

ZONING ORDINANCE

Village of Shoreham

County of Berrien, State of Michigan

May, 2017

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**VILLAGE OF SHOREHAM
COUNTY OF BERRIEN, STATE OF MICHIGAN
ZONING ORDINANCE OF 2017**

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE VILLAGE OF SHOREHAM AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF THE MICHIGAN ZONING ENABLING ACT (ACT 110 OF 2006), AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, the Michigan Zoning Enabling Act empowers the Village to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Village Council deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the Village to enact such an ordinance, and

WHEREAS, the Village Council has studied the Village and is prepared to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Village Council has divided the municipality into districts and has prepared regulations to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, and

WHEREAS, the Village Council has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Village, and

WHEREAS, the Village Council has submitted its report to the Village residents, and

WHEREAS, the Village Council has given due public notice of hearings, related to zoning districts, regulations, and restrictions, and has held such public hearings, and

WHEREAS, all requirements of the Michigan Zoning Enabling Act with regard to the preparation of this ordinance and subsequent action of the legislative body have been met;

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE VILLAGE OF SHOREHAM, MICHIGAN:

ZONING ORDINANCE – Village of Shoreham

State Law References: Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*

Article I. In General

- Sec. 1. Intent and purpose of Ordinance
- Sec. 2. Definitions
- Sec. 3. Conformance to Court Decree
- Sec. 4. Captions
- Sec. 5. Violations and Penalties
- Sec. 6. Repeal of Ordinance
- Sec. 7. Pending Applications
- Sec. 8. Validity and Severability Clause
- Sec. 9. Period of Effectiveness
- Secs. 10-30. Reserved

Article II. Administration and Enforcement

Division 1. Generally

- Sec. 31. Administrative officer
- Sec. 32. Building permits
- Sec. 33. Certificate of occupancy for new construction and uses
- Sec. 34. Certificate of occupancy for nonconforming uses
- Sec. 35. Fees
- Secs. 36-60. Reserved

Division 2. Nonconforming Lots, Uses and Structures

- Sec. 61. Intent; work under existing permits
- Sec. 62. Nonconforming lot area or dimensions
- Sec. 63. Nonconforming uses of land or land with minor structures only
- Sec. 64. Nonconforming structures
- Sec. 65. Nonconforming uses of structures or of structures and premises in combination
- Sec. 66. Repair and maintenance
- Sec. 67. Uses under special use provisions are not nonconforming uses
- Sec. 68. Certificate of occupancy
- Sec. 69. Change of tenancy, ownership or management
- Secs. 70-90. Reserved

Division 3. Amendments

- Sec. 91. Generally
- Sec. 92. Initiation
- Sec. 93. Contents
- Sec. 94. Filing and processing of application
- Sec. 95. Public hearing; procedure for adoption

- Sec. 96. Notice of adoption
- Sec. 97. Filing in ordinance book; change of Official Zoning Map
- Secs. 98-120. Reserved

Division 4. Special Uses

- Sec. 121. Authorized
- Sec. 122. General procedure and prerequisites for approval
- Sec. 123. Initiation of application
- Sec. 124. Contents and processing of application
- Sec. 125. Public hearing
- Sec. 126. Review and approval of application and site plan
- Sec. 127. Issuance of permit; monitoring of compliance
- Sec. 128. Appeals; records
- Sec. 129. Standards for approval; conditions; performance guarantee
- Sec. 130. Effective date of permit; use of permit
- Sec. 131. Effect of change of ownership; periodic review of permit
- Sec. 132. Compliance with use requirements
- Sec. 133. Uses under special use permit deemed permitted use
- Secs. 134-150. Reserved

Division 5. Site Plans

- Sec. 151. Site Plan Review
- Sec. 152. Optional Sketch Plan Review
- Sec. 153. Required Data for a Basic Site Plan
- Sec. 154. Required Data for a Medium Site Plan
- Sec. 155. Required Data for a Detailed Site Plan
- Sec. 156. Required Data for a site plan involving special groundwater protection provisions
- Sec. 156. Submission of a Site Plan
- Sec. 157. Review for Completeness
- Sec. 158. Standards for Site Plan Review
- Sec. 159. Approval and Compliance
- Sec. 160. Conditions of Site Plan Approval
- Sec. 161. Security Requirement
- Sec. 162. File Copies
- Sec. 163. Zoning Permits
- Sec. 164. Amendment of Site Plan
- Secs. 165-190. Reserved

Division 6. Village Zoning Board of Appeals; Appeals and Variances

- Sec. 191. Established; membership; meetings
- Sec. 192. Powers and duties
- Sec. 193. Appeals to the Village Zoning Board of Appeals
- Secs. 194-220. Reserved

Article III. Zoning Districts Established; Zoning Map

- Sec. 221. Districts established
- Sec. 222. Official Zoning Map
- Sec. 223. Interpretation of district boundaries
- Sec. 224. Zoning of streets, waterways and railroad rights-of-way
- Secs. 225-250. Reserved

Article IV. Zoning District Regulations

- Sec. 251. R-1 Estate Residential District
- Sec. 252. R-2 Suburban Residential District
- Sec. 253. R-3 Multi-family Residential District
- Sec. 254. B-1 Limited Local Commercial District
- Sec. 255. C-1 Conservancy District
- Sec. 256. F-1 Floodplain Overlay District
- Secs. 257-290. Reserved
- Table of Permitted Uses

Article V. Planned Unit Development

Division 1. Generally

- Sec. 291. Purpose
- Sec. 292. Basic provisions and requirements
- Sec. 293. Procedure for approval
- Sec. 294. Contents of petition
- Sec. 295. Construction of improvements; deposit or bond for estimated cost of improvements
- Sec. 296. Street classifications and specifications
- Secs. 297-320. Reserved

Division 2. Standards

- Sec. 321. Compliance
- Sec. 322. General standards
- Sec. 323. Residential uses
- Sec. 324. Business uses
- Secs. 325-350. Reserved

Article VI. Supplemental District Regulations

- Sec. 351. Scope of district regulations
- Sec. 352. Use and bulk regulations
- Sec. 353. Lot coverage
- Sec. 354. Access to public streets
- Sec. 355. Number of buildings on lot
- Sec. 356. Rezoning of public and semipublic areas
- Sec. 357. Accessory buildings
- Sec. 358. Temporary buildings for construction purposes
- Sec. 359. Home occupations

- Sec. 360. Existing special uses
- Sec. 361. Uses not specifically permitted
- Sec. 362. Swimming Pools
- Sec. 363. Screening and Landscaping
- Secs. 364-390. Reserved

Article VII. Off-Street Parking and Loading

- Sec. 391. Purpose of article
- Sec. 392. General provisions
- Sec. 393. Design, maintenance and use of parking facilities
- Sec. 394. Location of parking facilities
- Sec. 395. Schedule of parking requirements
- Sec. 396. Off-street loading facilities
- Secs. 397-420. Reserved

Article VIII. Signs

- Sec. 421. Purpose and intent of article
- Sec. 422. Reserved
- Sec. 423. Off-premises signs
- Sec. 424. Blocking accessway or window; attaching sign to tree or utility pole
- Sec. 425. Permitted signs generally
- Sec. 426. Signs permitted in all districts
- Sec. 427. Residential districts
- Sec. 428. Business districts
- Secs. 429-430. Reserved
- Sec. 431. Exemptions from permit requirement
- Secs. 432-460. Reserved

Article IX. Wireless Communications Support Structures

- Sec. 461. Purpose of article
- Sec. 462. Reserved
- Sec. 463. Special use permit required; application
- Sec. 464. Public hearing on special use permit
- Sec. 465. Standards for approval of special use permit
- Sec. 466. Notice of denial of special use permit
- Sec. 467. Design and performance standards
- Sec. 468. Abandonment

ARTICLE I.

IN GENERAL

Sec. 1. Intent and purpose of Ordinance.

1. Title. The Shoreham Village Zoning Ordinance shall be known as the "Shoreham Village Zoning Ordinance" hereinafter called the "Ordinance."
2. Legal Basis. This Ordinance is enacted pursuant to the Michigan Zoning Enabling Act (MCL 125.3101 *et seq.*), hereinafter referred to as the "Zoning Act."
3. Effective Date. This Ordinance was adopted by the Village Council of the Village of Shoreham, Berrien County, Michigan, at a meeting held on May 10, 2017 and a notice of publication ordered published in the Herald-Palladium, a newspaper having general circulation in said Village, as required by the Zoning Act.
4. Scope. This Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of deed restrictions; subdivision regulations; private restrictions placed upon property by covenants; condominium rules, ownership association rules, or ordinances, laws, regulations of any federal, state or county agency. When this Ordinance has more restrictive regulations, limitations or requirements, then this Ordinance shall control. The Village Zoning Administrator shall not be engaged in the enforcement of deed restrictions or private restrictions placed upon property by covenants.

Sec. 2. Definitions.

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The phrase "used for" includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

Abandonment means any action or inaction indicating intent to give up one's right or interest in property or intention to give up a particular use of such property.

Accessory building, structure, or use.

1. An accessory building, structure, or use is one which:
 - A. Is subordinate to and serves a principal use;
 - B. Is subordinate in area, extent or purpose to the principal use served;
 - C. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served; and

- D. Is located on the same zoning lot as the principal building or principal use served, with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.
2. An accessory use includes but is not limited to the following:
- A. A children's playhouse, garden house and private greenhouse.
 - B. A shed, garage or building for domestic storage.
 - C. Incinerators incidental to residential use.
 - D. Storage of merchandise normally carried in stock on the same lot with any retail service or business use, unless such storage is excluded by the district regulations.
 - E. A swimming pool, private, for use by the occupant and guests.
 - F. Off-street motorcar parking areas, and loading facilities.
 - G. Signs (other than advertising signs) as permitted and regulated in each district incorporated in this Ordinance.
 - H. Carports.
 - I. Public utility facilities, telephone, electric, gas, water and sewer lines, their supports and incidental equipment, unless such use is excluded by the district regulations.

Alteration, structural, means any change which would tend to prolong or to alter the life of or alter or change or remove the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

Animal hospital means any building or portion thereof designed or used for the care, observation or treatment of household domestic animals.

Apartment means a room or suite of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities (sink, stove, refrigerator and storage facilities) and necessary sanitary facilities must always be included for each apartment.

Apartment hotel. See *Hotel, apartment*.

Auditorium means a room, hall or building, made a part of a church, theater, school, recreation building or other building, assigned to the gathering of people as an audience to hear lectures, plays and other presentations.

Automobile and trailer sales area means an open area other than a street used for the display or sale of new or used automobiles or trailers, where no repair work is done except for minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

Automobile laundry, automatic, means a building or portion thereof containing facilities for washing automobiles by line methods with a chain conveyor, blower device or other mechanical devices.

Automobile laundry, self-service, means a building or portion thereof containing facilities for washing automobiles using self-service mechanical devices.

Automobile repair means incidental repair, replacement of parts and motor service to automobiles, engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service, including body, frame or fender straightening or repair, and painting of vehicles.

Automobile service station means buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and cold drinks, packaged foods, tobacco and other similar convenience goods for service station customers may be provided as accessory and incidental to the principal operation. Other incidental services, including minor automobile repair and automobile washing and polishing where no chain conveyor, blower or steam cleaning devices are employed, may be provided. Automobile service stations shall not include sale or storage of automobiles or trailers (new or used) or major automobile repairs.

Automobile wrecking yard means any place where one or more motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof, including the commercial salvaging of any other goods, articles or merchandise. The term also includes any motor vehicle stored by mounting on blocks or any other means for more than 30 days.

Awning means a roof-like cover, temporary in nature, which projects from the wall of a building or overhangs the public way.

Bank and financial institution mean commercial banks, currency exchanges, savings and loan associations, brokerage offices and other similar financial institutions, not including loan offices, finance companies and pawnshops.

Basement means a story partly or wholly underground. Where more than one-half of its height is above the established curb level, or above the average level of the adjoining ground where the curb level has not been established, a basement shall be counted as a story for the purpose of height measurement.

Beach means that portion of the shoreline of Lake Michigan, or any manmade watercourse, both above and below the high-water line, which is sanded, pebbled or graveled and used for activities normally associated with shorefront properties.

Bed and Breakfast. A use which is subordinate to the principal use of a dwelling unit, as a single-family dwelling, and a use in which transient guests are provided a sleeping room in return for payment. In addition, a continental breakfast may be provided, limited to coffee, tea, juice, milk, and commercially prepared sweet rolls or other commercially prepared items.

Bedroom. Any room other than a living room, family room, dining room, kitchen, bathroom or utility room shall be considered a bedroom.

Block means a tract of land bounded by streets, or in lieu of streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shorelines of waterways or corporate boundary lines of municipalities.

Bluffline. The edge or crest of the elevated segment of the shoreline above the beach or beach terrace, which may be subjected to wave attack and normally presents a precipitous front and inclines steeply on the water side.

