which the banner is located.
  - g. The total square footage of all **banner signs** displayed at any one time shall not exceed fifty (50) square feet.
  - h. All **banners** shall be maintained in good, clean condition, neatly hung, taut and secure.
  - i. **Banners** shall not pose a hazard to public safety and may not be located in any clear-vision area.
  - j. **Banners** shall be located on the property of the applicable business or institution, and shall not be located in any public right-of-way.
  - k. Attachment of a **banner** to utility poles and light poles shall be prohibited.
  - l. **Banners** shall not conceal architectural details or windows.

*(Ordinance No. 326, Dated: February 20, 2012)*

2. **Flag signs** are permitted as **temporary signs**, without a permit, in non-residential districts as follows:
- a. One (1) **flag sign** shall be permitted per business 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 a business is open to the public. The entire flag, including the structure, shall be removed during the hours that the business 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:
    - i. Be affixed to the wall at least six (6) feet above the adjacent grade, any portion of the flag pole over the public right-of-way shall maintain a minimum clear space of eight (8) feet from the bottom of the flag pole to the ground.
    - ii. The top of the flag pole shall be not more than fifteen (15) feet above the adjacent grade.
    - iii. The flag pole 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 businesses in the CBD-1, Core Central Business District, whose property abuts a public sidewalk with flag stands imbedded in the sidewalk, the flag may be displayed in the flag stand in the sidewalk, instead of on the building, under the following conditions:
    - i. No more than one flag is permitted to be displayed at any one time.
    - ii. 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.
    - iii. The flag, including the supporting structure, must be removed during the hours that the business is closed, and whenever requested to remove the flag by a Village official or designated representative.
    - iv. The use of the sidewalk flag stand by any business fronting on Savidge Street is subject to approval by the Michigan Department of Transportation.
    - v. 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.

*(Ordinance No. 326, Dated: February 20, 2012)*

3. **Pennants** are permitted in commercial districts as follows:

- a. A banner and pennant permit is required prior to installation of any pennants.
- b. The fee for a banner and pennant permit shall be established by Village Council and may be amended from time to time.
- c. 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 calendar year. There shall be an interval of at least thirty (30) days between display periods.

- d. The length of the string of pennants shall not exceed two (2) times the width of the building façade.
- e. Pennants shall be hung neatly, taut and secure.
- f. 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.

**4. Portable signs and portable changeable message signs** are permitted as temporary signs in non-residential districts as follows:

- a. A temporary sign permit is required prior to installation of a portable changeable message sign.
- b. The fee for the temporary sign permit shall be established by Village Council and may be amended from time to time.
- c. One portable changeable message sign is permitted per business or use, regardless of the number of parcels occupied by said business.
- d. 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.
- e. The portable changeable message sign shall be maintained in a good, clean condition at all times. Damaged signs shall be repaired or removed upon the first signs of damage.
- f. A portable changeable message sign shall not be lighted in any manner.
- g. A portable changeable message sign shall not exceed thirty-two (32) square feet in area and shall not exceed six (6) feet in height.
- h. A portable changeable message sign shall be setback a minimum of five (5) feet from the front property line and fifteen (15) feet from side and rear property lines.
- i. A portable changeable message sign shall not pose a hazard to public safety. Such sign shall not be located in the clear vision area or be located so that, in the opinion of the Zoning Administrator or Chief of Police, the sign causes a visibility problem for drivers or pedestrians.
- j. A portable changeable message sign shall be located on the property of the applicable business or institution, and shall not be located in any public right-of-way.

*(Ordinance No. 321, Dated: January 3, 2011)*

**Section 17.4 SIGN PERMIT REQUIRED.**

No **freestanding sign, directional sign, subdivision entry sign, identification sign, projecting sign, roof sign or wall sign** shall be erected, placed, constructed, reconstructed or modified except upon issuance of a permit therefor by the Zoning Administrator, unless specifically exempted from issuance of a permit by this Chapter.

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 non-refundable, and which shall be established from time to time by resolution of the Village Council; and
3. Plans and specifications for the proposed **sign**, in detail sufficient to determine its compliance with the provisions of this Chapter.

If the proposed **sign** conforms with the provisions of this Chapter, a permit shall be issued.

### **Section 17.5 SIGNS PERMITTED IN ALL ZONING DISTRICTS**

The following **signs** are permitted in all zoning districts in the Village:

1. One (1) **real estate sign** per street address, with a maximum height of five and one-half (5 1/2) feet. The maximum area of such **sign** shall be six (6) square feet for any **single-family** or **two-family dwelling use** and thirty-two (32) square feet for any other **use**. Such **sign** shall only be displayed when the property is for sale, lease or rent and shall not be illuminated. For properties with **shoreline** frontage, an additional **real estate sign** of the same size and height as otherwise permitted may be placed in the **yard** abutting the **shoreline**. A **real estate sign** must be set back a minimum of five (5) feet from any property line. The **sign** shall be removed within 10 days after completion of the sale or lease.
2. One (1) off-premise **real estate sign** is permitted when all of the following conditions are met:
  - A. Shall be located in a commercial zoning district.
  - B. Shall be associated with an approved site plan or PUD.
  - C. Must be removed when 75% of the project is sold, rented, leased or occupied.
  - D. Shall be limited to 24 square feet in area per side. Sign may be two-sided.
  - E. Shall be limited to 5 feet in height above the natural grade.
  - F. Shall be located at least 10 feet from any public right-of way or private road easement/driveway
  - G. Shall be located in private property with written permission granted from the property owner.
  - H. Shall be located outside of the clear vision area as defined by the Zoning Ordinance.
  - I. May be illuminated between the hours of 7am and 9pm.
  - J. Shall be made of wood, metal, or solid plastic and kept in good condition.
  - K. Shall not be located more than 500 feet from the subject property/development being advertised, unless otherwise approved by the Planning Commission.
  - L. Shall meet the intent of a development sign and/or a real estate sign, as defined by the zoning ordinance, with the intent to direct people to a specific development.

3. One (1) **development sign** per project, not exceeding 32 square feet in area, with a maximum height of five and one-half (5 1/2) feet. The **sign** must be set back from any property line a minimum of one-half of the required front setback for the property or ten (10) feet, whichever is greater. The **development sign** must be removed when 75% of the project is sold, rented, leased or occupied. **Development signs** shall not be illuminated.
4. **Political signs** not exceeding seven (7) square feet in area and five and one-half (5 1/2) feet in height. **Political signs** shall be removed within ten (10) days of the election to which the sign pertains. Freestanding **political signs** must be set back a minimum of five (5) feet from any property line. **Political signs** may be placed only on private property, with the permission of the property owner, and not in any right-of-way. **Political signs** shall not be illuminated.
5. One (1) **construction sign** per site no larger than thirty-two (32) square feet in area, with a maximum height of five and one-half (5 1/2) feet. The sign must be set back from any property line a minimum of one-half (1/2) the required front setback for the property or ten (10) feet, whichever is greater. **Construction signs** may not be erected 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. **Construction signs** shall not be illuminated.

*(Ordinance No. 328, Dated: June 18, 2012)*

**Section 17.6 PERMITTED SIGNS – SFR-A, SFR-B, MFR-A, MFR-B DISTRICTS.**

- A. All **signs** in residential zoning districts shall be subject to a **front yard setback** equal to one-half (1/2) the **required front yard** otherwise applicable in such zoning district.
- B. The following **signs** are permitted in residential zoning districts, in addition to those permitted in Section 17.5:
  1. One (1) **plat entry sign** or **identification sign** per public street or private street entrance, not exceeding thirty-two (32) square feet in area, with a maximum height of five (5) feet. Such **sign** shall not be placed closer than two hundred (200) feet to any other such **sign** for the same plat or development.

*(Ordinance No. 320, Dated: December 20, 2010)*

**Section 17.7 PERMITTED SIGNS – C, CBD, CBD-1 AND EED DISTRICTS.**

The following signs are permitted in the C, CBD, CBD-1 and EED zoning districts, in addition to those permitted in Section 17.5:

1. One (1) monument sign per parcel:
  - a. A monument sign shall not exceed thirty-two (32) square feet in area, and shall have a maximum height of five and one-half (5 1/2) feet.

- b. If a monument sign advertises two (2) or more businesses located on the same lot, the maximum sign area may be increased to fifty (50) square feet.
  - c. In the CBD, C – 1 and EED Zoning Districts a monument sign must be setback from any property line a minimum of one-half (1/2) the required front setback distance for the property or ten (10) feet, whichever is greater. The monument sign must meet the design standards of the district.
  - d. In the CBD – 1 District a monument sign must be set back a minimum of two (2) feet from any property line. The monument sign must meet the requirements of the design standards for the district.
  - e. Up to one-half (1/2) of the permitted area of the monument sign may include an area for a manually changeable message. No electronic message signs are permitted.
2. One (1) or more **wall signs**:
- a. All **wall sign(s)** shall not exceed fifteen percent (15%) of the area of the front face of the building, but in any case shall not exceed one hundred (100) square feet. **Wall signs** may be attached to any wall so long as no more than one (1) **wall sign** shall be placed on any wall.
3. One **projecting sign**:
- a. One (1) **projecting sign** is permitted on a wall facing a public street or municipal public parking lot. A **projecting sign** shall not exceed ten (10) square feet in area, and shall not project more than three (3) feet from the building wall to which it is attached. Such sign shall have a minimum ground clearance of eight (8) feet.
4. Two (2) **directional signs** per street entrance to a parking area with a capacity of ten (10) or more vehicles. Each sign shall not exceed four (4) square feet in area, and shall have a maximum height of four (4) feet. Such sign shall contain no written advertising, with the exception of corporate logos or corporate names.
5. One **portable sign**, or one **portable changeable message sign** shall be permitted according to the regulations in Section 17.3.M.4.

*(Ordinance No. 321, Dated: January 3, 2011)*

- 6. **Sandwich board signs** shall conform to the following regulations. The purpose of this type of sign is to permit businesses to utilize a portion of the

area adjacent to their places of business for the purpose of pedestrian scale advertising.

a. Design:

- i. One sandwich board and sign is permitted per customer entrance.
- ii. Signs shall be limited to twelve (12) square feet of sign face for each side of the sign.
- iii. Maximum sign face width shall be limited to thirty-six (36) inches measured from sign legs.
- iv. Maximum sign height shall be limited to four and one half feet (4-1/2') measured from the ground to the top of the sign.
- v. Sign bases shall be weighted with a minimum ten (10) pound ballast, colored solid black, to ensure sign stability in windy conditions.
- vi. The sign frame shall be constructed as specified by Village Council Resolution.

b. Placement

- i. Signs must be truly portable and cannot be permanently affixed to any structure or sidewalk, and must be removed at the end of each business day.
- ii. 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.
- iii. Signs shall be placed to consider public safety including: location and proximity of doorways; maximum distance between pedestrian obstacles; location of cross walks; and other physical features of the location that affect sight distance, accessibility and safety.
- iv. 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.