Boardinghouse (including Bed and Breakfast) means a building other than a hotel or restaurant where meals are provided for compensation to three but not more than 12 persons who are not members of the keeper's family.

Boathouse means any structure designed for the purpose of protecting or storing of boats used in conjunction with a residence for noncommercial purposes, and located on the same lot as the principal building and not for human habitation.

Borrow pit means any place or premises where dirt, soil, gravel or other material is removed by excavation or otherwise below the grade of surrounding land for any purpose other than that necessary and incidental to grading or to building construction or operations on the premises.

Buildable area means the space remaining on a zoning lot after the minimum open space requirements have been complied with.

Building means a structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure or modular home, built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land.

Building, detached, means a building surrounded by open space on the same building lot.

Building height means the vertical distance measured from the sidewalk level or its equivalent established grade opposite the middle of the front of the building to the highest elevation of the roof in the case of a slant or flat roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that, where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building. Height limitations do not apply to spires, belfries, decorative cupolas, antennas, ventilators, chimneys, or other appurtenances usually required to be placed above the roof line and not intended for human occupancy.

Building line means the line nearest the front of and across a zoning lot, establishing the minimum open space to be provided between the front line of a building or structure and the street right-of-way line.

Building, nonconforming, means any building which does not conform to the regulations in this Ordinance prescribing the required yards, coverage, height and setbacks and minimum required usable open space for the district in which the building is located.

Building permit means a permit issued by the Village Zoning Administrator for the construction, alteration, removal or demolition of a building or structure within the Village.

Building, principal, means a non-accessory building in which the principal use of the zoning lot on which it is located is conducted.

Building, temporary, means any building not designated to be permanently located in the place where it is, or where it is intended to be, placed or affixed.

Bulk is a term used to indicate the size and setbacks of buildings or structures and location of buildings or structures with respect to one another, and includes the following:

1. Size and height of buildings.
2. Location of exterior walls at all levels in relation to lot lines, streets, or other buildings.
3. All open spaces allocated to the building.
4. Amount of lot area per dwelling unit.
5. Required parking areas.

Bus lot means any lot or land area used for the storage or layover of passenger buses, school buses, or motor coaches.

Business and professional office means the office of an engineer, doctor, dentist, attorney, real estate broker, insurance broker, architect, or other similar professional person and any office used primarily for accounting, correspondence, research, editing or administration.

Carport means a roofed-over area, attached to and/or detached from the principal building, for vehicle storage, which may be open on three sides if attached or four sides if detached.

Church, Rectory, and/or Parish House: Church - a building dedicated to the use of religious worship; Rectory - a residence for a rector of a church or a parish priest; Parish House - a building used by a church for administrative and social purposes or the home of a cleric.

Clinic means a medical establishment where three or more licensed doctors of medicine engage in the practice of medicine, operating on a group or individual basis, with pooled facilities such as coordinated laboratory, X-ray and allied departments, for the diagnosis and treatment of humans, which need not but may include a drug prescription counter (not a drugstore) for the dispensing of drugs and pharmaceutical products to the patients of the organization. In addition, the medical center or medical clinic may include space for the practice of dentistry.

Club or lodge, private, means a nonprofit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

Collocation means the location of two or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, in an effort to reducing the overall number of structures required to support wireless communication antennas within the community

Court, outer, means an open unoccupied space opening onto a street, alley or yard.

Curb level means the level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the curb level shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the mean of the street grade shall be considered the curb level.

Day nursery means a building or portion thereof used for the daytime care of preschool children.

District means the areas into which the Village has been divided for which uniform regulations governing the use, size and intensity of land and buildings and open space about buildings are established.

Dwelling means a building or portion thereof, not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units and two-family dwelling units, but not including hotels, motels, boardinghouses or lodginghouses.

Dwelling, detached, means a dwelling which is entirely surrounded by open space and is not connected to any other dwelling unit by roof, walls or porches on the same lot.

Dwelling, multiple-family, means a residential building, other than a mobile home, designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, single-family, means a detached residential dwelling unit, other than a mobile home, designed for and occupied by one family only.

Dwelling, two-family, means a detached residential building, other than a mobile home, containing two dwelling units and designed for occupancy by not more than two families.

Dwelling unit means a room or rooms connected together constituting a separate, independent housekeeping establishment for one-family occupancy, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking, bathroom and sleeping facilities.

Educational institution means a public or private school, or charitable or nonprofit junior college, college or university, other than a trade or business school, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers, and employees.

Efficiency unit means a dwelling unit consisting of one principal room for living, sleeping, and eating plus facilities for cooking and a complete bath and toilet facilities.

Family means an individual or a collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

Feasibility of collocation. Collocation shall be deemed to be feasible for purposes of this article where all of the following are met:

1. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
2. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
3. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas, and the like.
4. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Village, taking into consideration the several standards contained in Section 465.

Fence means a structure or tree or shrub hedge which is a barrier and is used as a boundary or means of protection or confinement.

Fence, solid, means a fence, including gates, which conceals from view of the adjoining properties, streets or alleys activities conducted behind it.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood boundary-floodway map and the water surface elevation of the base flood.

Floodplain means the area defined by the most current 100-year flood hazard elevation (one percent chance of flooding in any given year) as described within the U.S. Department of Housing and Urban Development-Federal Emergency Management Agency flood insurance study for the Village.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.01 foot.

Floor area, means the lot area covered by a principal building measured at grade from the exterior walls, excluding open porches or terraces, garages, or carports.

Frontage means all the property fronting on one side of a street between the nearest intersecting streets or between a street and a right-of-way, waterway or other similar barrier.

Garage, private, means any accessory building or an accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the families resident on the premises, and in which no business, service or industry connected directly or indirectly with the automotive vehicles is

carried on; provided that not more than one-half of the space may be rented for the private vehicles of persons not resident on the premises, except that all the space in a garage of one- or two-car capacity may be so rented. Such a garage shall not be used for more than two commercial vehicles and the load capacity of such vehicles shall not exceed 2 1/2 tons.

Garage, public, means a building other than a private garage used for the care and incidental servicing of motor vehicles and sale of automobile supplies or where motor vehicles are parked or stored for remuneration, hire or sale within the structure, but not including trucks, tractors, truck trailers and commercial vehicles exceeding 1 1/2 tons capacity.

Grade, street, means the elevation of the established street in front of the building measured at the center of such front. Where no street grade has been established, the county or authorized engineer shall establish such street grade or its equivalent for the purpose of this Ordinance.

Gross floor area. For the purpose of determining requirements for off-street parking and off-street loading, the floor area shall mean the sum of the gross horizontal area of the several floors of the building or portion thereof devoted to such use, including accessory storage areas located within selling or working space, such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production of goods or to business or professional offices. However, floor area for the purpose of measurement of off-street parking spaces shall not include floor area devoted primarily to storage purposes. The following areas shall not be included for the purpose of measurement of off-street parking spaces:

1. Floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space.
2. Basement floor area other than area devoted to retailing or service activities or the production or processing of goods, or to business or professional offices.

Home occupation means an occupation or profession carried on by an occupant of a dwelling unit as a secondary use which is incidental to the use of the dwelling unit for residential purposes (see Section 359).

Hospital and sanitarium mean an institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care, for not less than 24 hours in any week, of three or more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical or mental conditions.

Hotel, apartment, means a hotel in which at least 90 percent of the hotel accommodations are for occupancy by permanent guests. An apartment hotel having not less than 50 guestrooms may have a dining room open to the public which is accessible only from an inner lobby or corridor.

Hotel, motel, inn and auto court mean an establishment containing lodging accommodations designed for use by transients or travelers or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial or desk service, meeting rooms, and restaurants, including the sale of alcoholic beverages.

Kennel, commercial, means any lot or premises or portion thereof on which more than four dogs, cats or other household domestic animals over four months of age are kept, or on which more than two such animals are boarded for compensation or kept for sale.

Laboratory, commercial, means a place devoted to experimental study such as testing and analyzing. Manufacturing, assembly or packaging of products is not included within this definition.

Loading and unloading space or area, off-street, means an open, hard-surfaced area (macadam base and bituminous top) of land other than a street or a public way, the principal use of which is for standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than ten feet in width, 50 feet in length, and 14 feet in height, exclusive of access aisles and maneuvering space.

Lodginghouse and roominghouse means a building with the owner in residence with not more than five guestrooms where lodging is provided for compensation pursuant to previous arrangement, but not open on a daily, overnight or per-meal basis to transient guests.

Lot means a parcel of land of at least sufficient size, exclusive of areas under water, to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are required in this Ordinance. The word "lot" includes the words "plot" and "parcel." A lot shall have frontage on a recorded public or private street. In no case of division or combination shall any new or residual lot or parcel be created which does not meet the requirements of this Ordinance.

Lot coverage means the area of a zoning lot occupied by the principal building or buildings and accessory buildings.

Lot frontage. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the yard definitions in this section.

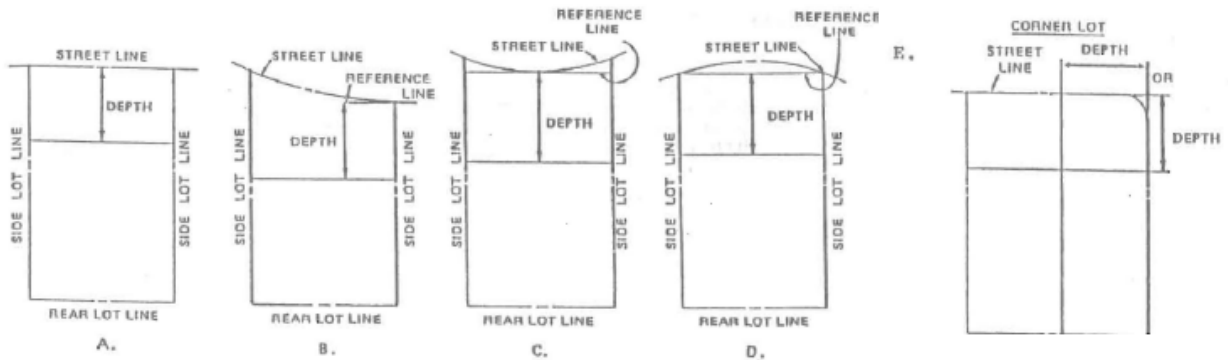
Lot line means a property boundary line of any lot held in single or separate ownership, except that, where any portion of the lot extends to the abutting street or alley, the lot line shall be deemed to be the street or alley line.

Lot measurement.

1. Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in the front and the rearmost points of the side lot lines in the rear.
2. Width of a lot shall be considered to be the distance between straight lines connecting the front and rear lot lines at each side of the lot. In determining lot frontage on odd-shaped lots, if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building. In determining lot frontage on odd-shaped lots, if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear line of the principal building, the measurement shall be taken at the front building line or 30 feet behind the front setback line, parallel to the street or street chord. Every corner lot in a residential district having on its side street an abutting interior lot shall have minimum setbacks from both streets equal to the minimum required front setback of the district in which it is located, provided, however, that this does not reduce the buildable width of any lot of record to less than 25 feet. On corner lots where a rear lot line abuts on a side lot line on the adjoining

lot, accessory buildings on the corner lot shall have a rear yard setback from the rear lot line a distance equal to the side yard setback required for the district.

3. Depth of required front yards shall generally be measured from the innermost point of the street line (right-of-way) inward for a distance of the required front yard depth, as in diagrams A, B, C, and D. In the case of rounded property corners at street intersections, reference points for measurements shall be placed as though the side lot lines would have met the street line if the corner were not rounded, as in diagram E. The front and rear lot lines of the front yard shall be parallel.

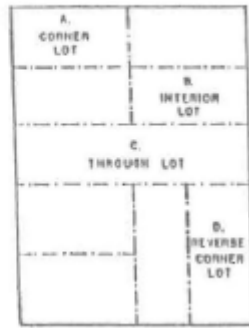


Lot of record.

1. Lot of record means a lot which is a part of a subdivision recorded in the office of the county register of deeds, or a lot or parcel described by metes and bounds, the description of which has been recorded.
2. Every single-family, two-family, and multiple-family dwelling structure shall be located upon a lot of record, and no more than one such structure or unit shall be erected upon such lot of record.
3. The creation of a lot of record on any premises or parcel of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, where the act of creating a lot of record creates five or more lots of record each of which is ten acres or less in area created by successive acts within a period of ten years, shall be deemed subdividing as defined in Public Act No. 288 of 1967 (MCL 560.101 et seq.), even if such lots of record are surveyed and a plat thereof submitted, approved and recorded as required by such act and the ordinances of the Village.