- v. Signs shall be placed a minimum of ten (10) feet from a building corner or pedestrian crosswalk.
- vi. Signs shall be placed a minimum of ten (10) linear feet from the base of another **sandwich board sign**.
- c. Permits. Sign applicants are responsible to acquire any other applicable county or state permits which may be required to allow the placement of signs.
- d. Display. Signs may not be illuminated and may only be displayed during business hours.

*(Ordinance No. 286, Dated: December 26, 2005)*

- 7. The total area of all **window signs** on any side of a building shall not cover more than twenty-five (25) percent of the window area.

*(Ordinance No. 326, Dated: February 20, 2012)*

- 8. **Vehicular Sign** is permitted per parcel, subject to the following:

- a. Shall only advertise the business, products or services offered on the same premises.
- b. Shall be securely affixed to the interior or exterior of the vehicle.
- c. The total area of the sign shall not have a combined area of more than 20 square feet
- d. Vehicle shall be located in an off-street parking space.
- e. Vehicle shall be operable and registered.
- f. Shall only be displayed between 7:00am and 9:00pm.
- g. Shall be displayed for no more than three thirty (30) day periods in any one calendar year.
- h. Shall be maintained in good, clean condition at all times.

*(Ordinance No. 329, Dated: June 18, 2012)*

## **Section 17.8 PERMITTED SIGNS – O DISTRICT.**

The following **signs** are permitted in the O district, in addition to those permitted in Section 17.5:

- 1. One (1) **monument sign** per parcel:

- a. A monument sign shall not exceed thirty-two (32) square feet in area and shall have a maximum height of five and one-half (5 ½) feet.
  - b. If a monument sign advertises two (2) or more businesses located on the same lot, the maximum sign area may be increased to fifty (50) square feet.
  - c. A monument sign must be set back from any property line a minimum of one-half (1/2) the required front setback distance for the property or ten (10) feet, whichever is greater. The monument sign must meet the design standards of the district.
  - d. Up to one-half (1/2) of the permitted area of the monument sign may include an area for a manually changeable message. No electronic message signs are permitted.
2. One (1) or more **wall signs** per street, subject to the following conditions:
- a. **Wall signs** shall be permitted only on a **building** wall facing a street or municipal public parking lot, except that one (1) **wall sign** not exceeding twenty (20) square feet in area is also permitted on a non-street side wall of a **building** if there is a public entrance into the **building** on such non-street side.
  - b. No more than one (1) **wall sign** per occupant shall be permitted on a single **building** wall. In addition, one (1) directory type **wall sign** shall also be permitted on a **building** wall if the **building** has multiple occupants.
  - c. The total area of all **wall signs** attached to a single **building** wall shall not exceed twenty percent (20%) of the area of the wall, or fifty (50) square feet, whichever is less.
3. One (1) **projecting sign** per street frontage, not exceeding ten (10) square feet in area, and not projecting more than three (3) feet from the **building** wall to which it is attached. Such **sign** shall have a minimum ground clearance of eight (8) feet.
4. One **portable sign** or one **portable changeable message sign** shall be permitted according to the regulations in Section 17.3.M.4.
5. The total area of all **window signs** on any building shall not cover more than twenty-five (25) percent of the window area.

*(Ordinance No. 321, Dated: January 3, 2011)*

*(Ordinance No. 326, Dated: February 20, 2012)*

6. **Vehicular Sign** is permitted per parcel, subject to the following:

- a. Shall only advertise the business, products or services offered on the same premises.
- b. Shall be securely affixed to the interior or exterior of the vehicle.
- c. The total area of the sign shall not have a combined area of more than 20 square feet
- d. Vehicle shall be located in an off-street parking space.
- e. Vehicle shall be operable and registered.
- f. Shall only be displayed between 7:00am and 9:00pm.
- g. Shall be displayed for no more than three thirty (30) day periods in any one calendar year.
- h. Shall be maintained in good, clean condition at all times.

*(Ordinance No. 329, Dated: June 18, 2012)*

### **Section 17.9 PERMITTED SIGNS – I – LIGHT INDUSTRIAL DISTRICT**

The following **signs** are permitted in the I zoning district, in addition to those permitted in Section 17.5:

1. One (1) **monument sign** per parcel:
  - a. A monument sign shall not exceed thirty-two (32) square feet in area and shall have a maximum height of five and one-half (5 ½) feet.
  - b. If a monument sign advertises two (2) or more businesses located on the same lot, the maximum sign area may be increased to fifty (50) square feet.
  - c. A monument sign must be set back from any property line a minimum of one-half (1/2) the required front setback distance for the property or ten (10) feet, whichever is greater. The monument sign must meet the design standards of the district.
  - d. Up to one-half (1/2) of the permitted area of the monument sign may include an area for a manually changeable message. No electronic message signs are permitted.
2. One (1) or more **wall signs** per street frontage, subject to the following conditions:
  - a. **Wall signs** shall be permitted only on a **building** wall facing a street or municipal public parking **lot**, except that one (1) **wall sign** not exceeding twenty (20) square feet in area is also permitted on a non-street side wall of a **building** if there is a public entrance into the **building** on such non-street side.

- b. No more than one (1) **wall sign** per occupant shall be permitted on a single **building** wall. In addition, one (1) directory type **wall sign** shall also be permitted on a **building** wall if the **building** has multiple occupants.
    - c. The total area of all **wall signs** attached to a single **building** wall shall not exceed twenty percent (20%) of the area of the wall, or fifty (50) square feet, whichever is less.
  3. Two (2) **directional signs** per street entrance to a parking area with a capacity of ten (10) or more **vehicles**. Each **sign** shall not exceed four (4) square feet in area, and shall have a maximum height of four (4) feet. Such **signs** shall contain no written advertising, with the exception of corporate logos.
  4. One **portable sign**, or one **portable changeable message sign** shall be permitted according to the regulations in Section 17.3.M.4.

*(Ordinance No. 321, Dated: January 3, 2011)*

5. **Vehicular Sign** is permitted per parcel, subject to the following:
  - a. Shall only advertise the business, products or services offered on the same premises.
  - b. Shall be securely affixed to the interior or exterior of the vehicle.
  - c. The total area of the sign shall not have a combined area of more than 20 square feet
  - d. Vehicle shall be located in an off-street parking space.
  - e. Vehicle shall be operable and registered.
  - f. Shall only be displayed between 7:00am and 9:00pm.
  - g. Shall be displayed for no more than three thirty (30) day periods in any one calendar year.
  - h. Shall be maintained in good, clean condition at all times.

*(Ordinance No. 329, Dated: June 18, 2011)*

#### **Section 17.10 PERMITTED SIGNS – P – PUBLIC, SEMI-PUBLIC DISTRICT.**

The following **signs** are permitted in the P zoning district, in addition to those permitted in Section 17.5:

1. One (1) **monument sign** per parcel:
  - a. A monument sign shall not exceed thirty-two (32) square feet in area and shall have a maximum height of five and one-half (5 ½) feet.

- b. If a monument sign advertises two (2) or more businesses located on the same lot, the maximum sign area may be increased to fifty (50) square feet.
  - c. A monument sign must be set back from any property line a minimum of one-half (1/2) the required front setback distance for the property or ten (10) feet, whichever is greater. The monument sign must meet the design standards of the district.
  - d. Up to one-half (1/2) of the permitted area of the monument sign may include an area for a manually changeable message. No electronic message signs are permitted.
2. One (1) or more **wall signs** per street frontage, subject to the following conditions:
- a. **Wall signs** shall be permitted only on a **building** wall facing a street, municipal public parking **lot** or **shoreline** frontage, except that one (1) **wall sign** not exceeding twenty (20) square feet in area is also permitted on a non-street side wall of a **building** if there is a public entrance into the **building** on such non-street side.
  - b. No more than one (1) **wall sign** per occupant shall be permitted on a single **building** wall. In addition, one (1) directory type **wall sign** shall also be permitted on a **building** wall if the **building** has multiple occupants.
  - c. The total area of all **wall signs** attached to a single **building** wall shall not exceed twenty percent (20%) of the area of the wall, or fifty (50) square feet, whichever is less.
3. One (1) **Projecting sign** per street frontage, not exceeding ten (10) square feet in area, and not projecting more than three (3) feet from the building wall to which it is attached. Such sign shall have a minimum ground clearance of eight (8) feet.
4. One **portable sign**, or one **portable changeable message sign** shall be permitted according to the regulations in Section 17.3.M.4.

#### **Section 17.11 Deviations.**

- 1. For the purpose of this Chapter, a “deviation” is defined as a modification of one (1) or more of the requirements of this Chapter as outlined in the following sections.
- 2. Deviations from the dimensional requirements for setback, size, height or total number of signs, of Section 17.6, Section 17.7(1-4), Section 17.8, Section

- 17.9 and Section 17.10 may be granted by the Planning Commission if the following criteria are met:
- a. That the proposed sign is consistent with the overall intent of the sign standards and requirements in this Chapter.
  - b. That the applicant proves a practical difficulty in complying fully with the provisions of this Chapter, owing to conditions peculiar to the land or structure and not the result of the action of the applicant, that would result from strict adherence to the standards and requirements of this Chapter.
  - c. That the deviation is no more than what is necessary to relieve the applicant's practical difficulty.
  - d. That the sign otherwise meets the requirements of this Chapter.
  - e. That the deviation is only dimensional and does not permit a sign that would not otherwise be permitted in the zoning district.
3. The Planning Commission may impose reasonable conditions in conjunction with approval of the deviation which are deemed necessary to 1) protect the natural environment and conserve natural resources and energy, 2) insure compatibility with adjacent **uses** of land, and 3) promote the **use** of land in a socially and economically desirable manner. Conditions imposed shall comply with the Zoning Act.
4. Any person aggrieved by the decision rendered by the Planning Commission as allowed by this Section may appeal the decision to the Zoning Board of Appeals.

*(Ordinance No. 311, Dated: May 12, 2009)*

# CHAPTER 18

## PARKING REGULATIONS

### Section 18.1 SCOPE.

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 chapter, in proportion to the need for such facilities created by various **uses** of land, **buildings**, and **structures**.

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 18.2 APPLICABILITY.

In all zoning districts, after the effective date of this Ordinance, 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 chapter. 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 18.3 EXISTING OFF-STREET PARKING FACILITIES.

Off-street parking facilities in existence on the effective date of this Ordinance, and provided in connection with a **building**, **structure**, or **use** of land for which off-street parking is required by this chapter, shall not be reduced in number or dimensions to less than the minimum standards prescribed by this chapter, nor shall such facilities be used to satisfy the standards of this chapter for any other **building**, **structure**, or **use** of land.

### Section 18.4 MAINTENANCE OF FACILITIES.

All off-street parking and loading facilities required by this chapter 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 chapter, except for temporary periods of short duration in the event of heavy snowfall.

### Section 18.5 PROCEDURE FOR APPROVAL OF PARKING AREA CONSTRUCTION.

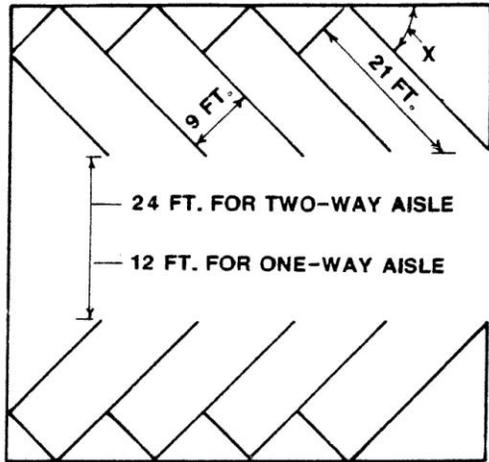
- A. No person shall construct a parking facility or cause any land to be used for a parking facility, with the exception of parking facilities serving a **single-family dwelling**, unless a certificate of zoning compliance for such facility has been issued by the Zoning Administrator.
- B. Application for a certificate of zoning compliance shall be made by submitting to the Zoning Administrator plans for the parking facility at a scale not greater than one inch equals fifty feet (1" = 50'). Such plans shall identify existing **lot lines**, existing and proposed ground elevation contours and two-foot intervals, parking stall dimensions, driveway and aisle dimensions, type of curbing, location and size of all drainage facilities, location, height, style and intensity of lighting, sidewalks, proposed landscaping and proposed surface and base materials to be used.
- C. If the plans for such parking facility are in conformance with the requirements of this chapter and other applicable provisions of this Ordinance, the Zoning Administrator shall issue a certificate of zoning compliance for the parking facility.
- D. Construction of a parking facility for which a certificate of zoning compliance has been issued shall be carried out in conformance with the plans submitted in application for such certificate.

#### **Section 18.6     PARKING FACILITY DESIGN REQUIREMENTS.**

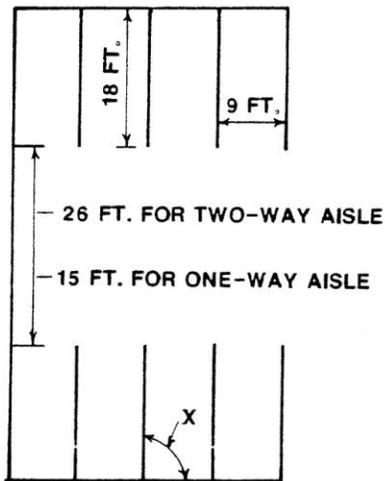
- A. All parking facilities, with the exception of those serving **single-family dwellings**, and non-public areas used primarily for storage of **vehicles**, shall be hard-surfaced with asphalt or concrete pavement and shall be graded and drained so as to dispose of surface water which might accumulate within or upon such area. No surface water from a parking area shall be permitted to drain onto adjoining property, not including a public 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.
- B. All illumination for or on any parking area shall be deflected away from adjacent property and shall be installed in such a manner as to allow the reduction of the amount of light during other than normal parking hours each day. The source of illumination in all parking areas abutting a residential zoning district or **use** shall not be more than twenty (20) feet above the parking surface.
- C. 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.

**FIGURE 8**

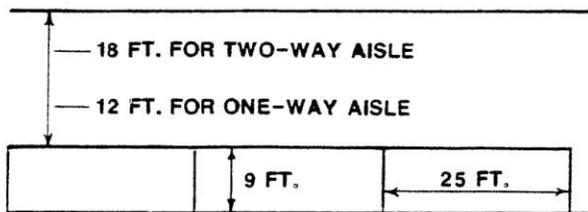
**OFF-STREET PARKING DESIGN STANDARDS**



**WHERE ANGLE  $X=30^{\circ}-75^{\circ}$**



**WHERE ANGLE  $X=76^{\circ}-90^{\circ}$**



- D. Wheel stops or raised curbing shall be provided and located so as to prevent any **vehicle** from projecting over **lot lines**.
- E. Individual parking spaces shall be clearly identified and marked with durable striping.
- F. Parking areas, with the exception of access driveways from public 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.
- G. Parking areas shall comply with the applicable provisions regarding **setbacks** from **lot lines** and screening contained in Chapter 16.B, Landscaping Regulations.
- H. Dimensions of parking spaces and maneuvering aisles shall be in accordance with the following requirements:

PARKING PATTERN	MINIMUM AISLE WIDTH		MINIMUM SPACE WIDTH	MINIMUM SPACE LENGTH
	TWO-WAY	ONE-WAY		
	Parallel Parking	18 Ft.	12 Ft.	9 Ft.
30-75 degree angle	24 Ft.	12 Ft.	9 Ft.	21 Ft.
76-90 degree angle	26 Ft.	15 Ft.	9 Ft.	18 Ft.

(See Figure 8).

Minor adjustments of the dimensions prescribed in this section may be authorized by the Zoning Administrator if consistent with generally recognized design standards for off-street parking facilities.

*(Ordinance No. 319, Dated: July 1, 2010)*

**Section 18.7 OFF-SITE AND JOINT PARKING FACILITIES.**

- A. All parking associated with any **use** shall be located in the same zoning district as that **use**. With the exception of the CBD zoning district, 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.
- B. Within the CBD zoning district, parking required by this Chapter shall be located within three hundred (300) feet of the **building, structure, or use** for which it is intended, as measured from the nearest part of the **building or structure** to the nearest part of the parking area.

Within the CBD zoning district, the parking requirements of this Chapter 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.

- C. The parking requirements of this Chapter may be met by a municipal or joint community parking **lot** only if such parking facilities are located on the same side of State Highway M-104 (Savidge St.) as the proposed **use** to be served.

**Section 18.8 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS.**

- A. Each **use** shall provide at least the number of parking spaces required in the following schedule. Where fractional requirements result from the application of this schedule, the fraction shall be raised to the next whole number. For any **use** not listed in this schedule, parking spaces shall be provided in a quantity sufficient to make reasonable and adequate provision for the highest expected volume of users.

<u>Use</u>	<u>Spaces</u>	<u>Per Each:</u>
1. <b>Single- and two-family dwellings</b>	2	per <b>dwelling unit</b> .
2. <b>Multiple-family dwellings</b>	2	per <b>dwelling unit</b> .
3. <b>Group day care homes and foster care group homes</b>	1 plus	per four (4) clients, 1 per each employee.
4. Churches, theaters, auditoriums, assembly areas and gymnasiums	2	per five (5) seats or eight (8) feet of pew length.
5. Schools, elementary and middle	1.5 plus	per classroom, amount required for auditorium or gymnasium seating.
6. Schools, secondary	1 plus 1.5 plus	per eight (8) students per classroom, amount required for auditorium or gymnasium seating.
7. Retail businesses	1	per two hundred (200) sq. ft. of <b>gross floor area</b> .
8. Offices	1	per three hundred (300) sq. ft. of <b>gross floor area</b> .
9. Banks, credit unions and savings and loans	1	per two hundred (200) sq. ft. of <b>gross floor area</b> .
10. Indoor commercial recreational establishments	1	per three (3) persons allowed within maximum occupancy permitted by building code.

11. Restaurants	1	per two hundred (200) sq. ft. of <b>gross floor area.</b>
12. Hotels, Motels	1 plus	per guest room, amount required for other uses on the premises,
<i>(Ordinance No. 317, Dated: November 23, 2009)</i>	plus 1	per employee.
13. Business services	1	per three hundred (300) sq. ft. of <b>gross floor area.</b>
14. Wholesale establishments	1	per five hundred (500) sq. ft. of <b>gross floor area.</b>
15. Industrial uses	1 plus	per two thousand (2,000) sq. ft. of gross manufacturing area, amount required for office space on the premises.
16. Private marinas	.75 plus	per boat slip or rack storage bin, amount required for other ancillary uses.
<i>(Ordinance No. 305, Dated: June 16, 2008)</i>		
17. Public Transient Marinas	.5	per boat slip.

B. Where the property owner/applicant can demonstrate that the required amount of parking is excessive, the Planning Commission may defer construction of the required number of parking spaces if the following conditions are met:

1. An area of sufficient size to meet the parking space requirements of this article is retained as open landscaped space.
2. The owner agrees in writing to construct the additional parking at the direction of the Planning Commission based on observed usage within six (6) months of being informed of such request in writing by the Zoning Administrator.
3. A written legal agreement to construct the deferred parking, as drafted by the Village Attorney at the applicant's expense, shall be signed by the applicant.
4. The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
5. A storm water management plan for the completed parking area, including any deferred spaces, must be submitted and approved by the Village Engineer.
6. The Village may require a performance bond to cover the estimated construction cost of the deferred parking with refund in two (2) years if the additional parking is not found to be necessary.
7. A permit shall be required prior to construction of the deferred parking area.

*(Ordinance No. 304, Dated: May 19, 2008)*

The **Board of Appeals**, as a matter upon which the **Board of Appeals** is required to pass under this Ordinance, may reduce the number of parking spaces required by this Section to such level as the **Board of Appeals** shall determine to be appropriate if the

**Board of Appeals** is satisfied, based on the evidence presented to it, that the number of spaces required by this Section are excessive for the proposed **use**. In acting on an application pursuant to this paragraph, the **Board of Appeals** shall follow the procedures and conduct a hearing as specified in Section 21.5. As is provided in Section 21.6, the **Board of Appeals** may impose conditions in connection with an affirmative decision to reduce the number of required parking spaces including requiring the applicant to retain sufficient open land area so as to permit the construction of additional parking spaces in a quantity sufficient to comply with the requirements of this Section. If the **Board of Appeals** makes an affirmative decision to reduce the number of parking spaces required by this Section, the **Board of Appeals** shall have the right, at any time and on its own motion, to consider requiring the construction of additional parking spaces required by this Section. Before acting to require the construction of additional parking spaces as provided in the immediately preceding sentence, the **Board of Appeals** shall first follow the procedures and conduct a hearing as is required in Section 21.5.

**Section 18.9 REQUIRED OFF-STREET LOADING/UNLOADING SPACES.**

- A. Provision of off-street loading/unloading spaces shall be required for construction of any **building** twenty thousand (20,000) sq. ft. or greater in **gross floor area**, or for any expansion of two thousand (2,000) sq. ft. or more in **gross floor area** of any existing **building** of eighteen thousand (18,000) sq. ft. or greater in existing **gross floor area**, in the C, CBD, and I zoning districts, as follows:

<u>Building gross floor area</u>	<u>Required Spaces</u>
20,000 to 50,000 square feet	2 spaces
Above 50,000 square feet	3 spaces

- 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.



# CHAPTER 19

## SITE PLAN REVIEW

### Section 19.1 REQUIRED SITE PLAN REVIEW.

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, prior to the initiation of any special land use in any zoning district, and prior to the initiation of any new **use** of land not requiring a building permit, with the exception of the following:

1. permitted **uses** in the SFR-A and SFR-B zoning districts
2. **accessory buildings** and **structures** accessory to a **single-family dwelling** or **two-family dwelling** in any zoning district.
3. **single-family dwellings** and **two-family dwellings** in the MFR-A zoning district.
4. **family day care homes** and **foster care family homes** in any zoning district.