Lot types. The following diagram illustrates terminology used in this Ordinance with reference to corner lots, interior lots, through lots and reverse corner lots:

Diagram of Lot Types:



Marquee and *canopy* mean a roof-like structure of a permanent nature which projects from the wall of a building and may overhang the sidewalk and is designed and intended to protect pedestrians from adverse weather conditions.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, and which meets all requirements of the "Mobile Home Construction and Safety Standards," as promulgated by the U.S. Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended; it should also meet all requirements of "Part 6. Mobile Home Code," being part of the Michigan Construction Code, promulgated pursuant to Act 230, Pub. Acts of 1972, as amended, and which is certified and identified in accordance with "Part 2. Premanufactured Units," also being part of said construction code. The term "mobile home" does not include a recreational vehicle.

Mobile home park means any parcel or tract of land licensed and regulated under provisions of Public Act No. 96 of 1987 (MCL 125.2301 et seq.), under the control of any person, upon which three or more occupied mobile homes are harbored on a continual or non-recreational basis, or which is offered to the public for that purpose, regardless of whether a charge is made therefor, together with any building, structure, enclosure, street, equipment or facility used or intended for use incident to the harboring or occupancy of mobile homes.

Mobile home subdivision means a subdivision, as defined by Public Act No. 288 of 1967 (MCL 560.101 et seq.), which has been expressly established for the sole purpose of selling lots on which mobile homes may be used and occupied for residential purposes, and which has been established in full compliance with all applicable provisions of such act and of all other applicable state, county, and Village regulations.

Nameplate means a sign indicating the name and address of a building or the name and address of an occupant thereof, and the practice of a permitted occupation therein.

Nonconforming use means any building, structure or land lawfully occupied by a use or lawfully established at the time of adoption of the ordinance from which this Ordinance is derived or the time of adoption of amendments to this Ordinance, which does not conform, after the passage of the ordinance from which this Ordinance is derived or amendments thereto, with the use regulations of this Ordinance.

Nursery, child care, means an establishment for the part-time care of five or more children of pre-elementary school age in addition to the members of the family residing therein. All child care nurseries must comply with all governmental licensing regulations.

Nursing home and rest home mean a commercial establishment for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including facilities other than for physical therapy for the treatment of sickness or injuries or surgical care. All nursing homes must comply with all governmental licensing regulations.

Occupancy certificate means a certificate issued by the Village Zoning Administrator stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this Ordinance.

Open sales lot means a lot or parcel of land used or occupied for the purpose of buying, selling, or trading of all goods and commodities, including the storage of goods and commodities prior to sale or exchange.

Parking area, private, means an open, hard-surfaced area (macadam base and bituminous top), other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles under 1 1/2 tons capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

Parking space, off-street, means a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any street, walk, or alley and so that any automobile may be parked and unparked without moving another. Each parking space shall comprise a net area of at least ten feet by 20 feet. For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at 300 square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements in this definition are provided and maintained, improved in manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the Village.

Passenger automobile or vehicle means a vehicle used primarily for the transportation of people, and does not include any vehicle in excess of one ton capacity, and specifically excludes a truck-tractor, whether attached to a trailer or not.

Planned development means a tract of land which is planned as a whole for development under single ownership or control and which, by virtue of such unified planning and development, provides greater amenities, convenience or other benefits than normally would be had through the development. Adequate provision shall be made for basic community facilities such as schools, parks, playgrounds and churches, among others. The minimum area for a planned development shall be as follows:

1. Residential: Five acres.
2. Business: Five acres.
3. Government: Five acres.

Porch means a roofed-over structure, projecting out from the wall of a main structure and commonly open to the weather in part.

Premises means a single lot of real property which is not divided by a public street or right of way.

Principal use means the main use of land or buildings as distinguished from a subordinate or accessory use.

Public open space means any publicly owned open area, including but not limited to parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public utility means any person duly authorized to furnish, under public regulation, to the public, electricity, gas, steam, telephone service, transportation or water.

Railroad right-of-way means a strip of land with tracks and auxiliary facilities for track operation, but not including depot loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops, water towers, etc.

Restaurant means a public eating establishment in which the primary function is the preparation and serving of food for consumption within the building. Food may be taken outside of the building by a patron for consumption either on or off the premises.

Restaurant, drive-in, means an establishment designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

School means a public or private educational facility without living quarters.

Setback line means a line parallel to the street line at a distance from it regulated by the front yard requirements set up in this Ordinance.

Sign means a name, identification, description, display, or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business.

Sign, Advertising means a sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered.

Sign, Election campaign means a sign not exceeding five square feet of display area advertising candidates or soliciting votes in support of or against any proposition or issue at any general, primary, special, school or other election.

Sign, Flashing, means any illuminated sign of which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any revolving illuminated sign shall be considered a flashing sign.

Sign, gross surface area of, means the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of the sign.

However such perimeter shall not include any structural or framing elements outside the limits of such sign and not forming an integral part of the display.

Sign, Identification means a sign that identifies the business, owner or resident and/or the street address and which sets forth no other advertisement.

Sign, Illuminated means a sign that provides artificial light directly, or through any transparent or translucent material, from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.

Sign, Institutional bulletin board means a sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its institutional services or activities.

Sign, Marquee means an identification sign attached to a marquee, canopy or awning projecting from and supported by the building, and not less than nine feet at its lowest point above sidewalk level.

Sign, Off-premises means a sign whose message relates to a business, service, commodity, or profession lawfully being conducted, sold, or offered on premises other than that upon which the sign is located.

Sign, On-premises means a sign whose message relates to a business, service, commodity, or profession lawfully being conducted, sold or offered on premises upon which the sign is located.

Sign, Pole means a sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and having a sign area not more than 100 square feet on a side, and a clear space of at least nine feet from the ground to the bottom of the sign.

Sign, Portable means a freestanding sign not permanently anchored or secured to either a building or the ground, such as but not limited to A-frame, T-shaped, or inverted T-shaped sign structures.

Sign, Projecting means a sign which projects from and is supported by a wall of a building and does not extend beyond the minimum required setback line or into and over the street right-of-way, and not less than nine feet, at its lowest point, above sidewalk or ground level.

Sign, Real estate means a sign located on premises containing land or buildings for sale, rent or lease, or buildings under construction and intended for sale, rent or lease.

Sign, Roof means any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support of the roof structure.

Sign, Temporary means a display, informational sign, or other advertising device with or without a structural frame, up to but not exceeding 32 square feet. Including seasonal sales of produce or the like, decorative displays for holidays or public demonstration. Temporary signs are intended for a period not to exceed 30 consecutive days of display only one time in one calendar year.

Sign, Wall means a sign which is attached directly to a building wall and which does not extend more than 18 inches therefrom or above the roofline, with the exposed face of the sign in a plane parallel to the building wall.

Special use means a land use that would not be appropriate generally or without restriction throughout the zoning district, but if meeting specified standards and conditions may be appropriate.

Stacking spaces means the number of cars that must be accommodated in a reservoir space while awaiting ingress or egress to or from a specified business or service establishment.

Story means that portion of a building included between the surface of any floor and the surface of the floor above it, or, if there is no floor above, then the space between the floor and the ceiling next to it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof.

Story, half, means that portion of a building under a gable, hip or mansard roof, the wall plates of which on at least two opposite exterior walls are not more than 4 1/2 feet above the finished floor of such story. In the case of one-family dwellings, two-family dwellings and multiple-family dwellings less than three stories in height, a half story in a sloping room shall not be counted as a story.

Street means a public way other than an alley which affords a primary means of access to abutting property.

Street line means a line separating a lot, piece or parcel of land from a street.

Structural alteration. See *Alteration, structural*.

Structure means anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a fence or freestanding wall. A sign or other advertising medium, detached or projecting, shall be construed to be a structure.

Swimming club, private (commercial), means a private club operated for profit, maintaining and operating a swimming pool and apparatus and equipment pertaining to the swimming pool, with specified limitations upon the number of members, for the exclusive use of members and their guests.

Swimming pool, commercial, means a swimming pool and the apparatus and equipment pertaining to the swimming pool, operated for profit, open to the public upon payment of an hourly, daily, weekly, monthly, annual or other fee.

Swimming pool, private, means a swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained by an individual for the sole use of his household and his guests, without charge for admission and not for the purpose of profit, located on a lot as an accessory use to a residence.

Swimming pool, public, means a swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained and operated by a municipality or other unit of government for the general public, whether or not an admission fee is charged.

Tavern and lounge mean a building where liquors are sold to be consumed on the premises, not including restaurants where the principal business is serving food.

Toxic material means a substance (liquid, solid or gaseous) which, by reason of an inherent deleterious property, tends to destroy life or impair health.

Trailer means a vehicle with or without motive power used or adaptable for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting, which does not meet the building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term "trailer" includes the terms "camp car" and "house car." A permanent foundation shall not change its character, nor shall the erecting of additions to the trailer, unless the trailer itself and any additions thereto conform to all Village laws.

Trailer sales area means an open area, other than a street, used for the display or sale of a new or used trailers, and where no repair work is done except for minor incidental repair of trailers to be displayed and sold on the premises.

Trailer, sports or camping, means a vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, travel trailers and tent trailers.

Trailer, utility. See *Utility vehicles and trailers*.

Truck parking area or yard means any land used or intended to be used for the storage or parking of trucks, trailers, and tractors, including commercial vehicles, while not loading or unloading, which exceed 1 1/2 tons capacity.

Use means the purpose for which land or buildings is designed, arranged or intended or for which it is occupied or maintained, let or leased.

Use, principal, means the main use of land or buildings as distinguished from a subordinate or accessory use.

Utility vehicle and trailer means trucks and trailers available on a rental basis.

Variance means a relaxation of the terms of this Ordinance where such variance will not be contrary to public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of the terms of this Ordinance would result in unnecessary and undue hardship. A variance is authorized only for height, area, and size of structures or size of yards and open space. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Vehicle sales lot (with or without motor power) means a zoning lot on which used or new cars, trailers or trucks are displayed in the open for sale or trade.

Wireless Communications support structure means all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings and private and commercial mobile radio facilities. Not included within this definition are citizen band radio facilities, shortwave receiving facilities, radio and television broadcast reception facilities, federally licensed amateur (ham) radio facilities, satellite dishes, and governmental facilities which are subject to state and federal law or regulations which preempt municipal regulatory authority.

Yard means a required open space between a lot line and a structure or group of structures, other than a court, unoccupied and unobstructed by any structure or portion of a structure except as provided in this Ordinance; provided, however, that fences, walls, poles and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, front, means a front yard extending between side lot lines across the front of a lot adjoining a public street; or, in the case of waterfront lots, which shall be considered as through lots, a public street on one frontage and the waterfront on the other frontage. In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the Village Zoning Administrator may waive the requirement for the normal front yard and substitute therefor a special yard requirement, which shall not exceed the average of the yards provided on adjacent lots.

Yard, rear, means the yard extending across the rear of a lot between side lot lines. The depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the rear lot line.

Yard, side, means a yard extending from the rear line of the required front yard to the front line of the required rear yard. In the case of through lots, side yards shall extend between the rear lines of the required front yards. The width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by the district regulations with the inner edge parallel with the side lot line.

Village Zoning Administrator means the Village Zoning Administrator, usually the Village Zoning Administrator, appointed by the Village Council, and such deputies or assistants as have been or shall be duly appointed. That officer is hereby authorized and it is his duty to administer and enforce the provisions of this Ordinance, making such determinations, interpretations and orders as are necessary therefor and with applications for permits as are necessary for him to judge compliance with this Ordinance.

Zoning lot means a single tract of land within a single block which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a unit under single ownership or control. Therefore, a zoning lot may or may not coincide with a lot of record.

Zoning Map means the map incorporated in this Ordinance as a part of this Ordinance, designating zoning districts.

Sec. 3. Conformance to Court Decree.

Any amendment for the purpose of conforming a provision thereof to the decree of a court of competent jurisdiction shall be adopted by the Village Council and the amendments published without referring the same to any other board or agency.

Sec. 4. Captions.

The captions used in this Ordinance shall not be deemed to be a part of this Ordinance and shall not be construed to enlarge or restrict the rights and obligations otherwise contained herein.

Sec. 5. Nuisance, Sanctions, and Remedies.

1. *Nuisance.* Uses of land, and dwellings, buildings or structures, including tents and mobile homes, used, erected, altered, razed or converted in violation of any provision of this Ordinance are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home or land shall be adjudged guilty of maintaining a nuisance per se.
2. *Sanctions.* Any person, firm, association, partnership, corporation or governmental entity that violates any of the provisions of this Ordinance shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine determined in accordance with the fee schedule set by resolution of the Village Council.

Each day that a violation is permitted to exist shall constitute a separate offense.

3. *Remedies.* The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance. The Village Council, Village Zoning Administrator, Village Zoning Board of Appeals, the Village Attorney or any owner or owners of real estate within the district in which such building, structure, tent, mobile home, or land is situated may institute injunction, mandamus, abatement or any other appropriate action or actions, proceeding or proceedings to prevent, enjoin, abate, or remove any unlawful erection, construction, alteration, reconstruction, maintenance or use. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law, pursuant to MCL 600.8302, MCL 600.8727 and MCL 600.8729.