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 Ordinance, other ordinances of the Village and state and federal statutes.

### Section 19.2 APPLICATION PROCEDURE.

Application for site plan review shall be made by submitting the following materials to the Zoning Administrator at least twenty-one (21) days prior to the Planning Commission meeting at which the site plan is to be considered:

1. Twelve (12) copies of a site plan containing all of the information required in Section 19.3

A completed application on an appropriate form provided by the Village.

2. Payment of an application fee, which shall be non-refundable, and which shall be established from time to time by resolution of the Village Council.

### Section 19.3 REQUIRED SITE PLAN CONTENTS.

A. A site plan submitted in accordance with this chapter 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 100-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. Parking areas shall be shown, including the dimensions of a typical space and aisle. The total number of parking spaces to be provided and the method by which required parking was computed shall be noted on the site plan.
10. Locations of exterior site lighting shall be shown, including specification of the height and style of fixtures.
11. Location of exterior **trash** facilities, including type of screening.
12. The existing zoning of all properties abutting the subject property.
13. Size and location of existing and proposed sewer and water supply systems, and storm sewers, including valves, hydrants, manholes, stormwater intakes and cleanouts.

14. Locations of all other utilities on the site, including but not limited to natural gas, electric, cable television and telephone.
15. The location and size of all existing and proposed subsurface and surface water drainage facilities, established flood plain areas, bodies of water or other unbuildable areas if present on the site.
16. 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 100-year floodplain, as determined by the Federal Insurance Administration flood insurance rate map, shall be identified.
17. Exterior building elevations and specifications for materials to be used on all structures including calculation for the percentage of windows for each floor.
18. Location and design of all signs and advertising features, including diagram of height and size of signs.
19. A landscape plan showing required planting and buffering features that comply with this ordinance.

*(Ordinance No. 319, Dated: July 1, 2010)*

B. The following documentation shall 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 schedules with the following information, as applicable, shall be provided:
  - a.) total site area.
  - b.) net site area exclusive of right-of-way.
  - c.) minimum, maximum and average **lot area**.
  - d.) number, size and bedroom mix of **dwelling units** proposed, list of commercial uses proposed, and the **gross floor area** of each **use**.
  - e.) area and percentage of site coverage by **buildings**, pavement and open space.
4. A legal description of the subject property, and a street address.

C. The Zoning Administrator may waive any of the requirements of Section 19.3, A and B, if, in his opinion, such information is not necessary for the review of the site plan.

## Section 19.4 PLANNING COMMISSION REVIEW AND ACTION.

- A. The Planning Commission may hold a public hearing on a proposed site plan, if it deems such a hearing desirable. If a public hearing is held, notice shall be given in the same manner as specified for a public hearing on a special land use.
- 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 19.5, Site Plan Review Standards, and with all the applicable provision of this Ordinance and other ordinances of the Village, and with 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 Ordinance and with state and federal statutes.

## Section 19.5 SITE PLAN REVIEW STANDARDS.

All site plans shall comply with all applicable provisions of this Ordinance and with each of the following standards:

- 1. 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.
- 2. **Building Relationships: Buildings and Structures** shall be placed in an orderly, nonrandom fashion such that an uncrowded, open appearance is maintained. 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.
- 3. 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.
- 4. Driveways, Parking, and Circulation:
  - a. Vehicular access to the site shall be designed to provide reasonable access to the site, while minimizing the impact of driveways on the efficiency and safety of traffic operations along the public roadways.
  - b. Vehicular and pedestrian circulation facilities shall be designed so as to provide for safe and efficient movement of **vehicles** and pedestrians, in a manner which avoids conflict between **vehicles** and pedestrians. Points of vehicular access to public streets shall be limited to the minimum number required to provide reasonable access

to the site. On **corner lots**, driveway access should be limited, where practical, to the street carrying the lower average daily traffic volume at the time of review of the site plan. Factors to be considered in determining whether to limit access to a street carrying the lower average daily traffic volume shall include the potential impact on adjoining uses along the side street, the extent of frontage of the subject property along both streets, and the projected vehicular trip generation to and from the subject property.

- c. Where possible, access driveways on opposite sides of a street shall either be directly aligned, or offset a minimum of one hundred and fifty (150) feet, measured between driveway centerlines.
  - d. Separation distance between driveways and between driveways and public 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.
5. **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 or the public storm drainage system. 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.
  6. **Utility service:** All new utility distribution lines shall be placed underground.
  7. **Special Features:** Exposed storage areas, **trash** receptacles, machinery installations, service areas, truck unloading areas, utility **buildings** and **structures** and similar accessory areas should be screened from view from adjoining streets and properties. This screening shall be in accordance with Chapter 16.B, Landscape Regulations.

Outdoor activity areas, such as pedestrian plazas or outdoor restaurant seating, shall be designed and located to minimize conflicts with nearby residential neighborhoods. Fencing or landscape screening shall be used to protect adjoining residential uses from noise or other disturbances from outdoor seating areas, which shall be consistent with the provisions of Chapter 16.B, Landscape Regulations.

*(Ordinance No. 319, Dated: July 1, 2010)*

8. Emergency access: The site plan shall provide for adequate access to the site and all **buildings** on the site by emergency **vehicles**.
9. Exterior lighting: Exterior lighting shall be located and designed so that illumination is directed away from adjacent properties and streets.
10. All landscaping shall be in accordance with Chapter 16.B, Landscape Regulations.

*(Ordinance No. 319, Dated: July 1, 2010)*

11. All structures shall adhere to the design standards of the district, as applicable.
12. All structures shall provide an orderly transition to adjacent development of a different scale.
13. 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 where appropriate.

#### **Section 19.6 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 inspector, and one 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 19.7 TIME LIMIT FOR APPROVED SITE PLANS.**

- A. A site plan approval granted pursuant to this Chapter 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 no longer valid.
- 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. The Planning Commission shall grant such and 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 proceed within one (1) year.

## Section 19.8 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 mutual agreement of the applicant and the Village. Requests for approval of amendments shall be submitted to the Zoning Administrator.
- B. Upon receipt of a request for an amendment to an approved site plan, the Zoning Administrator shall determine whether such amendment constitutes a major amendment to the site plan. Any change or amendment which results in any of the following shall be considered a major amendment:
1. Any change in the use or increase in the intensity of use of land, **buildings**, or other **structures**.
  2. Any increase in the square footage or land coverage of **buildings** or other **structures**.
  3. Any reduction in area or number of off-street parking spaces, aisles or loading/unloading areas.
  4. Any reduction in street or driveway width or location.
  5. Any reduction in area of landscaped area or open space.
  6. Any reduction in number or size of plant materials, or substitution of lesser-quality plant materials for those originally included in the site plan.
  7. Any reduction in the level of intensity or degree of screening.
- C. Major amendments to a previously-approved site plan shall be subject to the review and approval of the Planning Commission.
- D. Any amendment to an approved site plan which is determined by the Zoning Administrator as not being a major amendment may be mutually agreed to be the applicant and the Zoning Administrator; provided, however, that the Zoning Administrator may refer any proposed amendment to the Planning Commission at his discretion, regardless of whether such amendment is considered to be a major amendment.
- E. Approved amendments to site plans shall be recorded on a revised copy of the site plan meeting the requirements of Section 19.3 and kept in the office of the Zoning Administrator. The Zoning Administrator shall notify the Building Inspector and any other appropriate agencies or individuals of the approved changes.



# **CHAPTER 20**

## **SPECIAL LAND USES**

### **Section 20.1 PURPOSE.**

This Chapter 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 20.2 APPLICATION PROCEDURES.**

Application for approval of a special land use shall be made by submittal of the following to the Zoning Administrator:

1. Twelve (12) copies of the site plan containing all of the information required by Chapter 19, provided that the Zoning Administrator may waive any of the submittal requirements contained in Chapter 19 which he deems not necessary or inapplicable.
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, which shall be non-refundable, as established from time to time by resolution of the Village Council.

In cases where a public hearing on the special land use is required, the application shall be submitted at least twenty-one (21) days prior to the desired public hearing date.

### **Section 20.3 NOTIFICATION AND HEARING PROCEDURES.**

A. Procedure for special land uses:

1. Upon receipt of an application for approval of a special land use, the Zoning Administrator shall cause notice to be given, in accordance with the Zoning Act. The notice shall:
  - a. Describe the nature of the special land use request;

- b. Describe the property which is the subject of the special land use request, by both legal description and street address;
- c. State when and where a public hearing on the special land use request will be held; and
- d. State when and where written comments will be received concerning the special land use request.

*(Ordinance No. 320, Dated: December 20, 2010)*

- 2. Following notice, the Planning Commission shall hold a public hearing on the special land use request, and the Planning Commission shall thereafter be responsible for consideration and action on the special use request, in accordance with the standards for approval contained in this Chapter.

**B. Procedure for home occupation:**

- 1. Upon receipt of an application for approval of a **home occupation** as a special use, the Zoning Administrator shall cause notice to be given, in accordance with the Zoning Act. This notice shall:
  - a. Describe the nature of the **home occupation** special use request.
  - b. Describe the property which is the subject of the **home occupation** special use request, by both legal description and street address.
  - c. State that a public hearing before the Planning Commission may be requested in writing by the applicant or a property owner or occupant of a **structure** located within three hundred (300) feet of the property being considered for the **home occupation** special use, within ten (10) days of the notice date;
  - d. State when and where the **home occupation** special use request will be considered; and
  - e. State when and where written comments will be received concerning the special land use request.
- 2. If a written request for a public hearing is received within ten (10) days of the date of notice by the applicant or by a property owner or occupant of a **structure** located within three hundred (300) feet for the property being considered for the **home occupation**, the Zoning Administrator shall cause notice of a public hearing to be given, in accordance with the Zoning Act. The notice shall contain all of the information required by Sec. 20.3.A.1 (a)-(d), above.
- 3. Following notice, the Planning Commission shall hold a public hearing on the **home occupation** special use request, and the Planning Commission shall

thereafter be responsible for consideration and action on the **home occupation** special use request, in accordance with that standards contained in this Chapter.

4. If written request for a public hearing is not received within such ten (10) day period, the Zoning Administrator shall thereafter be responsible for consideration and action on the **home occupation** special use request, in accordance with the standards for approval contained in this Chapter; provided, however, that the Zoning Administrator may, at his discretion, decline to take action concerning the **home occupation** special use request, and instead, initiate a public hearing and refer the **home occupation** special use request to the Planning Commission for a hearing and action as provided herein.