Sec. 6. Repeal of Ordinance.

The Shoreham Village Zoning Ordinance of 1991 and all amendments thereto are hereby repealed effective coincident with the effective date of this Ordinance.

Sec. 7. Pending Applications.

All applications for permits, appeals and variance requests pending before the Village Zoning Administrator or Village Zoning Board of Appeals on the effective date of this Ordinance shall be acted upon only in conformance with the provisions of this Ordinance.

Sec. 8. Validity and Severability Clause.

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. If any court of competent jurisdiction shall declare invalid the application of any provision of this Ordinance to a particular land, parcel, district, use, building or structure, such ruling shall not affect the application of said provision to any other land, parcel, district, use, building, or structure not specifically included in said ruling.

Sec. 9. Period of Effectiveness.

This Ordinance shall remain in full force and effect henceforth unless repealed.

Secs. 10--30. Reserved.

ARTICLE II.

ADMINISTRATION AND ENFORCEMENT

DIVISION 1.

GENERALLY

Sec. 31. Administrative officer.

1. *Designated.* The Village Zoning Administrator shall be in charge of the administration and enforcement of this Ordinance.
2. *Duties.* The Village Zoning Administrator shall:
 - A. Receive applications required, issue permits and furnish certificates, all in his/her judgment and discretion as authorized.
 - B. Examine premises for which permits have been issued and make necessary inspections to determine compliance.
 - C. When requested by the Village Council or when the interest of the Village so requires, make investigations and render written reports.
 - D. Issue such notices or orders as may be necessary.
 - E. Keep careful and comprehensive records of applicants, permits, certificates, inspections, reports, notices, orders and all localized actions of the Village Council and file such records permanently by street address.
 - F. Keep all such records open to public inspection at reasonable hours, but not for removal from his/her office.
 - G. Report to the Village Council at least once each month as to permits and certificates issued and orders promulgated.
 - H. Request and receive the assistance and cooperation of the police department, the legal department and other Village officials.
 - I. Inform the Village Council of all violations and all other matters requiring prosecution or legal action.
 - J. Be entitled to rely upon any opinion of the legal department as to the interpretation of this Ordinance or the legal application of this Ordinance to any factual situation.
 - K. Discharge such other duties as may be placed upon him/her by this Ordinance.

Sec. 32. Building permits

1. No permit as required by this Ordinance shall be issued by the Village Zoning Administrator for the construction of a building, structure or land improvement or an alteration or enlargement of an existing building, structure or land improvement and the uses thereof until the Village Zoning Administrator has certified in such permit that the application for a permit with accompanying plans and specifications conforms with the regulations of this Ordinance.
2. All applications for building permits shall be accompanied by a plat in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building or structure to be erected or structurally altered, its location on the lot, and such other information as may be necessary to provide for the enforcement of this Ordinance. A careful record of such applications and plats shall be kept in the office of the Village Zoning Administrator. The Village Zoning Administrator shall, in writing, approve or disapprove all building permits in whole or in part, or deny same within ten business days, except that in case of an unusually complicated building or structure, action shall be taken within 15 business days. Failure to grant, in whole or in part, or deny an application within these periods of time shall be deemed a denial of the application for purposes of authorizing the institution of an appeal to the Village Zoning Board of Appeals.
3. Permit Exemptions: Notwithstanding Sections (a) through (c), a zoning permit or fee is not needed for the following uses:
 - A. Only exterior or interior improvement or repair and which does not structurally alter the premises or change the exterior shape or form of any Building in any manner, and the Use of the land remains one of those listed as permitted in the respective land Use Area.
 - B. Relocation or replacement of machinery or equipment within a Building located in a commercial zone, conforming to the provisions of this Ordinance and used for commercial or purposes, nor for any modification to such Building in connection with said relocation or replacement, unless said modification structurally alters the premises or changes the exterior shape or form in any manner.
 - C. The erection, construction, alteration, or maintenance by public utilities or municipal departments or Commissions of above ground or underground gas, electrical, water, communication, or sewer systems, for the local distribution and/or collection systems via pipes, drains, sewers, wires, cables, traffic signals, hydrants, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service to individual customers/clients, but not including towers, pools, electrical substations, gas regulation stations, regional, long distance, interstate distribution or collection systems.
 - D. Open Space.
 - E. Hedges, arbors, trees, gardens, plants, shrubs.
 - F. Private walkways to Dwellings, Duplexes, Apartment Buildings.

- G. Domestic animal shelter for one's own pets, (not including shelters for any livestock, or commercial kennels).
- H. Accessory Structures to Dwellings and Duplexes which are constructed by minors, children, their parents or guardians for purposes of play by the minors and children including, but not limited to, playhouses, dollhouses, treehouses, forts, hideouts, and so on, so long as such accessory structures adhere to setback requirements of this Ordinance.
- I. Accessory Structures used for storage, which are one floor and are less than 120 square feet, and are not over 10 feet high, so long as such Accessory structures adhere to setback and lot coverage requirements of this Ordinance.
- J. Personal property sales.
- K. Signs which indicate land is private property, trespassing is not allowed, hunting or other specific activities are not allowed.

Sec. 33. Certificate of occupancy for new construction and uses.

1. No building or addition thereto constructed after the effective date of the ordinance from which this Ordinance is derived, and no addition to a previous existing building, shall be occupied, and no land vacant on the effective date of the ordinance from which this Ordinance is derived shall be used for any purpose, until an occupancy certificate has been issued by the Village Zoning Administrator. No change in a use in any district shall be made until an occupancy certificate has been issued by the Village Zoning Administrator, except that a use or occupancy in an already existing building or structure that was not discontinued during its alteration may be continued for 30 days after completion of the alteration without issuance of an occupancy certificate. Every occupancy certificate shall state that the use or occupancy complies with all the provisions of this Ordinance.
2. Every application for a building permit shall also be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or building where no building permit is required shall be made to the Village Zoning Administrator.
3. No occupancy certificate for a building or addition thereto constructed after the effective date of the ordinance from which this Ordinance is derived shall be issued until construction has been completed and the premises have been inspected and certified by the Village Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the building permit was based. No addition to a previously existing building shall be occupied, and no new use of a building in any district shall be established, until the premises have been inspected and certified by the Village Zoning Administrator to be in full compliance with all the applicable standards of the zoning district in which it is located.
4. An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than five business days after receipt by the Village Zoning Administrator of a written application therefore on a form to be prescribed by Village and payment of the required fee.

Sec. 34. Certificate of occupancy for nonconforming uses.

Certificates for the continued occupancy of nonconforming uses existing at the time of passage of the ordinance from which this Ordinance is derived, or made nonconforming by this Ordinance, shall state that the use is a nonconforming one and does not conform with the provisions of this Ordinance. The Village Zoning Administrator shall notify the owner of the property being used as a nonconforming use and shall furnish the owner with a certificate of occupancy for such nonconforming use.

Sec. 35. Fees.

The Village Council shall establish fees for certificates, occupancy certificates, appeals, applications for amendments or special uses, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Village Clerk and may be altered or amended only by the Village Council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

State Law References: Fees authorized, MCL 125.3406.

Secs. 36--60. Reserved.

DIVISION 2.

NONCONFORMING LOTS, USES AND STRUCTURES

State Law References: Nonconformities, MCL 125.3208.

Sec. 61. Intent; work under existing permits.

1. Within the districts established by this Ordinance or any amendments thereto, there exist lots, structures, uses of land and structures and characteristics of use which were lawful before the ordinance codified in this Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this Ordinance or amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their continuation. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
2. Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the district involved. A nonconforming use of land or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of the ordinance from which this Ordinance is derived by attachment on a building or premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

3. Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of the ordinance from which this Ordinance is derived, and provided that construction is begun within 90 days of such effective date and diligently prosecuted to completion, the building or structure may be completed in accordance with the approved plans on the basis of which the building permit was issued, and further may, upon completion, be occupied under a certificate of occupancy by the use for which it was originally designated, subject thereafter to the provisions of this division.

Sec. 62. Nonconforming lot area or dimensions.

1. *Contiguous parcels.* When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.
2. *Parcels which are part of existing recorded plat.* Lot area and lot frontage restrictions shall not apply to any parcels of land which are part of a recorded plat, where at the time of adoption of the ordinance from which this Ordinance is derived such plats disclose lot areas or lot frontages of less than those governed by the terms of this Ordinance.

Sec. 63. Nonconforming uses of land or land with minor structures only.

Where, at the time of passage of the ordinance from which this Ordinance is derived, lawful use of land exists which would not be permitted by the regulations of this Ordinance, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains lawful, provided:

1. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of the ordinance from which this Ordinance is derived or the effective date of an amendment to this Ordinance.
2. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of the ordinance from which this Ordinance is derived or the effective date of an amendment to this Ordinance.
3. Any building, structure or land that has been used for nonconforming purposes but which has not intended to be continued as a nonconforming use by the owner shall not thereafter be used unless it conforms to the provisions of this Ordinance. The owner's intent to no longer continue use of the nonconforming use shall be established by a preponderance of the following points of physical evidence:
 - A. Utilities have been disconnected;
 - B. If there were signs, the signs have been removed or have fallen into disrepair;
 - C. Fixtures within and outside the building have been removed;
 - D. The property has fallen into disrepair;

- E. U.S. Mail delivery has been terminated or mail is forwarded to another address;
 - F. The classification of the property for tax purposes has been changed to reflect another use; and
 - G. Other similar changes to the nonconforming building or use have taken place.
4. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

Sec. 64. Nonconforming structures.

Where a lawful structure exists at the effective date of the ordinance from which this Ordinance is derived or the effective date of an amendment to this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- 1. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity. Any building or structure which is nonconforming with respect to yards or any other bulk regulation shall not be altered or expanded in any manner which would increase the degree or extent of its nonconformance with respect to the bulk regulations of the district in which it is located. A nonconforming building may be enlarged or extended only if the entire building is thereafter devoted to a conforming use and then conforms to all regulations of that district.
- 2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. If the damage or destruction is less than 50 percent of its replacement value, the building may be restored to its original condition and the occupancy or use of such building may be continued which existed at the time of such partial destruction. Reconstruction, repair or restoration of the original use shall be completed within one (1) year following the damage and resumption of use must take place within ninety (90) days of completion. The one (1) year may be extended by the Village Zoning Board of Appeals if it finds one of the following conditions to exist:
 - A. The delay was not avoidable due to weather;
 - B. The delay was a result of a criminal investigation;
 - C. The delay was a result of a dispute between the owner and an insurance company concerning what is covered by insurance; or
 - D. The property is held in probate.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Sec. 65. Nonconforming uses of structures or of structures and premises in combination.

If a lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of a structure and premises in combination, exists at the effective date of the ordinance from which this Ordinance is derived or the effective date of an amendment to this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. 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 the ordinance from which this Ordinance is derived or the effective date of an amendment to this Ordinance, but no such use shall be extended to occupy any additional land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special use be changed to another nonconforming use, provided the Village Council, either by general rule or by making findings in the specific case, shall find the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Village Council may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
4. Any structure, or structure and land in combination, on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the nonconforming use may not hereafter be resumed, even though the building may have been originally designed and constructed for the prior nonconforming use.
5. A nonconforming use may not be extended in any way to occupy any required open space or any land beyond the boundaries of the zoning lot as it existed, or to displace any conforming use in the same building or on the same parcel.
6. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for 12 consecutive months, except when circumstances beyond the control of the owner impede access to or occupation of the premises, the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
7. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

8. Action to find a nonconforming use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:
 - A. The property is subject to Probate proceedings.
 - B. An insurance settlement is in dispute.
 - C. A criminal investigation is underway.

Sec. 66. Repair and maintenance.

1. In any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding 50 percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure as the case may be, provided the cubic content existing when it became nonconforming shall not be increased. No structural alteration shall be made in a building or other structure containing a nonconforming use, except in the following situations:
 - A. When the alteration is required by law.
 - B. An insurance settlement is in dispute.
 - C. When a building in a residential district containing residential nonconforming uses may be altered in any way to improve livability, provided no structural alterations shall be made which would increase the number of dwelling units or the bulk of the building.
2. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Sec. 67. Uses under special use provisions are not nonconforming uses.

Any use which is approved by the Village Council after the effective date of the ordinance from which this Ordinance is derived as a special use in a district under the terms of this Ordinance in accordance with Article II, division 4 of this Ordinance shall not be deemed a nonconforming use in such district but shall without further action be considered a conforming use. The Village Council may approve as a special use a use existing prior to the effective date of the ordinance from which this Ordinance is derived, subject to the limitations and conditions of this Ordinance, as though such existing use were a newly initiated use, in which case the use would thereafter have the status of a conforming use as provided for in this section.

Sec. 68. Certificate of occupancy.

1. In order to establish a record of lawfully existing nonconforming structures and nonconforming uses of structures and land, the Village Zoning Administrator shall, upon application by the

owner, within one year of the time of passage of the ordinance from which this Ordinance is derived, issue a certificate of occupancy for such lawfully existing nonconformance.

2. If such certificate of occupancy is not so obtained, the burden of proof of the lawful existence of a nonconforming structure or use shall rest upon the owner.
3. Within six months of the time of passage of the ordinance from which this Ordinance is derived, the Village Zoning Administrator shall conduct a review of lawfully existing nonconforming structures and nonconforming uses of structures and land and shall notify the owners of record thereof of the conditions of subsections (1) and (2) of this section. It is not, however, the intent of this subsection that nonconforming structures and nonconforming uses of structures and land not included in such review and notification procedure would assume the status of conforming to the provisions of this Ordinance by virtue of omission of such notification, it being recognized that for practical reasons certain such nonconforming uses of structures and land could be missed in the review and notification procedure.

Sec. 69. Change of tenancy, ownership or management.

There may be a change of tenancy, ownership or management of any existing nonconforming uses of land, structures and premises, provided there is no change in the nature or character of such nonconforming uses.

Secs. 70--90. Reserved.

DIVISION 3.

AMENDMENTS

State Law References: Amendments, MCL 125.3202, 125.3401 *et seq.*

Sec. 91. Generally.

The regulations imposed and the districts created under the authority of this Ordinance may be amended from time to time, by ordinance, in accordance with applicable statutes of the state. An amendment shall be granted or denied by the Village Council only after a public hearing has been held before the Village Planning Commission and a report of its findings and recommendations has been submitted to the Village Council.

Sec. 92. Initiation.

Amendments to this Ordinance may be proposed by the Village Council, by the Village Planning Commission, by the Village Zoning Board of Appeals, by other governmental bodies, or by any resident or owner of property within the jurisdictional limits of this Ordinance.

Sec. 93. Contents.

All petitions for amendments to this Ordinance, without limiting the right to file additional material, shall contain the following:

1. The petitioner's name, address and interest in the petition, as well as the name, address and interest of every person having a legal or equitable interest in the land.
2. The nature and effect of the proposed amendment.
3. If the proposed amendment would require a change in the zoning map, the names and addresses of the owners, according to the current tax roll, of all land within 300 feet of the perimeter of the area to be changed by the proposed amendment.
4. The alleged error in this Ordinance which would be corrected by the proposed amendment, with a detailed explanation of such alleged error and detailed reasons why the proposed amendment will correct the error.
5. The changed or changing conditions in the area or in the Village which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
6. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.

Sec. 94. Filing and processing of application.

An application for an amendment to this Ordinance shall be filed with the Village Clerk and thereafter reviewed by the Village Council. Such an application shall be forwarded from the Village Council to the Village Planning Commission, with a request to hold a public hearing.

Sec. 95. Public hearing; procedure for adoption.

Before submitting its recommendations on a petition to amend this Ordinance, the Village Planning Commission shall hold at least one public hearing, notice of which shall be given by at least one publication in a newspaper of general circulation in the Village. The notice shall be given not less than 15 days before the date the application will be considered for approval. In addition, the following procedures shall be required:

1. Not less than 15 days' notice of the time and place of such hearing shall be given by mail to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the Village Clerk for the purpose of receiving such notice, to each railroad operating within the district or zone affected, to any other governmental unit within one mile of the proposed amendment, and to any Native Tribal Government, County Road Commission, Drain Commissioner, and the Michigan Department of Highways, if any of their infrastructure is within 300 feet of the area being amended. An affidavit of mailing shall be maintained.

2. If an individual property or ten or fewer adjacent properties are proposed for rezoning, the Village Planning Commission shall give a notice of the proposed rezoning in the same manner as required in subsection (3). If 11 or more adjacent properties are proposed for rezoning, the Village Planning Commission shall give a notice of the proposed rezoning in the same manner as required in subsection (3) except for the requirement of subsection (3)(A) and except that no individual addresses of properties are required to be listed under subsection (3)(B)(2).
3.
 - A. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the Village.
 - B. The notice shall be given not less than 15 days before the date the application will be considered for approval. If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection. The notice shall do all of the following:
 - 1) Describe the nature of the request.
 - 2) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - 3) State when and where the request will be considered.
 - 4) Indicate when and where written comments will be received concerning the request.
 - C. All notices required by this section shall include the places and times at which the proposed text and any maps may be examined.
 - D. The Village Planning Commission shall then refer the proposed amendment to the Village Council along with its summary of the public hearing and written recommendations for approval or disapproval and reasons therefore.
 - E. After receiving the recommended zoning amendment, the Village Council, at a regular meeting or at a special meeting called for the purpose, shall consider the recommendations and vote upon the adoption of the proposed amendment. Any amendments shall be approved only by a roll call vote of a 2/3 majority of the members of the Council. The Council shall not make a change or departure from the proposed text amendment and zoning map amendment, as recommended by the Village Planning Commission, unless the proposed change or departure is first submitted back to the Village Planning Commission. The Village Planning Commission shall have thirty (30) days from and after receipt of the proposed change or departure to send its second report to the Village Council. If the proposed change or departure is found by the Village

Planning Commission not to comply with the formal adopted plan, then further steps to adopt the amendment shall cease, regardless if the thirty (30) days has passed or not, until the formal adopted plan(s) adopted pursuant to the Zoning Act, upon which this zoning ordinance is based, is first or simultaneously amended so that the Village Planning Commission can find the proposed zoning complies with the plan. Upon receiving the second report the Village Council may adopt, adopt with modification, or not adopt the proposed amendment.

A public hearing conducted by the Village Council may be held if the Village Council finds a need to do so. Notice for the public hearing shall be given as provided in this section for hearings before the Village Planning Commission.

If a hearing is requested by an interested property owner by certified mail, addressed to the Village Clerk, then the Village Council shall provide that individual a hearing before the Village Council. Notice of this hearing shall be given to the interested property owner as required in the Zoning Act M.C.L. 125.3103(3) and (4).

An amendment for the purpose of conforming to a provision of this Ordinance to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Village Council and the notice of the adopted amendment published without referring the amendment to any other board or agency.

Adoption of an amendment to this zoning ordinance shall require a majority vote of the Village Council. If an amendment to this zoning ordinance is subject to a protest petition, adoption of that amendment shall require a 2/3 vote of Village Council. A protest petition shall be presented in writing to the Village Clerk, prior to the public hearing thereon, duly signed by the owners of at least twenty percent (20%) of the area of land included in the proposed change or the owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred (100) feet from any point at the boundary of the land included in the proposed change but excluding public right-of-ways.

State Law References: MCL 125.3101 *et. seq.*

Sec. 96. Notice of adoption.

Upon enactment of an ordinance under this division, the ordinance, as well as subsequent amendments or supplements, shall be filed with the Village Clerk, and one notice of ordinance adoption shall be published in a newspaper of general circulation in the Village within 15 days after adoption. A copy of the notice shall be mailed to the airport manager of an airport entitled to notice under Section 96(1). The notice shall include the following information:

1. In the case of a newly adopted zoning ordinance, the following statement: "A Zoning Ordinance regulating the development and use of land has been adopted by the Village Council of The Village of Shoreham."

2. In the case of an amendment to an existing ordinance, either a summary of the regulatory effect of the amendment, including the geographic area affected or the text of the amendment.
3. The effective date of the ordinance or amendment.
4. The place and time where a copy of the ordinance or amendment may be purchased or inspected.

Sec. 97. Filing in ordinance book; change of Official Zoning Map.

Within seven days after publication, the amendment to this Ordinance shall be filed in the official ordinance book of the Village with a certification of the Village Clerk stating the vote on passage and when published and filed. If the amendment requires a change on the Official Zoning Map, such change shall be made on the map in accordance with provisions of this Ordinance within ten days after enactment of the amendment.

DIVISION 4.

SPECIAL USES

State Law References: Special land uses, MCL 125.3202, 125.3204.

Sec. 121. Authorized.

The development and execution of this Ordinance is based upon the division of the Village into districts, within any one of which the use of land and buildings and the bulk and location of buildings or structures, as related to the land, are essentially uniform. It is recognized, however, that there are special uses which, because of their unique character, cannot be properly classified in any particular district without consideration, in each case, of the impact of those uses upon neighboring lands and upon the public need for the particular use of the particular location. Such special uses fall into two categories:

1. Uses operated by a public agency or publicly regulated utilities, or uses traditionally associated with a public interest.
2. Uses entirely private in character, but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

Sec. 122. General procedure and prerequisites for approval.

Special uses shall be authorized or denied by the Village Council in accordance with the provisions of this Ordinance applicable to amendments of this Ordinance and the regulations and conditions set forth in this Ordinance for special uses. No application for a special use shall be acted upon by the Village Council until after:

1. The minutes or a written report is prepared and forwarded to the Village Council by the Village Planning Commission.

2. A public hearing has been held by the Village Planning Commission after due notice by publication as prescribed in Section 125 and the findings and recommendations of the Village Planning Commission have been reported to the Village Council.

Sec. 123. Initiation of application.

An application for a special use permit may be made by any person or by any office, department, board, bureau or commission requesting or intending to request a building permit or occupancy certificate.

Sec. 124. Contents and processing of application.

1. *Submission; fee.* Applications for special use permits shall be submitted through the Village Clerk to the Village Zoning Administrator. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Village Council to cover the costs of processing the application. No part of any fee shall be refundable.
2. *Required information.* Three copies of an application for a special use permit shall be presented to the Village Clerk, accompanied by the following documents and information:
 - A. A special use permit application form supplied by the Village Clerk which has been completed in full by the applicant.
 - B. A site plan in conformance with Article II, division 5 of this Ordinance.
 - C. A statement and other evidence or proof by the applicant of present and future compliance with the standards required for approval in Section 129 and other standards imposed by this Ordinance affecting the special use under consideration.
3. *Incomplete applications.* An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the applicant. No application shall be processed until properly prepared and submitted and all required fees paid in full.
4. *Review and recommendations by Village Planning Commission.* The Village Zoning Administrator shall forward a copy of the application for the special use request to the Village Planning Commission within seven days of receiving the request. The Village Planning Commission may review the application and make recommendations within 30 days following the date of the public hearing on each application, unless it is withdrawn by the petitioner. All comments or recommendations shall be advisory and submitted in writing to the Village Council. A summary of the public hearing shall also be included in the report to the Village Council.

Sec. 125. Public hearing.

After a preliminary review of the site plan and an application for a special use permit, the Village Planning Commission shall hold a hearing on the site plan and the special use request. Notice of the hearing shall be given by mail or personal delivery to the owners of property for which special use permit 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 regardless of whether the property or occupant is located within the Village. Notice of the public hearing shall also be published in a newspaper of general circulation in the Village. Public notice shall be given not less than 15 days before the date of the public hearing on the application. 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 occupant of a structure, except that, if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four 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. Each notice given under this section shall:

1. Describe the nature of the special use request;
2. Indicate the property which is the subject of the special use request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used;
3. State when, where and at what time the public hearing on the special use request will be considered; and
4. Indicate when and where written comments will be received concerning the request.

Sec. 126. Review and approval of application and site plan.

The review of an application and site plan requesting a special use permit shall be made by the Village Council in accord with the procedures and standards specified in this Ordinance. If a submitted application and site plan do not meet the requirements of this Ordinance, they may not be approved. However, if the applicant agrees to make changes to the site plan and application in order to bring them into compliance with this Ordinance, such changes shall be allowed and shall be either noted on the application or site plan itself, or attached to it, or these documents shall be resubmitted incorporating the changes. A site plan and application for a special use permit shall be approved if they comply in all respects with the requirements of this Ordinance and other applicable county, state or federal laws, rules or regulations. Approval and issuance of a special use permit shall signify prior approval of the application and site plan therefor, including any modification and any conditions imposed where necessary to comply with this Ordinance. The site plan, as approved, and any statements of conditions and modifications, shall become part of the special use permit and shall be enforceable as such. The decision to approve or deny a request for a special use permit shall be retained as a part of the record of action on the request and shall incorporate a statement of conclusions which specify the basis for the decision, any changes to the originally submitted application and site plan necessary to ensure compliance with this Ordinance, and any conditions imposed with approval. Once a special use permit is issued, all site development and use of land on the property affected shall be consistent with the approved special use permit, unless a change conforming to the requirements of this Ordinance receives the mutual agreement of the landowner and the Village Council and is documented as such.

Sec. 127. Issuance of permit; monitoring of compliance.

Upon approval by the Village Council, the Village Zoning Administrator shall issue a special use permit to the applicant. It shall be the responsibility of the Village Zoning Administrator to monitor compliance with the terms, conditions and restrictions of any special use permit and take any enforcement action necessary in the event of a violation of the special use permit.

Sec. 128. Appeals; records.

Appeal of a decision on a special use request may be taken directly to circuit court. All decisions of the Village Council relating to special use applications, including the findings supporting any decision, shall be recorded in written form and retained as permanent records on file with the Village Zoning Administrator, with a copy in the office of the Village Clerk.