#### **Section 20.4 PLANNING COMMISSION OR ZONING ADMINISTRATOR ACTION; STANDARDS FOR APPROVAL.**

- A. The Planning Commission or the Zoning Administrator, as applicable, may 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, if one is held. The Commission or Zoning Administrator shall approve, or approve with conditions, a special land use request only upon a finding that all of the following standards for approval are complied with:
  1. 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.
  2. 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.
  3. The **use** does not involve activities, processes, materials and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of traffic, noise, smoke, fumes, glare or odors.
  4. The site plan proposed for such **use** demonstrates compliance with the special land use specific requirements contained in Section 20.7 of this Chapter.
- B. The Planning Commission or Zoning Administrator, as applicable, may impose reasonable conditions in conjunction with approval of a special land use which are deemed necessary to 1) insure that public services and facilities will be capable of accommodating increased service and facility loads caused by the proposed special land use, 2) protect the natural environment and conserve natural resources and energy, 3) insure compatibility with adjacent **uses** of land, and 4) promote the **use** of

land in a socially and economically desirable manner. Conditions imposed shall comply with the Zoning Act.

- C. 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.

#### **Section 20.5 APPROVAL TERM AND EXPIRATION.**

- A. A special land use approval granted pursuant to this Chapter shall be valid for one (1) year from the date of approval, unless approval is revoked as provided in Section 20.6, or the special land use has been initiated or construction necessary for such use has been initiated and is proceeding meaningfully toward completion, in which case the approval shall remain valid indefinitely, unless the use is abandoned or discontinued for six (6) consecutive months.
- B. If, by the end of this one (1) year period, 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 Chapter.

#### **Section 20.6 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 Chapter, any conditions placed on the original approval by the Planning Commission, or any other applicable provisions of this Ordinance. 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 20.3.

#### **Section 20.7 SPECIAL LAND USE SPECIFIC REQUIREMENTS.**

- A. The special land uses for which specific requirements are provided are as follows:
  - 1. **Automobile service stations.**
  - 2. Banks, credit unions, savings and loan institutions with **drive-through** facilities.

3. **Bed and breakfast establishments.**
4. Car washes, automatic or self-services.
5. Electric substations and gas regulator stations.
6. Foster care group homes.
7. Funeral homes.
8. Gasoline sales.
9. **Group day care homes.**
10. **Hotels**, motels.
11. Indoor commercial recreation establishments.
12. Marinas.
13. Restaurants, including **drive-through** facilities.
14. Restaurants, not including **drive-through** facilities.
15. Retail businesses, a portion of which is conducted in the open air.
17. Tool and die machinery shops.
18. **Two-family dwellings.**
19. **Vehicle repair or storage establishments.**
20. Veterinary offices.
21. Wholesale establishments and warehouses which sell packaged or repackaged products at retail on the premises.
22. Assembly operations consisting only of limited assembly, fastening and packaging or repackaging of previously manufactured components.
23. Parking **lots**.
24. Adult Day Care Facilities.
25. Community Support Facility.

*(Ordinance No. 320, Dated: December 20, 2010)*

B. The following requirements shall apply to any special land use approved after the effective date of this Ordinance. **Uses** lawfully in existence on the effective date of this Ordinance 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.

1. **Automobile service stations:**

- a. There shall be a minimum **lot area** of twelve thousand (12,000) square feet and minimum **lot width** of one hundred (100) feet.
- b. Pump islands shall be a minimum of fifteen (15) feet from any public right-of-way of **lot line**.
- c. Where adjoining a residential zoning district or use, or any land in the P zoning district, 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. All repair work shall be conducted completely within an enclosed **building**.
- e. 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.
- f. In the event that an **automobile service station use** 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.

2. Banks, credit unions, savings and loan institutions with **drive-through** facilities:

- a. Only one (1) 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. Stacking shall be planned so as to minimize conflicts with entering and exiting traffic, pedestrians and parking areas.

**3. 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 fourteen (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 major streets in the Village: Savidge Street, West Exchange Street, and Liberty Street.
- c. The Bed and Breakfast shall not alter the residential character of the building or structure. 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 to allow expansion of the Bed and Breakfast are not permitted. The residence shall not have or be converted to more rental rooms than the number of bedrooms which exist at the time of enactment of this Chapter.
- e. The residential character of the dwelling shall be preserved and no structural alternations, construction features, or site features of a non-residential nature shall be permitted. No accessory building shall be used for Bed and Breakfast activities. The Planning Commission may permit the use of an existing carriage house as a guest sleeping area for a Bed and Breakfast.
- f. The total number of bedrooms rented to guests shall not exceed four (4).
- g. 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.
- h. No receptions, private parties, conferences, or other such activities shall be permitted. No conference/meeting rooms shall be permitted.
- i. Each sleeping room shall have a separate smoke detector alarm. 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 premises.

- 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 Code Official 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 in Section 18.8.
- o. Off-street parking shall be provided at a minimum ratio of two (2) spaces for the residence plus one (1) space for each permitted guest room. No parking shall be permitted in the front yard. No parking area shall be lighted except for a residential porch light as regulated in Section 3.28. A landscape buffer 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 contain at least one hundred (100) net square feet of room size.
- 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 Chapter 17 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 the Village of Spring Lake Rental Unit code (Chapter 18, Article VII of the Village of Spring Lake Code of Ordinances) and shall be subject to periodic registrations and inspections as provided in said code.

*(Ordinance No. 317, Dated: November 23, 2009)*

4. Car washes, automatic or self-service:

- 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.

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 fifteen (15) 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.

- b. Where adjoining a residential zoning district or use, or any land in the P zoning district, 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.

5. Electric substations and gas regulator stations:

- a. Such facilities shall not be located on any **lot** which is closer than one hundred and fifty (150) feet to any **lot** in a residential zoning district or any **lot** occupied by a residential **use**.
- b. The facilities shall be completely enclosed by a fence having a minimum height of eight (8) feet above **grade**.
- c. Electric or gas regulator equipment and apparatus shall be set back a minimum of thirty (30) feet from all **lot lines**.

6. **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.
7. Funeral homes:
- a. Minimum **lot area** shall be one (1) acre and minimum **lot width** shall be one hundred and fifty (150) feet.
  - b. 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.
  - c. A caretaker's residence may be provided within the **main building**.
  - d. The **use** shall not be located on a street that is, in the judgment of the Planning Commission, primarily a residential street.
8. Gasoline Sales:
- 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**, or any land in the P zoning district, 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.
9. **Group day care homes:**
- a. The home and property shall be maintained in a manner consistent with the visible characteristics of the surrounding neighborhood.
  - b. A drop off/pick up area shall be provided for **vehicles** off the public street. Such area shall be arranged so as to allow entrance to the public street without backing of **vehicles** and so as to minimize conflicts between pedestrians and traffic.

*(Ordinance No. 320, Dated: December 20, 2010)*

10. **Hotels, motels:**

- a. Minimum **lot area** shall be one (1) acre and minimum **lot width** shall be one hundred and fifty (150) feet.
  - b. Where adjoining a residential zoning district or **use** or any land in the P zoning district, 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 shall be continuously maintained in good condition.
11. Indoor commercial recreation establishments:
- 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.
12. Marinas:
- a. There shall be no above ground storage of gasoline, fuel oil or other flammable liquids or gases.
  - 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-A or SFR-B zoning district.
  - c. Required parking facilities shall not be used for storage of boats or trailers for periods exceeding seventy-two (72) hours, from June 1 to September 10.
13. Restaurants, including **drive-through** 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.
  - b. Sufficient stacking capacity for the **drive-through** facility shall be provided to ensure that traffic does not extend into the public 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.
  - c. A minimum of three (3) parking spaces shall be placed beyond the pickup window to accommodate **vehicles** waiting for delivery of orders.
  - d. Where adjoining a residential zoning district or **use**, or any land in the P zoning district, 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.

14. Restaurants, not including **drive-through** 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.

15. Retail businesses, a portion of which is conducted in the open air:

- 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.

16. Tool and die machinery shops:

- a. All operations pertaining to tool and die machinery shops shall be conducted completely within an enclosed **building** and operated so as to keep noise from the operation from being audible outside the **building**.
- b. Loading docks or other large openings in the **building** shall not be located on a side abutting a residential **use** or zoning district.
- c. Access to such facilities shall be located so as to i) not unduly adversely affect any adjacent residential areas and ii) not be located on a street serving primarily residential areas.
- d. Where adjoining a residential zoning district or **use**, or any land in the P zoning district, a dense, evergreen vegetative buffer not less than six (6) feet in height at time of planting shall be installed. Such buffer shall be continuously maintained in good condition.

17. **Two-family dwellings:**

- a. No special land use approval shall be granted by the Planning Commission which results in a **lot** occupied by a **two-family dwelling** being located closer than two hundred and fifty (250) feet from another **lot** occupied by a **two-family dwelling** which is either located in a zoning district in which **two-family dwellings** are a special land use or which has been granted special land use approval.
  - b. Each **dwelling unit** shall be provided with an enclosed **garage** at least ten (10) feet by twenty (20) feet in dimensions.
18. **Vehicle repair or storage establishments:**
- a. Where adjoining a residential zoning district or **use**, or any land in the P zoning district, 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.
  - b. All repair work shall be conducted completely within an enclosed **building**.
  - c. 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. The fence, wall or **screen** shall be continuously maintained in good condition.
19. **Veterinary offices:**
- 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**, or any land in the P zoning district, 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 shall be continuously maintained in good condition.
20. **Wholesale Establishments and Warehouses:**
- a. The architectural features of the facility housing the special use shall conform with the character of **Buildings** on adjoining property.

- b. All operations pertaining to wholesale and warehouse facilities shall be conducted completely within an enclosed **Building** and operated so as to keep noise from the operation inaudible outside of the **Building**. Materials may be moved from one **Building** to another on site, but no work may be conducted in the open air.
  - c. Loading docks or other large openings in the **Building** shall not be located on a side abutting a residential zoning district or **use**.
  - d. Access to such facilities shall be located so as to i) not unduly adversely affect any adjacent residential areas, and ii) not be located on a street serving primarily residential areas.
  - e. Where adjoining a residential zoning district or **use**, or any land in the Public, Semi-Public zoning district, a dense evergreen vegetative buffer not less than six (6) feet in height at the time of planting shall be installed along any common **lot line**. The buffer shall be continuously maintained in good condition.
  - f. If a portion of the retail business is conducted in the open air, the requirements of Section 20.7 B (16) shall be complied with at all times.
21. Assembly operations consisting only of limited assembly, fastening and packaging or repackaging of previously manufactured components:
- a. The architectural features of the facility housing the special use shall conform with the character of **Buildings** on adjoining property.
  - b. All operations pertaining to limited assembly, fastening and packaging shall be conducted completely within an enclosed **Building** and operated so as to keep noise from the operation inaudible outside of the **Building**. Materials may be moved from one **Building** to another on site, but no work may be conducted in the open air.
  - c. Loading docks or other large openings in the **Building** shall not be located on a side abutting a residential zoning district or **use**.
  - d. Access to such facilities shall be located so as to i) not unduly adversely affect any adjacent residential areas, and ii) not be located on a street serving primarily residential areas.
  - e. Where adjoining a residential zoning district or **use**, or any land in the Public, Semi-Public zoning district, a dense evergreen vegetative buffer not less than six (6) feet in height at the time of planting shall be installed along any common **lot line**. The buffer shall be continuously maintained in good condition.

- f. Only limited assembly of previously manufactured components is permitted. There shall be no process employed to transform raw materials into components for assembly.
22. **Parking Lots:**
- All parking facilities shall comply with the parking facility design requirements contained in Section 18.6.
23. **Adult Day Care Facilities:**
- a. For the purpose 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) non-profit organization as a not-for-profit operation.
  - c. The number of participants is limited to 25 individuals at any one time.
  - d. Hours of operation shall be limited to a period beginning at 6:00 AM and concluding at 11:00 PM, seven days per week.
    - 1. 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 is required to 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 home-like atmosphere for the participants.
    - 1. The facility does not need to be owner occupied.
    - 2. The facility shall meet all ADA accessibility standards.
    - 4. 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), 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.
    - 5. Building setback requirements shall be as required in the SFR-A District (Section 16.5).
  - f. The home and property shall be maintained in a manner consistent with the visible characteristics of the surrounding residential neighborhood.
  - g. The minimum lot area shall be 20,000 square feet.

- h. Outdoor recreation areas shall be fenced.
- i. A drop off/pick up area shall be provided for vehicles off the public street. Such area shall be arranged so as to allow entrance to the public street without backing of vehicles and so as to minimize conflicts between pedestrians and traffic.
- j. Off-street parking shall be provided in the side or rear yard as follows:
  - 1. One parking space for each regular employee on the largest shift; plus
  - 2. One parking space for each vehicle operated by the facility; plus
  - 3. One parking space for every ten (10) participants or fraction thereof.
  - 4. Parking areas shall be set back 5 feet from all property lines and the setback area shall be landscaped to buffer adjacent properties from noise and headlights.
- k. All applicants must demonstrate that there will be adequately trained personnel to staff or manage the facility.
- l. The facility may have one non-illuminated wall sign not exceeding 20 square feet in area on the building wall facing the public street. One additional sign which meets the same requirements may be permitted over a major building entrance facing the parking lot.
- m. 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.
- n. Unless otherwise stated in this Chapter, all building additions, accessory buildings and major site changes require an amendment to the special use permit and site plan approval per the requirements of this Ordinance.
- o. Such facility shall meet the requirements of the Veterans Administration for adult day care facilities.

*(Ordinance No. 313, Dated: June 26, 2009)*

## 25. Community Support Facility

- a. The facility must be operated by a church or 501(c)(3) non-profit 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. The number of residents is limited to one family per dwelling unit.
  - 2. Each dwelling unit may be occupied by the same family for no longer than six (6) months in a twelve (12) month period.
  - 3. The organization shall provide details of their residency requirements to the Planning Commission as part of the Special Use Permit application.
- c. The facility is required to 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.
  - 1. Building setback and height shall be as required in the SFR-A District (Section 16.5).
  - 2. There may be no more than one principle structure per parcel.
- d. The home(s) and property shall be maintained in a manner consistent with the visible characteristics of the surrounding residential neighborhood.
- e. The housing units need not be owner occupied.
- f. Food and clothing distribution and similar services may occur only between the hours of 8:00 AM and 6:00 PM, Monday through Saturday.
- g. Delivery of food, clothing or other commodities to the facility by semi-trailer trucks is prohibited.
- h. Off-street parking shall be provided in the side or rear yard as follows:
  - 1. One parking space for each regular employee or volunteer on the largest shift; plus
  - 2. One parking space for each vehicle operated by the facility; plus
  - 3. One parking space for every dwelling unit; plus
  - 4. Five (5) spaces for the food and clothing distribution center or other non-residential use.
  - 5. Existing parking spaces in a garage or driveway may count toward the total number of spaces required.
  - 6. Parking areas shall be set back 5 feet from all property lines and the setback area shall be landscaped to buffer adjacent properties from noise and headlights

- i. 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. The Planning Commission may limit the signage to less than what is permitted in the P – Public, Semi-Public zoning district if they find that the proposed signs would have a negative impact on the surrounding neighborhood.
- j. 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.
- k. Unless otherwise stated in this Chapter, 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 Ordinance.
- l. Any Community Support Facility providing transitional housing shall comply with the provisions of the Rental Housing Ordinance; Chapter 18, Article VII of the Village Code of Ordinances.

*(Ordinance No. 318, Dated: February 1, 2010)*

# CHAPTER 21

## ZONING BOARD OF APPEALS

### **Section 21.1 CREATION AND MEMBERSHIP.**

There is hereby created a Zoning Board of Appeals, herein referred to as the “Board of Appeals,” the membership, powers and duties of which are prescribed in this Chapter.

### **Section 21.2 COMPOSITION.**

The Board of Appeals shall consist of five (5) members appointed by the Village Council. One member of the Village Council shall be appointed a member of the 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 members of the Board of Appeals serving in such position on the effective date of this Ordinance may continue their term and any alternates appointed in 1989 shall be appointed one (1) for a term of two (2) years, and one (1) for a term of three (3) years. The alternate members of the Board of Appeals may be called as specified herein, to sit as regular members of the Board of Appeals in the absence of a regular member, if a regular member is absent from or unable to attend two or more consecutive meetings of the Board of Appeals, or for a period of more than thirty (30) consecutive days. 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 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 Board of Appeals, and if there is no Chairman, by a majority of the Board of Appeals’ members then in attendance at a duly called meeting of the same, and the records maintained by the Clerk of the Board of Appeals shall reflect the attendance and participation of any such alternate member.

### **Section 21.3 JURISDICTION.**

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

1. To hear and decide appeals from and review any order, requirements, permit, decision or determination made by the Building Inspector, Zoning Administrator, or any other Village official in enforcing the provisions of this Ordinance. The 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.

2. To hear and decide matters referred to the Board of Appeals or upon which the Board of Appeals is required to pass under this Ordinance; and
3. If there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance in passing on an appeal, to vary or modify any of the rules or provisions of this Ordinance relating to the construction, or structural changes in, equipment, or alterations of **buildings** or **structures**, so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

#### **Section 21.4 GRANTING OF VARIANCES.**

No variance in the provisions or requirements of this Ordinance shall be authorized by the Zoning Board of Appeals unless it is found from the evidence that all of the following conditions exist:

1. 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.
2. 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.
3. That the granting of such variance will not be of substantial detriment to adjacent property or materially impair the intent and purposes of this Ordinance or the public interest.

#### **Section 21.5 APPLICATION AND HEARING PROCEDURES.**

- A. The following materials shall be filed with the Building Inspector before consideration of an appeal for variance or ruling by 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 non-refundable.
  3. A legal description of the property involved in the request.
  4. A site plan, drawn to scale, sufficient to show the nature and extent of the requested variance.

- B. The Building Inspector shall transmit to the Zoning Board of Appeals all of the application materials and other evidence relevant to the requested appeal. The Building Inspector shall take the actions necessary to place the appeal on the agenda of the Zoning Board of Appeals.
- C. Notice of the appeal shall be made in accordance with the procedures of the Zoning Act.
- D. Appellants for variances or other actions by the Zoning Board of Appeals 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 members of the 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 Board of Appeals is required to pass under a provision of this Ordinance, or to effect a variation from the requirements of this Ordinance.

**Section 21.6 CONDITIONS ON VARIANCE APPEALS.**

The Zoning Board of Appeals may impose conditions upon an affirmative decision as provided in the Zoning Act.

**Section 21.7 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:

1. The relevant administrative records and orders issued relating to the appeal.
2. The notice of the appeal.
3. Such documents, exhibits, photographs or written reports as may be submitted to the Zoning Board of Appeals for its consideration.
4. The Resolution of the Zoning Board of Appeals stating the conclusions of the Board relative to the appeal, the basis for the decision and any conditions imposed.

**Section 21.8 DECISIONS OF THE ZONING BOARD OF APPEALS.**

- A. The decision and orders of the Zoning Board of Appeals in disposing of the appeal shall be entered in the official record after they have been signed by the Chairman and after written notice of the disposition has been served either in person or by mail, upon the parties to the appeal, the Village Building Inspector and the Village Clerk. The Chairman shall sign the necessary orders to effectuate 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 (5) 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.

**Section 21.9 STAY OF PROCEEDINGS.**

An appeal to the Zoning Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals after notice of appeal shall have been filed that by reason of facts stated in the certificate a stay would, in his 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 Board of Appeals or by the Circuit Court on application, after notice to the Building Inspector.

**Section 21.10 APPEAL OF DECISIONS.**

The decision of the Zoning Board of Appeals shall be final, provided that the Board may, on its own motion or at the request of any interested party, at any time subsequent to a decision on an appeal, grant a rehearing. In such case, notice of the rehearing shall be given in accordance with the Zoning 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 Act.

**Section 21.11 LIMITATIONS ON POWERS OF THE ZONING BOARD OF APPEALS.**

The Zoning Board of Appeals shall not have the authority to hear appeals from decisions of the Village Council or Planning Commission concerning special land uses or **planned unit developments**.

## CHAPTER 22

### ADMINISTRATION AND ENFORCEMENT

#### Section 22.1 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 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.

#### Section 22.2 ZONING ORDINANCE AMENDMENTS, INITIATION.

- A. All applications for amendments to the Zoning Ordinance shall be submitted to the Zoning Administrator at least 30 days prior to the first consideration by the Village Planning Commission.
- B. Requests for amendments to the Zoning Ordinance may be initiated in writing by the owner of the property requested for rezoning, or his agent, the Planning Commission or the Village Council. In the case of an amendment requested by the owner of the property requested for rezoning, or his agent or designated representative, the request shall include the following:
  - 1. The name and address of the person making the request and of all persons having a legal or equitable interest in any land which is requested to be rezoned;
  - 2. The nature of, reason for and effect of the requested amendment;
  - 3. If the requested amendment would require a change in the zoning map, a full dimensioned map showing the land which would be affected by the requested amendment, a legal description of such land and the present zoning district of such land.

#### Section 22.3 AMENDMENT PROCEDURE.

After initiation, amendments to this Ordinance shall be considered as provided in the Zoning Act.

#### **Section 22.4 ZONING COMPLIANCE PERMITS.**

- 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 therefore. Issuance of such a certificate shall indicate that the **use** and plans for which the permit is requested comply with this Ordinance.
- 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 Ordinance, 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 Ordinance.
- 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 Ordinance, and is punishable as provided by Section 22.6. Any change in approved plans shall occur only as provided for in this Ordinance and shall require the issuance of an amended certificate of zoning compliance.

#### **Section 22.5 PERFORMANCE GUARANTEE.**

As a condition of approval of a site plan, special land use or **planned unit development**, the Planning Commission, or, in the case of a **planned unit development**, the **Council** may require a bond or other financial guarantee of sufficient sum to assure 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.

- A. 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 one hundred (100) percent 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 obliger, 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 obliger shall send written notice to the Village Clerk of completion of said improvements. 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.