Sec. 129. Standards for approval; conditions; performance guarantee.

Prior to approval of a special use permit application and required site plan, the Village Council shall ensure that the following standards, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special use under consideration:

1. *General standards.* The Village Council shall review the particular circumstances of the special use request under consideration in terms of the following standards, and shall approve a special use request only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
 - A. The special use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - B. The special use shall not inappropriately change the essential character of the surrounding area.
 - C. The special use shall not interfere with the general enjoyment of adjacent property.
 - D. The special use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also be in keeping with the natural environment of the site.
 - E. The special use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.
 - F. The special use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.

- G. The special use shall not place demands on public services and facilities in excess of current capacity.
 - H. The special use shall be consistent with the intent and purpose of this Ordinance and the objectives of any currently adopted Village development plan.
2. *Conditions.* The Village Council may impose conditions with the approval of a special use application and site plan which are necessary to ensure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance or other applicable Village ordinances and regulations. Such conditions shall be considered an integral part of the special use permit and approved site plan and shall be enforced by the Village Zoning Administrator. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall meet all of the following requirements:
- A. Be designed to protect natural resources, the health, safety, and welfare, as well as 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 requirements, be related to the standards established in this Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
3. *Performance guarantee.* In authorizing a special use permit, the Village Council may require that a cash deposit, certified check, or irrevocable bank letter of credit be furnished by the developer to ensure compliance with an approved site plan and the special use permit requirements. Such guarantee shall be deposited with the Village Clerk at the time of the issuance of the special use permit. In fixing the amount of such performance guarantee, the Village Council shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources of the Village and future users or inhabitants of the proposed project or project area, including but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. For purposes of this subsection, the term "improvements" does not include the entire project which is the subject of zoning approval or improvements for which a performance guarantee has been deposited pursuant to Public Act No. 288 of 1967 (MCL 560.101 *et seq.*). The Village Council and the project developer shall establish an agreeable procedure for the rebate of any cash deposits required under this section, in reasonable proportion to the ratio of the work completed on the required improvements as work progresses. The agreement shall be written as an element of the conditions surrounding the approval of the special use permit.

Sec. 130. Effective date of permit; use of permit.

1. The special use permit shall become effective when the application has been approved by the Village Council.
2. A building permit shall not be issued until approval of such special use permit by the Village Council.
3. Until a building permit has been granted pursuant to the special use permit, there shall be no construction or excavation of the land, nor shall use of the land be made toward the intended purposes of such special use permit.
4. Land subject to a special use permit may not be used or occupied for the purpose of such special use until after a certificate of occupancy for the use has been issued pursuant to the provisions of this Ordinance.

Sec. 131. Effect of change of ownership; periodic review of permit.

1. Approval of a special use permit shall be valid regardless of change of ownership, provided that all terms and conditions of the permit are met by any subsequent owner.
2. In instances where development authorized by a special use permit has not commenced within one year from the date of issuance or the last date of review authorized by this subsection, the Village Council shall review the permit in relation to the applicable standards and requirements of this Ordinance. Upon a finding that there has been a change in conditions on the property or the surrounding area or in provisions of this Ordinance applicable to the special use permit under review, such that the permit is no longer in conformance with the requirements of this Ordinance, the permit shall become null and void. Where it is determined that such permits are in conformance with the provisions of this Ordinance and there has not been a change in conditions affecting the validity of the permit, the special use permit shall remain valid, subject to periodic review in accord with the provisions of this subsection.

Sec. 132. Compliance with use requirements.

It shall be the duty and obligation of the owner and occupant of land and uses subject to a special use permit and approved site plan; therefore, the continued use of such land shall at all times be in compliance with the use requirements of this Ordinance. Failure thereof shall be a violation of this Ordinance and subject to the penalties and remedies provided in this Ordinance, and the continuance thereof is declared to be a nuisance per se.

Sec. 133. Uses under special use permit deemed permitted use.

Any use for which a special use permit has been granted shall be deemed a conforming use permitted in the district in which such use is located provided:

1. Such permit was issued in conformity with the provisions of this Ordinance;

2. Such permit shall be deemed to affect only the lot or portion thereof and uses thereupon for which the special use permit shall have been explicitly granted; and
3. Such permit authorizes a use which is subsequently built, operated and maintained in compliance with this Ordinance, the special use permit, and all conditions established with its approval.

Secs. 134--150. Reserved.

DIVISION 5.

SITE PLANS

State Law References: Site Plans, MCL 125.3501.

Sec. 151. Site Plan Review.

1. Every application for a zoning permit shall include a site plan, drawn according to the specifications of this article. (A demand for appeal before the Village Zoning Board of Appeals shall also include a site plan drawn according to the specifications of this article.) The Village Zoning Administrator shall review the site plan prior to issuing a zoning permit, or shall transmit the site plan to the Village Planning Commission for their review.
2. There shall be three levels of site plans, for different complexities of proposed land uses:
 - A. A Basic Site Plan (Section 153), for dwellings, additions to dwellings and construction of accessory structures to dwellings. These site plans shall only be subject to review by the Village Zoning Administrator.
 - B. A Medium Site Plan (Section 154), for any permitted use --which is not a dwelling, addition to a dwelling, construction of accessory structures to a dwelling, and for any matter before the Village Zoning Board of Appeals which would not need a Detailed Site Plan. The Commission shall publish policy for when a Medium Site Plan --not drawn for purposes of an Appeal-- shall be required to be reviewed by the Commission and/or a committee of the Commission, or the Village Zoning Administrator.
 - C. A Detailed Site Plan (Section 155) for any Special Use or Planned Unit Development. These site plans shall only be subject to review by the Commission.
3. Whenever possible, site plan review by the Village Zoning Administrator and Commission shall be coordinated and done simultaneously with other reviews by the administrator and Commission on the same application.

Sec. 152. Optional Sketch Plan Review.

Prior to submitting an application, or site plan, for a zoning permit an applicant may choose to submit a sketch plan for review by the Village Zoning Administrator and/or Commission. The sketch plan shall be superimposed on an air photo of the parcel or shall be a scaled drawing of the parcel showing the location of both the existing and proposed parcel, parcel boundaries, all structures, natural features, all improvements, streets, sidewalks, easements and drainage systems. The review shall be informal and advisory only, and not constituting any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant, but must be scheduled as an item of business on the Commission's agenda if the sketch plan is to be reviewed by the Commission.

Sec. 153. Required Data for a Basic Site Plan.

The Basic Site Plan shall be a sketch, drawn to scale, or superimposed on an air photo, or superimposed on a survey, of the parcel. The following shall be shown on the Basic Site Plan:

1. The property, identified by parcel lines and location and size.
2. Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.
3. The scale, north point.
4. Natural features such as woodlot, water bodies, wetlands, high risk erosion areas, slopes over 25%, beaches, sand dunes, drainage and similar features.
5. The location of proposed and main and accessory buildings, existing structures, fences on the site, the height of all buildings and square footage of floor space.
6. The proposed driveway, if any.
7. Any changes or modifications required for any applicable regulatory agencies' approvals. (Site plan or design plan changes required after the Commission issues a Special Use Permit shall also be changed in accordance with procedures established in this Ordinance for minor adjustments or amendments to Special Use Permits.)

Sec. 154. Required Data for a Medium Site Plan.

The site plan shall be drawn to scale and shall be on paper which measures at least 8.5 by 11 inches, but not more than 36 by 42 inches. The drawing shall be such that the administrator can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The following shall be shown on the Medium Site Plan:

1. All the data required for a Basic Site Plan, spelled out in Section 153 of this Ordinance.
2. The parcel's legal description.

3. Boundary dimensions of natural features such as woodlot, water bodies, wetlands, high risk erosion areas, slopes over 25%, beaches, sand dunes, drainage and similar features.
4. Location and dimensions of existing and proposed man-made features such as buildings, structures, utility easements, water, storm sewer and sanitary sewer lines, storm water drainage and retention lines.
5. Neighboring driveways, and other vehicular circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lanes, service parking and snow storage areas.
6. Any proposed alterations to the topography and other natural features shall be indicated.
7. Location and type of outdoor light fixtures including a description of the outdoor light fixture, supports, shading, baffling; and photometric data, such as that furnished by manufacturers, or similar; showing the angle of cut off of light emissions; and other information necessary so it can be determined the outside light requirements of this Ordinance are complied with.
8. Any proposed location of connections to existing utilities and proposed extensions thereof.
9. A description of the proposed development.
10. A vicinity map showing the location of the site in relation to the surrounding street system.

Sec. 155. Required Data for a Detailed Site Plan.

A site plan which shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet, and of such accuracy that the Commission can readily interpret the site plan, and shall include more than one drawing where required for clarity and shall include the following information, unless specifically waived by the Village Zoning Administrator upon the determination that the requirements to be waived are not reasonably related to the proposed use. The Commission, upon initial review of the site plan, may act to require any information specifically waived by the Village Zoning Administrator to be submitted. Such site plan shall be designed and prepared by a registered professional architect, landscape architect, engineer, land surveyor or community planner (or, if acceptable to the Commission, by the owner or other qualified individual). Unless so waived, all site plans shall include the following information:

1. All the data required for a Basic Site Plan, set forth in Section 153 of this Ordinance and for a Medium Site Plan, as spelled out in Section 154 of this Ordinance.
2. The proposed location of any open spaces, landscaping and buffering features such as greenbelts, fences, etc.
3. The location, proposed finished floor and grade line elevations.

4. Site plans for residential development shall include a density schedule showing the number of dwelling units per acre, including a dwelling schedule showing the unit type and number of each unit type.
5. Any proposed roads, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site.
6. Topography information based on USGS datum, or selected on-site elevations. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of topography.
7. Generalized soil analysis data, which may include data prepared by the [county] County Soil Conservation District or Berrien County Planning Department regarding the soils and their adaptability to the use. More detailed information may be required where the Commission determines that the site and use warrant a more critical review of soils.
8. Soil erosion and sediment control measures which shall include preventative soil erosion devices or measures, both during and after any site work related to the development, when required.

Sec. 156. Required Data for a site plan involving special groundwater protection provisions.

1. All businesses and facilities which use or generate hazardous substances (except (1) fuel stored in a fuel tank which is part of a motor vehicle for purposes of use by that vehicle's motor, (2) materials in a five gallon, or smaller, pre-packaged sealed containers and is for purposes of resale and located inside a retail establishment):
 - A. In quantities greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) per month or ninety five (95) liters (approximately twenty five (25) gallons) per month, whichever is less, or
 - B. In stores greater than one hundred (100) kilograms (approximately two hundred twenty (220) pounds) or ninety five (95) liters (approximately twenty five (25) gallons), whichever is less shall be subject to site plan review requirements.
2. All the data required for a Basic Site Plan, set forth in Section 153 of this Ordinance and for a Medium Site Plan, as spelled out in Section 154 of this Ordinance, or a Detailed Site Plan, as spelled out in Section 155 of this Ordinance, whichever is applicable; the following shall also be shown in the site plan:
 - A. Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.
 - B. Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated stormwater or wash water, and all similar uses.

- C. Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.
 - D. Location of all water wells on the site and within 150 feet surrounding the parcel's property boundaries.
 - E. Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.
 - F. Submission of the "Hazardous Substances Reporting Form for Site Plan Review."
 - G. Submission of the "State/County Environmental Permits Checklist."
3. Three (3) copies of a site plan shall be submitted with a zoning permit application to the Village Zoning Administrator. In the case where a committee of the Commission or the Commission is reviewing the site plan, eight (8) copies of the site plan shall be submitted to the Village Zoning Administrator.

Sec. 157. Review for Completeness.

Within fourteen (14) days of submission, the Village Zoning Administrator shall review the site plan received to ensure it is complete, and contains all the elements required by this Ordinance. Such finding shall be done concurrently with similar required findings that a zoning application is complete.

- 1. If the site plan is not found to be complete, the Village Zoning Administrator shall return the site plan to the applicant with a written list of items needed to make the site plan complete.
- 2. If the site plan is found to be complete, the Village Zoning Administrator shall:
 - A. Only as applicable, forward copies of the site plan to the County Road Commission, County Soil Erosion Inspector, County Drain Commissioner, County Health Department, Michigan Department of Highways, for their recommendations to be subsequently forwarded with the site plan; and
 - B. Determine if the site plan is to be reviewed and acted upon by him/her, and then do so, or
 - C. Determine if the site plan is to be reviewed and acted upon by the Village Zoning Board of Appeals, and then forward the copies of the site plan to each member of the Village Council a week prior to their meeting, or
 - D. Determine if the site plan is to be reviewed and acted upon by the Commission or a committee of the Commission, and then set up a site plan review meeting and forward the copies of the site plans to each member of the Commission (or a committee of the Commission) a week or more prior to the Commission's meeting.

Sec. 158. Standards for Site Plan Review.