The Council shall either approve, partially approve or reject the improvements. The Zoning Administrator shall notify the obliger in writing of the action of the **Council** within 30 days after receipt of the notice from the obliger of the completion of the improvements. Where partial approval is granted, the obliger 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 22.6 VIOLATIONS, ENFORCEMENT AND PENALTIES.**

### **A. Penalties**

Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than One Hundred (\$100) Dollars and the costs of prosecution, or shall be punished

by imprisonment in the county jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in discretion of the court, together with the costs of prosecution.

1. A separate offense shall be deemed committed upon each day during or when a violation of this Ordinance 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, or jail sentence, or both, shall not exempt the violator from compliance with the provisions of this Ordinance.
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 Ordinance 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 appearance tickets on any person with respect to any violation of this Ordinance when there is reasonable cause to believe that the person has committed such an offense. The Village, through its duly authorized attorney, may prosecute in a criminal proceeding any violation of this Ordinance. 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 Ordinance.

#### C. Rights and Remedies

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

### **Section 22.7 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 Ordinance.

### **Section 22.8 FEES.**

The Village Council shall periodically establish by resolution a zoning fee schedule, which shall specify those fees applicable to all permits, certificates, approvals, applications 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 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 therefor have been paid in full and payment of the required fee shall be a condition precedent to the validity of any permit, certificate or approval.



## CHAPTER 23

# WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS

### Section 23.1 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 23.2 PURPOSE AND GOALS.

- A. The purpose of this Chapter is to establish several guidelines for siting wireless communications **towers** and **antennas**. This Chapter'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 non-residential 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 Land Use Plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of **towers** and **antennas**.

### **Section 23.3 DEFINITIONS.**

A. 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**.

B. 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.

C. FAA

The Federal Aviation Administration.

D. FCC

The Federal Communications Commission.

E. 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**.

F. 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.

G. 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 Chapter, 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.

#### H. Tower

Any **structure** that is designed and constructed primarily for the purpose of supporting one (1) 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 23.4 APPLICABILITY.

#### A. New **Towers** and **Antennas**

All new **towers** and new **antennas** in the Village shall be subject to this Chapter, except as otherwise provided in this Section.

#### B. Amateur Radio Station Operators/Receive Only **Antennas**; Television **Antennas**

This Chapter shall not govern any **tower**, or the installation of any **antenna**, that is under seventy (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 Chapter, other than the requirements of Section 23.5 (F) and 23.5 (G), of this Chapter, and the general requirements of this Ordinance concerning preexisting **structures** (i.e., Section 3.18).

### Section 23.5 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 (1) 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 Chapter shall bring such **towers** and **antennas** into compliance with such revised and applicable standards and regulations within six (6) 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 Chapter. 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.

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 Ordinance.

## **Section 23.6 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.

### B. Permitted Uses

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 thirty (30) feet in **height** and located upon legally-existing lattice electric transmission **towers** are permitted uses.

## **Section 23.7 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 23.6 of this Chapter, 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 Zoning Ordinance for specified uses, except as modified in this Section.
3. 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.
4. 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 Zoning Ordinance:

- (i) 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); Land Use Plan classification of the site and all properties within the applicable separation distances set forth in Section 23.7(B)(6); adjacent roadways; 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 Chapter.
- (ii) 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**.
- (iii) The **setback** distance between the proposed **tower** or **antenna** and the nearest dwelling, platted residentially zoned properties, and unplatted residentially zoned properties.
- (iv) The separation distance from other **towers** or **antennas** described in the inventory of existing sites submitted pursuant to Section 23.5(C), the type of construction of those existing **towers** or **antennas**, and the owners/operators of those existing **towers** and **antennas**, if known.
- (v) A landscape plan showing specific landscape materials.
- (vi) Method of fencing, finished color and, if applicable, the method of camouflage and illumination.
- (vii) A description of compliance with the requirements of this Chapter, and of all applicable federal, state, county or Village laws, rules, regulations and ordinances.
- (viii) A notarized statement by the applicant for a **tower**, indicating if the **tower** will accommodate collocation of additional **antennas** for future users.
- (ix) 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**.

- (x) 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 Zoning Ordinance 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 Chapter:

- (i) **Height** of the proposed **tower** or **antenna**;
- (ii) Proximity of the proposed **tower** or **antenna** to residential **structures** and residential district boundaries;
- (iii) Nature of uses on adjacent and nearby properties;
- (iv) Surrounding topography;
- (v) Surrounding tree coverage and foliage;
- (vi) Design of the proposed **tower** or **antenna**, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (vii) Proposed ingress and egress to the proposed **tower** or **antenna**;
- (viii) 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;
- (ix) The effect of the proposed **tower** or **antenna** on the conforming properties and the surrounding neighborhood; and
- (x) 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.

- (i) 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 any industrial or heavy commercial zoning district.
- (ii) The Village encourages the location of **antennas** on existing **structures** or **towers** consistent with the terms of subsections (a) and (b) below.
  - (a) The Village encourages **antennas** on existing **structures** which are not **towers**, as an **accessory use** to any commercial, industrial, professional, institutional, or multi-family **structure** of eight or more **dwelling units**, provided the **antenna** does not extend more than thirty (30) feet above the highest point of the **structure**;
  - (b) The Village encourages **antennas** on existing **towers**, provided that:
    - (i) A **tower** which is modified or reconstructed to accommodate the collocation of one or more additional **antennas** shall be of the same **tower** type as the existing **tower** or a monopole.
    - (ii) A **tower** which is modified or reconstructed to accommodate the collocation of an additional **antenna** may be modified or rebuilt to a taller **height**, not more than once per **tower** and not to exceed thirty (30) feet over the **tower's** existing **height** (this additional **height** shall not require an additional distance separation per Section 23.7 (B)(6)).
    - (iii) The Village encourages the location of new **towers** in non-residential 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 ninety (90) feet in **height** if for a single user, no more than one hundred twenty (120) feet in **height** if for two (2) users, and no more than one hundred fifty (150) feet in **height** if for three (3) 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:

- (i) 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.
- (ii) 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.
- (iii) 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.
- (iv) 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.
- (v) The applicant could demonstrate that the costs to collocate an antenna exceed the costs of erecting a new **tower** or antenna.
- (vi) The applicant could demonstrate that there are other limiting factors that render existing **towers, antennas, alternative tower structures**, and other **structures** unsuitable.
- (vii) 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:

- (i) **Towers** must be set back a distance equal to at least seventy-five percent (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**.
- (ii) 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:

- (i) 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 off-site uses or designated areas, pursuant to a site plan of the proposed **tower**.

- (a) Separation requirements for **towers** shall comply with the minimum standards (listed in linear feet) established in Table 1.

Table 1:

Off-Site Use/Designated Area	Separation Distance <sup>3</sup>
<b>Single-family or two-family dwelling units<sup>1</sup>:</b>	200 feet or three times the <b>height</b> of the <b>tower</b> , 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 three times the <b>height</b> of the <b>tower</b> , whichever is greater.
Other unimproved residentially zoned lands <sup>3</sup> :	100 feet or the <b>height</b> of the <b>tower</b> , whichever is greater.
Existing <b>multiple-family dwelling units</b> :	100 feet or the <b>height</b> of the <b>tower</b> , whichever is greater.
Non-residentially zoned lands or non-residential uses, if not covered by any of the above categories:	None; only <b>setbacks</b> established by this Ordinance apply.

<sup>1</sup> includes modular homes and **mobile homes** used for living purposes.

<sup>2</sup> Separation measured from base of **tower** to closest **building setback** line.

<sup>3</sup> Includes any unplatted residentially zoned properties without a preliminary subdivision plan or development approval, and any “Multiple-Family Residential” Zoning District land.

- (ii) Separation distances between **towers**

- (a) 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**.

- (b) Separation distances between **towers** shall comply with the minimum distances (listed in linear feet) established in Table 2.

Table 2:

**Existing Towers – Types**

Proposed <b>Tower</b>	Lattice	Guyed	Monopole 75 Feet in <b>Height</b> or Greater	Monopole Less than 75 Feet in <b>Height</b>
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Feet in <b>Height</b> or Greater	1,500	1,500	1,500	750
Monopole Less than 75 Feet in <b>Height</b>	750	750	750	750

7. Security Fencing

**Towers** for which a special use permit is required shall be enclosed by security fencing not less than six (6) feet in **height**. The **towers** shall also be equipped with appropriate anti-climbing devices.

8. 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.

- (i) **Tower** facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the **tower** compound from property then used for dwellings, one-family or multi-family, or included in a residential zoning district. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
- (ii) 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.

### **Section 23.8      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 non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

### **Section 23.9      REMOVAL OF ABANDONED ANTENNAS AND TOWERS.**

Notwithstanding anything to the contrary elsewhere in this Zoning Ordinance, any antenna or **tower** that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or **tower** shall remove the same within ninety (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 ninety (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 there are two (2) or more users of a single **tower**, then this provision shall not become effective until all users cease using the **tower**.

### **Section 23.10      EXPANSION OF NONCONFORMING USE.**

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



# CHAPTER 24

## PRIVATE ROADS

### **Section 24.1      PURPOSE.**

The regulations in this chapter 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 24.2      EFFECT.**

- A. This chapter shall apply to all private roads constructed from and after the effective date of this chapter, except as otherwise provided in this chapter.
- B. Private roads existing before the effective date of this chapter 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 24.3      DEFINITIONS.**

The following definitions shall apply to the interpretation of the regulations in this chapter.

- A. "Drain commissioner" means the Ottawa County Drain Commissioner.
- B. "Private road" means any privately owned, improved and maintained roadway, path or trail which provides primary means of ingress and egress from a public right-of-way for more than one parcel.
- C. "Road Authority" means the Village of Spring Lake Zoning Administrator or current agency in charge of the roads within the Village.

- D. "Current Fire and Safety Standards" means the current fire and safety standards as adopted from time to time by the Village Council.
- E. "Lateral crown" means 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.
- F. "Clear and passable" means that the area is free of roots, brush, shrubs, trees, debris or any other obstruction.
- G. "Fire Chief" means the chief officer of the fire department serving the jurisdiction, or a duly authorized representative.

#### **Section 24.4 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 chapter.
- D. **Stormwater.** The private road shall be constructed with a storm water run-off 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 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 24.5 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 chapter.
- 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 chapter; and
  4. Twelve (12) 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 public street(s)/road(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 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 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 storm water management plan for water runoff from the private road.

**Section 24.6 REVIEW AND APPROVAL PROCEDURE.**

- A. Application for private road construction permits shall be subject to the procedures applicable to site plan approval outlined in Chapter 19 of the Spring Lake Village Zoning Ordinance.
- B. Applicable fees shall be paid when a completed application is presented for a private road permit.

**Section 24.7 MAINTENANCE AND REPAIRS.**

- A. Private roads shall be maintained in a manner that complies with the provisions of this chapter.
- 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 chapter.

**Section 24.8 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 24.9 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. **Non-interference 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 from any liability whatsoever arising from the purchasing, planning, constructing, inspecting, repairing, maintaining, using and dedicating of the private road.

#### **Section 24.10 CERTIFICATE OF COMPLIANCE.**

Upon completion of construction of the private road, the permit holder shall provide the building inspector 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.

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.

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 24.11 FEES.**

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

**Section 24.12 BUILDING PERMITS FOR PARCELS ON PRIVATE.**

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 24.13 APPROVED BY THE 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 24.14 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 chapter.
- 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 chapter.
- D. The performance guarantee shall be processed in accordance with the requirements of this chapter, and in accordance with the requirements of the Spring Lake Village Zoning Ordinance, including the requirement for periodic rebates of the performance guarantee as portions of the construction of the private road are completed.

**Section 24.15 MISCELLANEOUS PROVISIONS.**

For purposes of this chapter, 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 centerline of the public road that the private road touches to the end of the private road.
- B. All private roads are subject to periodic inspection by the fire department in order to ensure that the road is being properly maintained according to current fire and safety standards.
- C. 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.
- D. This chapter shall apply to all private roads which are constructed after the effective date of this chapter, and to all private roads lawfully existing at the time of the effective date of this chapter if they are subsequently improved, extended, or expanded to serve a greater number of parcels.
- E. These regulations replace in their entirety any other regulations applicable to the construction of private roads in the Village.
- F. 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 chapter 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.
- G. 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 24.16 STANDARDS AND REQUIREMENTS FOR PRIVATE ROADS.**

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

- A. **Less than seven parcels served.** Private roads which serve more than one and less than seven parcels shall have the following minimum improvements.
  - 1. A subbase of granular material (MDOT Class II) which is at least 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 33 feet for the entire length.
4. The minimum width of both the subbase and the aggregate base course shall be at least 14 feet for the entire length of the road.
5. The road shall have a vertical clearance of at least 13 feet and six inches for its entire length.
6. Roads which are at least 400 feet but less than 600 feet in length shall provide a passing lane 20 feet wide and 60 feet in length. Roads which are at least 600 feet but less than 800 feet in length will provide two such passing lanes. Private roads greater than 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 10 percent.
8. The minimum width of the aggregate base course and an additional two feet on each side must be clear, passable and maintained.
9. The private road shall have a minimum lateral crown of two percent and a maximum lateral crown of seven 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 public street for the benefit of the owners and users of the parcels 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 parcels 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 chapter.
12. Any private road with less than seven parcels which was developed or approved in conjunction with a development with seven or more parcels must follow the standards of section 24.16 (B).

13. The design layout, including but not limited to radius of turns and cul-de-sacs, shall be reviewed by the fire department to ensure that emergency equipment can readily traverse the 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 public road under the jurisdiction of the Road Authority.

**B. Commercial zone or more than six parcels serviced.** Private roads which are in a commercial zone or which serve seven or more parcels shall have the following minimum improvements, or meet current Road Authority standards, whichever are more stringent.

1. A sub-base of granular material (MDOT Class II) which is at least 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 66 feet for the entire length. Private roads using an approved curb and gutter drainage system shall be at least 50 feet right-of-way in width for the entire length, plus the curb and gutter.
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 Road Authority for public residential roads, 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 road shall have a vertical clearance of at least 13 feet and six inches for its entire length.
6. The minimum width of the aggregate base course and an additional two feet on each side must be clear, passable and maintained.
7. The private road shall have a minimum lateral crown of two percent and a maximum lateral crown of seven 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 parcels

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 parcels 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 chapter.
  10. The design layout, including but not limited to radius of turns and cul-de-sacs, shall be reviewed by the Village fire department to ensure that the Village's equipment can readily traverse the 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 public road under the jurisdiction of the Road Authority.
- C. Maximum separation. A private road right-of-way which intersects a public road right-of-way shall have a minimum separation from any other private road right-of-way and any other public road right-of-way equal to what the Road Authority would require as a minimum separation between two public roads.

# CHAPTER 25

## WIND ENERGY TURBINES (WETS)

### Section 25.1 PURPOSE

- A. The purpose of this Section is to establish guidelines for siting **Wind Energy Turbines (WETs)**. The goals are as follows:
1. To promote the safe, effective, and efficient use of a **WET** in order to reduce the consumption of fossil fuels in producing electricity.
  2. To preserve and protect public health, safety, welfare, and quality of life by minimizing the potential adverse impacts of a **WET**.
  3. To establish standards and procedures by which the siting, design, engineering, installation, operation, and maintenance of a **WET** shall be governed.

### Section 25.2 DEFINITIONS

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

A. **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, lawnmowers, human activity, and the interaction of wind with the landscape. The ambient sound level is measured on the dB(A) weighted scaled as defined by the American National Standards Institute.

B. **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.

C. **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.

D. **Decommissioning**

The process of terminating operation and completely removing a **Wind Energy Turbine (WET)** and all related **buildings, structures**, foundations, access roads, and equipment.

E. **Medium Wind Energy Turbines (MWET)**

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 **MWET** has a nameplate capacity that does not exceed two hundred fifty (250) kilowatts. The **total height** does not exceed one hundred fifty (150) feet.

F. **Nacelle**

The encasement which houses all of the generating components, gear box, drive tram, and other equipment in a **Wind Energy Turbine (WET)**.

G. **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.

H. **Occupied Building**

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

I. **Operator, WET**

The entity responsible for the day-to-day operation and maintenance of a **Wind Energy Turbine (WET)**.

J. **Owner, WET**

The individual or entity, including their respective successors and assigns, with equity interest in or ownership of a **Wind Energy Turbine (WET)**.

K. **Rotor Diameter**

The cross-sectional dimension of the circle swept by the rotating blades of a **Wind Energy Turbine (WET)**.

L. **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, antennae, and other similar protuberances.

- M. **Shadow Flicker** is 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.
- N. **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.
- O. **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 watertower 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.
- P. **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)**.
- Q. **Tower**  
As used in this Section, a freestanding monopole that supports a **Wind Energy Turbine (WET)**.
- R. **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.
- S. **Wind Energy Turbine (WET)**  
Any **Structure**-mounted, small, medium, or large 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 25.3 APPLICABILITY**

- A. This Section shall apply to the following:
1. This Section applies to all **WETs** proposed to be constructed after the effective date of this Section.
  2. **Upwind Turbines** shall be required.

3. 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 Ordinance unless appropriate Village permits have been issued to the **WET Owner(s)** or **WET Operator(s)**.
4. All **WETs** constructed prior to the effective date of this Section shall not be required to meet the requirements of this Section; however, any physical modification to an existing **WET** that materially alters the size, type, equipment or location shall require a permit under this Ordinance, in compliance with the standards of this Section.
5. Medium Wind Energy Turbines (**MWETs**) shall be prohibited in all zoning districts within the Village.

#### **Section 25.4 SITING AND DESIGN**

- A. All **SSMWETs** and **STMWETs** must be sited and designed in accordance with the following:
  1. Visual Appearance:
    - a. A **SSMWET** or **STMWET**, including **accessory buildings** and related **structures** shall be a solid, non-reflective, non-obtrusive 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**.
    - b. 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.
    - c. **SSMWET** or **STMWET** shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer.
  2. 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**.
  3. Noise Control:

- a. 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 PM and 9:00 AM along any adjacent property line used for such purposes.
  - b. 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 PM and 9:00 AM on the parcel, plus 5 **Decibels** dB(A).
4. **Vibration:** Vibrations shall not be produced which are humanly perceptible beyond the property on which the **SSMWET** or **STMWET** is located.
5. **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 sun-set 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.
6. **Guy Wires:** Guy wires shall not be permitted as part of the **SSMWET** or **STMWET**.
7. **Height:** The **total height** of a **SSMWET** shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances. The **total height** of a **STMWET** shall not exceed one hundred twenty (120) feet.
8. **Setback:** The **setback** for a **SSMWET** shall be a minimum of fifteen (15) feet from the **lot line**, public or private street, or overhead utility lines. The **setback** shall be measured from the furthest 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 setback 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.
9. **Separation:** If more than one (1) **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**.

10. Location: The **SSMWET** shall not be affixed to the wall on the side of a **structure** facing a public or private street. 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**.
11. Quantity: No more than three (3) **SSMWETs** shall be installed on any **lot** of residentially zoned or used property. The Planning Commission may allow more **SSMWETs** on commercially or industrially zoned properties if appropriate. No more than one (1) **STMWET** shall be installed on any residentially zoned or used property. The Planning Commission may allow more **STMWETs** on commercially or industrially zoned or used properties 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 (3) **SSMWETs**, or one (1) **STMWET** shall be allowed on any single lot of residentially zoned or used property, unless specifically approved by the Planning Commission.
12. 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.
13. **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:
  - a. The construction, installation, or modification of an **anemometer tower** shall require a Zoning Permit 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.
  - b. 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 25.5 ZONING PERMIT APPLICATION REQUIREMENTS

- A. In addition to the standard information required on a Zoning Permit Application form, applications for **SSMWETs** and **STMWETs** shall also include the following information/documentation:

1. A site plan (drawn to scale) showing the proposed location of all components and ancillary equipment of the **SSMWET**(s) 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, non-motorized 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**.
2. The proposed number, type, and **total height** of **SSMWET**(s) 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.
3. Documented compliance with the noise requirements set forth in this Ordinance.
4. 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.
5. Evidence that the utility company has been informed of 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.
6. 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.
7. 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.
8. Other relevant information as may be reasonably requested by the Village.

## **Section 25.6 SAFETY REQUIREMENTS**

- A. All **SSMWET**s and **STMWET**s must be designed to meet the following safety requirements:
  1. 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.

2. 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.
3. A clearly visible warning **sign** regarding voltage shall be placed at the base of the **SSMWET** or **STMWET**.
4. The structural integrity of the **SSMWET** or **STMWET** shall conform to the design standards of the International Electrical Commission, specifically IEC 61400-1, "Wind Turbine Safety and Design" or IEC 61400-2, "Small Wind Turbine Safety," IEC 61400-22, "Wind Turbine Certification," and IEC 61400-23, "Blade Structural Testing," or any similar successor standards.

### **Section 25.7 DECOMMISSIONING**

- A. Any **SSMWET** or **STMWET** that is to be decommissioned shall be done so in accordance with the following requirements:
  1. 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)**.
  2. 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. 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.
  3. In addition to the **decommissioning** Requirements listed previously, the **STMWET** shall also be subject to the following:
    - a. **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.

- b. 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.

### **Section 25.8 PUBLIC INQUIRIES AND COMPLAINTS**

- A. Should an aggrieved property owner allege that the **SSMWET** or **STMWET** is not in compliance with the noise requirements of this Ordinance, the procedure shall be as follows:

1. Noise Complaint:

- a. Notify the Village in writing regarding concerns about noise level.
- b. 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.
- c. If the test indicates that the noise level is within Ordinance noise requirements, the Village will use the deposit to pay for the test.
- d. 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.
- e. 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 and/or to become a lien against the property. If the **WET Owner(s)** fails to reimburse the Village for the noise level test the cost will become a lien against the property.

*(Ordinance No. 315, Dated October 12, 2009)*