The following standards shall be used by the Commission and the Village Zoning Administrator to review site plans:

1. All applicable regulations of this Ordinance which apply generally to all districts, and all applicable regulations of this Ordinance which apply to the specific zoning district, to any conditions imposed with the granting of a Special Use Permit or variance, shall be shown on the site plan as being complied with.
2. All utility easements shall be distributed on site in a manner which is least harmful to surrounding properties. Electric; telephone, coaxial cable and other lines shall be located underground unless this requirement is specifically waived by the Village Zoning Administrator, Commission or Village Zoning Board of Appeals upon review of the site plan.
3. Water lines, sewer lines, all provisions of surface water drainage shall be approved by the Village and designed in compliance with any applicable federal and state statute, and county and Village ordinance.

Sec. 159. Approval and Compliance.

1. In cases where the Village Zoning Administrator reviews the site plan pursuant to Section 151; within fourteen (14) days of the site plan being found complete, as specified in Section 157, the Village Zoning Administrator shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
2. In cases where the Commission, or a committee of the Commission, reviews the site plan; within sixty (60) days of the site plan being found complete, as specified in Section 157, the Commission shall act to approve, approve with modifications, or disapprove the site plan in writing with reasons.
3. The action shall be recorded in a record of the zoning application and shall be filed with the Village Zoning Administrator. The Administrator or Commission shall notify the applicant in writing of its decision. If rejected, the reasons for rejection and, if approval is possible, the requirements for approval, shall be given to the applicant, in writing, attached to the rejection. If the administrator or Commission does not act on the site plan, and put its action in writing within the prescribed time, the site plan shall be conclusively presumed to have been approved. If the proprietor and administrator or Commission mutually agree, the time limit may be extended.

Sec. 160. Conditions of Site Plan Approval.

1. A site plan can be approved with conditions necessary to comply fully with the intent of this Ordinance. All conditions shall be shown on the approved site plan and/or shall be in writing.
2. Reasonable conditions may include conditions necessary to:

- A. Ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,
 - B. Protect the natural environment and conserve natural resources and energy,
 - C. Ensure compatibility with adjacent uses of land, and
 - D. Promote the use of land in a socially and economically desirable manner.
3. 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, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Sec. 161. Security Requirement.

- 1. To insure compliance with the site plan and Ordinance and any conditions, limitations or requirements imposed by the Village Zoning Administrator or Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Village and future users or inhabitants of the proposed project or project area, the Village Zoning Administrator or the Commission may require:
 - A. A cash deposit,
 - B. A certified check,
 - C. An irrevocable bank: letter of credit, or
 - D. A surety bond in an amount and under the conditions permitted by law.
- 2. Such security shall be deposited with the Village Clerk, at the time of the issuance of the permit authorizing the commencement of such project. Where the project will take more than ninety (90) days to be completed, the Village Zoning Administrator or Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- 3. Such security shall not exceed the estimated cost of the required conditions, limitations, requirements for which the security is designed to insure compliance.

Sec. 162. File Copies.

At least two (2) copies of the site plan, all accompanying documents, record of approval, list of conditions, and security shall be kept by the Village for its records.

Sec. 163. Zoning Permits.

No zoning permit or Michigan Construction Code building permit, issued pursuant to P.A. 230 of 1972, as amended, (being the State Construction Code Act, M.C.L. 125.1501 *et. seq.*), shall be issued or otherwise authorized until after the site plan has been approved and any required securities have been received.

Sec. 164. Amendment of Site Plan.

An application may be considered to amend an existing site plan, and shall be handled in the same manner as the initial site plan review prescribed by Section 151 *et. seq.* of this Ordinance. By mutual agreement between the Village and applicant, minor nonsubstantive changes may be made to an existing approved site plan if such change is sought prior to the issuance of an occupancy permit for work authorized by the Special Use Permit.

Secs. 165--190. Reserved.

DIVISION 6.

VILLAGE ZONING BOARD OF APPEALS; APPEALS AND VARIANCES

State Law References: Zoning board of appeals, MCL 125.3601 *et seq.*

Sec. 191. Established; membership; meetings.

1. A Village Zoning Board of Appeals is hereby established. The word "Board," when used in this Division, shall be construed to mean the Village Zoning Board of Appeals. The Board shall consist of five members as provided by Section 601 of the Michigan Zoning Enabling Act (MCL 125.3601). The first member of the Board shall be a member of the Village Planning

Commission. No more than one member shall serve concurrently on the Commission. The remaining members of the Board shall be selected from the electors of the Village. The members selected shall be representative of the population distribution and of the various interests present in the Village. No more than one member may serve concurrently on the Village Council. An elected officer of the Village shall not serve as chairman of the Board. An employee or contractor of the Village Council may not serve as a member or an employee of the Board. The total amount allowed the members of the Board in any one year as per diem or as expenses actually incurred in the discharge of their duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Village Council. Members of the Board may be removed by the Village Council for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify him/herself from a vote in which he/she has a conflict of interest. Failure of a member to disqualify him/herself from a vote in which he/she has a conflict of interest shall constitute malfeasance in office.

2. The term of each member shall be for three years, except that, of the members first appointed, two shall serve for two years and the remaining members for three years. A successor shall be appointed not more than one month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.
3. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify. The chairman, or in his/her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall maintain a record of its proceedings, which shall be filed in the office of the Village Clerk and shall be a public record.

State Law References: Board of appeals membership, MCL 125.3601; meetings of board of appeals, MCL 125.3602.

Sec. 192. Interpretation of Ordinance Text

1. Interpretation - Pursuant to the requirements of P.A. 1 10 of 2006, as amended (being MCL 125.3101 *et seq.* 125.3603), nothing contained herein shall be construed as prohibiting the Village Zoning Board of Appeals from interpreting the text of this Ordinance in such a fashion that will allow in a land use district buildings, uses and structures which are sufficiently similar to the specifically delineated permitted or special uses in that land use district, under the same permitted or special use regulations. Such interpretation shall not have the effect of granting a variance but rather shall be deemed only to be an interpretation of the Ordinance text.
2. Standards - In determining whether a proposed building, use or structure is sufficiently similar to a specifically delineated permitted or special use, the Village Zoning Board of Appeals shall consider the relevant policies for the Land Use District in question as set forth in the Master Plan, the nature, use and purpose of the proposed building, use or structure and whether or not the proposed building, use or structure is a permitted or special use in any other Land Use District.

3. Precedent- An earlier determination under this section shall be considered a precedent for other applications proposing an identical building, use or structure in the same Land Use District, provided the earlier determination was made with respect to a building, use or structure sufficiently similar to a specifically delineated permitted use in the Land Use District and not with respect to a specifically delineated special use. An earlier determination with respect to an identical, sufficiently similar special use shall be considered *as* a precedent only to the extent that such sufficiently similar special use shall be considered as a candidate for a Special Use Permit in that Land Use District, but shall otherwise be subject to all requirements of section 8609.

Sec. 193. Appeals to the Village Zoning Board of Appeals

1. A demand for a zoning appeal is received by the Village Zoning Administrator. Appeals can be filed by:
 - A. A person aggrieved, or
 - B. An officer, department, board, or bureau of the state or local unit of government.
2. The Village Zoning Board of Appeals shall have the authority to hear appeals concerning:
 - A. All questions that arise in the administration of the zoning ordinance, including interpretation of the zoning map.
 - B. All administrative orders, requirements, decisions or determinations made by an administrative official or body charged with enforcement of the zoning ordinance.
 - C. All decisions of the Village Zoning Administrator.
 - D. All decisions concerning site plan review.
3. Upon receipt of a demand for appeal, the Administrator will review the demand for appeal to ensure it is complete and the fee is paid.
4. If the application is not complete, the Administrator will return the application to the applicant with a letter that specifies the additional material required.
5. If the application is complete, the Administrator and the chairman of the Village Zoning Board of Appeals shall establish a date to hold a hearing on the appeal.
6. The appeal stays all proceedings in furtherance of the action appealed, unless the body or officer from whom the appeal is taken certifies to the Village Zoning Board of Appeals that by reason of facts stated in the certificate, a stay would, in the opinion of the body or officer, cause imminent peril of life or property, in which case proceedings may be stayed by a restraining order issued by the Village Zoning Board of Appeals or by a circuit court.
7. The notices shall be given not less than 15 days before the date of the hearing on an appeal.

A. Notices shall be sent to:

- 1) The individual demanding the appeal.
- 2) The owner (or other owners) of the property, if different.
- 3) The owners of all real property within 300 feet of the boundary for the property for which the approval has been requested, as shown by the latest assessment roll, regardless of whether the owner and property is located in the zoning jurisdiction or not.
- 4) Occupants of any structures within 300 feet of the boundary for the property for which the approval has been requested, regardless of whether the owner and property is located in the zoning jurisdiction or not.
- 5) The general public by publication in a newspaper which circulates in the community.
- 6) Members of the Village Zoning Board of Appeals.

B. The notice shall include:

- 1) The nature of the appeal or variance.
- 2) The property(ies) for which the appeal or variance has been made.
- 3) A listing of all existing street addresses within the property(ies) which is(are) subject of the zoning amendment. (Street addresses do not need to be created and listed if no such addresses currently exist. If there are no street addresses another means of identification may be used.)
- 4) The location where the demand for appeal can be viewed and copied prior to the date of the hearing.
- 5) The date, time and location of when the hearing before the Village Zoning Board of Appeals will take place.
- 6) The address at which written comments should be directed prior to the hearing.
- 7) For members of the Village Zoning Board of Appeals only, a copy of the appeal or variance, the entire record on the case, the staff report, and supporting documents in the record.

8. The Village Zoning Board of Appeals shall hold a hearing on the appeal or variance.

- A. Representation at Hearing - Upon the hearing, any party or parties may appear in person or by agent or by attorney.

B. Standards for Variance Decisions by the Village Zoning Board of Appeals: The Board shall base its decisions on variances from the strict requirements of this Ordinance so that the spirit of the Ordinance is observed, public safety secured, and substantial justice done based on the following standards:

- 1) For Dimensional Variances: A dimensional variance may be granted by the Village Zoning Board of Appeals only in cases where the applicant demonstrates in the official record of the public hearing that practical difficulty exists by showing all of the following:
 - a) That the need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and is not due to the applicant's personal or economic difficulty.
 - b) That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).
 - c) That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
 - d) That the requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district.
 - e) That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.

9. If the demand for appeal is for a variance, the Village Zoning Board of Appeals shall either grant, grant with conditions, or deny the application. The Village Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination and may issue or direct the issuance of a permit. A majority vote of the membership of the Village Zoning Board of Appeals is necessary to grant a dimensional variance and rule on an interpretation of the ordinance. A majority vote of the membership of the Board is necessary to grant a use variance. The decision shall be in writing and reflect the reasons for the decision.

A. At a minimum the record of the decision shall include:

- 1) Formal determination of the facts,
- 2) The conclusions derived from the facts (reasons for the decision)

- 3) The decision.
- B. Within eight days of the decision the record of the decision shall be certified and a copy delivered by first class mail to the person demanding the appeal, the administrator, and other parties.
10. Decisions of the Village Zoning Board of Appeals and Appeals to the Circuit Court - The Village Zoning Board of Appeals shall decide --by an affirmative vote of a majority of all its members--upon all matters appealed within sixty days of the receipt of a demand for appeal, and fee pursuant to this Ordinance by the Village Zoning Administrator, unless mutually agreed by both parties to extend the time, and may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the Village Zoning Administrator, or Commission, from whom the appeal is taken for administration and enforcement of this Ordinance. The Village Zoning Board of Appeals decision of such appeals shall be in the form of a resolution containing a full record of the findings and determination of the Village Zoning Board of Appeals in each particular case.
 11. Any person having an interest affected by such decision shall have a right to appeal to Circuit Court within 30 days of the certified decision of the Village Zoning Board of Appeals, as provided by law.

Secs. 194--220. Reserved.

ARTICLE III.

ZONING DISTRICTS ESTABLISHED; ZONING MAP

State Law References: Zoning districts authorized, MCL 125.3201.

Sec. 221. Districts established.

In order to accomplish the purpose of this Ordinance as stated in Section 1, the Village is hereby divided into the following districts:

- R-1 Estate Residential
- R-2 Suburban Residential
- R-3 Multi-family Residential.
- B-1 Limited Local Commercial
- C-1 Conservancy District
- F-1 Floodplain Overlay District

Sec. 222. Official Zoning Map.

1. The boundaries of the zoning districts are established as shown on the map entitled "Official Zoning Map of The Village of Shoreham, Berrien County, Michigan." This map is made a part of this Ordinance, and shall have the same force and effect as if the zoning map, together with all notations, references and other information shown thereon, were fully set forth and described in this Ordinance.
2. The Official Zoning Map shall be identified by the signature of the Village president, attested by the Village Clerk, and shall bear the seal of the Village under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 222 of the Zoning Ordinance of The Village of Shoreham, Berrien County, Michigan," together with the date of the adoption of the zoning ordinance.
3. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map by the Village Clerk within ten days after the amendment has been approved by the Village Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the Village Council, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the Village president and attested by the Village Clerk. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry have been made on the map.

4. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person shall be considered a violation of this Ordinance.
5. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Village hall shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Village.
6. If the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Village Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Village president, attested by the Village Clerk, and shall bear the seal of the Village under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of The Village of Shoreham."
7. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Sec. 223. Interpretation of district boundaries.

When uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed as following such centerlines.
2. Boundaries indicated as approximately following property, parcel, or lot lines shall be construed as following such lines.
3. Boundaries indicated as approximately following municipal boundaries shall be construed as following such municipal boundaries.
4. Boundaries indicated as following township section lines shall be construed as following such section lines.
5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
6. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline.

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 6 of this section shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
8. Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 7 of this section, the Village Zoning Board of Appeals shall interpret the district boundaries.
9. Where a district boundary line divides a lot which was in single ownership at the time of passage of the ordinance from which this Ordinance is derived, the entire lot shall be construed to be within the more restricted district.

Sec. 224. Zoning of streets, waterways and railroad rights-of-way.

All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting on such streets, alleys, public ways and railroad rights-of-way or waterways. Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

Secs. 225--250. Reserved.

ARTICLE IV.

ZONING DISTRICT REGULATIONS

State Law References: District regulations authorized, MCL 125.3201.

Sec. 251. R-1 Estate Residential District.

1. *Purpose.* The R-1 district is established to provide for low density residential use in areas well suited as to location and topography to meet the market demands for large lots, and to prohibit any uses which are incompatible. The principal use of land is for single-family dwellings on large lots where minimum community services may be appropriate.
2. *Permitted uses.* Permitted uses are displayed in the “Table of Permitted Uses,” displayed at the end of this article.
3. *Off-street parking.* Automobile parking facilities shall be provided as required or permitted in Article VII of this Ordinance.
4. *Minimum lot size.*
 - A. *One-family dwellings.* Every one-family detached dwelling hereafter erected shall be located on a lot having an area of not less than 21,000 square feet, a width at the established building line of not less than 100 feet, frontage of not less than 100 feet and a depth of not less than 120 feet. The street and/or highway right-of-way line bordering the front of the lot or parcel of land shall be the point of beginning for the depth measurement required in this subsection.
 - B. *Nonresidential uses.* All nonresidential principal uses of buildings, as permitted in this section, shall be located on a tract of land having an area of not less than 10,000 square feet, frontage of not less than 100 feet and a width at the established building line of not less than 100 feet.
 - C. *Special uses.* In no case shall any such lot have an area of less than 21,000 square feet, frontage of less than 100 feet or a width at the established building line of less than 100 feet.
 - D. *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building structure or enlargement:
 - 1) *Front yard.* A front yard of not less than 30 feet.
 - 2) *Side yard.* A side yard on each side of the main building of not less than ten feet; except, where a side yard adjoins a street, the minimum width of such yard shall be not less than 25 feet.

- 3) *Rear yard.* A rear yard of not less than 20 percent of the depth of the lot; provided, however, that such rear yard shall not be less than 30 feet
- E. *Maximum lot coverage.* No more than 20 percent of the lot area may be occupied by buildings and structures, including accessory buildings.
- F. *Building height.* No building shall exceed a height of 35 feet

Sec. 252. R-2 Suburban Residential District.

- 1. *Purpose.* The R-2 district is established to provide low density areas in which the principal use of land is for single-family dwellings on medium sized lots.
- 2. *Permitted uses.* Permitted uses are displayed in the “Table of Permitted Uses,” displayed at the end of this article.
- 3. *Off-street parking.* Off-street parking and loading facilities shall be provided as required or permitted in Article VII of this Ordinance.
- 4. *Minimum lot size.*
 - A. *One-family dwellings.* Every one-family detached dwelling hereafter erected shall be located on a lot having an area of not less than 15,000 square feet, frontage of not less than 30 feet and a width at the established building line of not less than 100 feet. The street and/or highway right-of-way line bordering the front of the lot or parcel of land shall be the point of beginning for the depth measurement required by this subsection.
 - B. *Nonresidential uses.* All nonresidential principal uses of buildings as permitted in this section shall be located on a tract of land having an area of not less than 15,000 square feet, frontage of not less than 50 feet and a width at the established building line of not less than 100 feet.
 - C. *Special uses.* In no case shall any such lot have an area of less than 15,000 square feet or frontage of less than 50 feet.
- 5. *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained:
 - A. *Front yard.* A front yard of not less than 30 feet, street line or front line to house.
 - B. *Side yards.* A side yard on each side of the main building of not less than ten feet; except, where a side yard adjoins a street, the minimum width of such yard shall be not less than 10 feet.
 - C. *Rear yard.* A rear yard of not less than 20 percent of the depth of the lot, provided, however, that such rear yard shall not be less than 30 feet.

6. *Maximum lot coverage.* Not more than 30 percent of the lot area may be occupied by buildings and structures, including accessory buildings.
7. *Building height.* No building shall exceed a height of 35 feet.

Sec. 253. R-3 Multi-family Residential District.

1. *Purpose.* The R-3 district is established as a general residence district to provide for a wider variety of dwelling accommodations with a higher density of dwelling units for multiple-family dwellings with adequate open space for family living.
2. *Permitted uses.* Permitted uses are displayed in the “Table of Permitted Uses,” displayed at the end of this article.
3. *Minimum lot sizes.*
 - A. *One-family detached dwellings.* Every one-family detached dwelling hereafter erected shall be located on a lot having an area of not less than 10,000 square feet, frontage of not less than 30 feet and a width at the established building line of not less than 100 feet.
 - B. *Multiple-family dwellings.* All structures or buildings containing four or more dwelling units shall be located on a lot which provides a minimum lot area per dwelling unit as follows:

Type of Dwelling Unit	Land Area per Dwelling Unit (square feet)
More than 4 bedrooms	4,000
4 bedrooms	3,000
3 bedrooms	2,700
2 bedrooms	2,400
1 bedroom and efficiency	2,100

However, in no case shall there be a lot area of less than 8,500 square feet, frontage of less than 100 feet or a width at the established building line of less than 70 feet. Existing residential buildings in the R-3 district may be altered to provide for not more than four dwelling units, provided that no existing residential building is altered in such a way as to conflict with or further conflict with the requirements of this subsection.

- C. *Nonresidential uses.* All nonresidential principal uses permitted in this district shall be located on a lot having an area of not less than 8,500 square feet, frontage of not less than 100 feet and a width at the established building line of not less than 70 feet.
 - D. *Special uses.* In no case shall any such lot be less than 8,500 square feet, have frontage of less than 100 feet or have a width at the established building line of less than 70 feet.
4. *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained:

- A. *Front yard.* A front yard shall be provided of not less than 30 feet plus one additional foot of front yard for each two feet over 30 feet in building height.
- B. *Side yards.* In the R-3 district, the minimum side yard requirements for permitted uses shall be not less than the following:
- 1) *Multifamily dwellings.* For buildings containing three or more dwelling units, there shall be a side yard on each side of each building of ten feet plus five additional feet for each additional story above two stories in height.
 - 2) *Separation of row buildings.* For buildings containing three or more dwelling units, there may not be less than 20 feet between adjacent row buildings.
 - 3) *Nonresidential buildings.* For permitted nonresidential buildings, side yards on each side of the building shall not be less than 15 feet plus one foot for each two feet by which the building height exceeds 15 feet.
 - 4) *Special uses.* For special uses, side yards shall be as specified in the special use permit, but in no case shall the side yards be less than those specified for nonresidential buildings in subsection (4)(C)(3) of this section.
- C. *Minimum corner side yard.* In an R-3 district, the minimum corner side yard requirements for permitted uses shall be not less than the following:
- 1) *Multifamily dwellings.* For buildings containing three or more dwelling units, the minimum corner side yard shall be ten feet, except that buildings 50 feet or more in overall width, as projected upon the front lot line, shall have corner side yards not less than 15 percent of the building width or 30 percent of the building height, whichever is greater.
 - 2) *Reversed corner lots.* For reversed corner lots, there shall be maintained a setback from the side street of not less than 50 percent of the front yard required on the lots in the rear of such corner lots, but such setbacks need not exceed 25 feet. No accessory building on such reversed corner lot shall project beyond the front yard required on the adjacent lot to the rear, or be located nearer than ten feet to the side lot line of the adjacent lot.
 - 3) *Nonresidential uses.* For permitted nonresidential uses, the minimum corner side yard shall be 25 feet plus one additional foot for each two feet by which the building height exceeds 15 feet.
 - 4) *Special uses.* For special uses, corner side yards shall be as specified in the special use permit, but in no case shall such side yards be less than that specified for nonresidential buildings in subsection (4)(C)(3) of this section.
- D. *Rear yard.* There shall be a rear yard of not less than 30 feet.

- E. *Maximum lot coverage.* The principal building shall not cover more than 45 percent of the lot area; provided, however, that a one-story attached garage shall be considered an accessory building and not part of the principal building.
- F. *Building height.* No building shall exceed a height of 40 feet or four stories, whichever is lower.

Sec. 254. B-1 Limited Local Commercial District.

- 1. *Purpose.* The B -1 district is established to provide business and commercial uses and limited service uses.
- 2. *Permitted uses.* Permitted uses are displayed in the “Table of Permitted Uses,” displayed at the end of this article.
- 3. *Conditions of use.* All permitted uses in this district, except residence district uses, shall be retail and shall be subject to the following conditions:
 - A. There shall be no manufacture, processing or treatment of products other than those which are clearly indicated and essential to the retail business conducted on the same premises.
 - B. Such uses, operations or products shall not be objectionable due to odor, dust, smoke, noise or vibrations or other similar causes.
 - C. All outside storage of refuse material shall be containerized.
- 4. *Yard areas.*
 - A. *Transitional yards.* Where a B district adjoins a residence district, transitional yards shall be provided in accordance with the following regulations:
 - 1) Where lots in a B district front on the street and at least 80 percent of the frontage directly across the street between two consecutive intersecting streets is in a residence district, the front yard regulations for the residence district shall apply to the lots in the business district.
 - 2) In a B district, where a side lot line coincides with a side or rear lot line of property in an adjacent residential district, a yard shall be provided along such side lot line. Such yard shall be equal in dimension to the minimum side yard which would be required under this Ordinance for a residential use on the adjacent property in residence district.
 - 3) In a B district, where a side lot line coincides with a side or rear lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be equal in dimension to the minimum side yard

which would be required under this Ordinance for a residential use on the adjacent property in the residence district.

- 4) In a B district, where a rear lot line coincides with a side lot line of property in an adjacent residential district, a yard shall be provided along such rear lot line. Such yard shall be 20 feet in depth.
- 5) In a B district, where the extension of a front or side lot line coincides with the front line of an adjacent lot located in a residence district, a yard of not less than ten feet shall be provided.
- 6) Transitional yards shall be unobstructed from lowest level to sky except as allowed in section 353(e).

B. *Side yards.* If an interior side yard is provided, it shall be not less than ten feet wide.

C. *Rear yard.* A rear yard of not less than 20 feet in depth shall be provided.

5. *Signs.* Signs shall be as permitted in Article VIII of this Ordinance.
6. *Off-street parking and loading.* Parking and loading facilities shall be provided as required or permitted in Article VII of this Ordinance.
7. *Building height.* The height of any structure shall not exceed 18 feet, except as provided in this Ordinance.

Sec. 255. C-1 Conservancy District.

1. *Purpose.* The intent of the C-1 district is to protect and preserve areas of scenic, scientific and cultural value. These areas will provide for contact with nature in a semi-urban area.
2. *Permitted uses.* The following uses are permitted:
 - A. Fishing
 - B. Preservation of scenic, historic and scientific areas.
 - C. Public fish hatcheries.
 - D. Soil and water conservation.
 - E. Stream bank and lake shore protection.
 - F. Water retention.
 - G. Wildlife preserves.

3. *Conditions of use.* The permitted uses shall not involve dumping, filling, cultivation, soil or peat removal or any other use that would disturb the natural flora, fauna, watercourses, water regiment or topography. Any drainage channel improvement plans shall be approved by the Village Council, or as directed, which shall certify in writing that satisfactory, adequate and safe improvements as contemplated are possible.
3. *Buildings.* No buildings are permitted except those accessory to the principal use. If accessory buildings are permitted by the Village Council, it shall establish the setback, side yards, height of buildings and any other necessary protective measures.

Sec. 256. F-1 Floodplain overlay district.

1. *Purpose.* To designate an enforcing agency to discharge the responsibility of the Village of Shoreham located in Berrien County, under the provisions of the State Construction Code Act, Act No. 230 of the Public Acts of 1972, as amended. The Village of Shoreham ordains:

A. *Agency designated.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Village Zoning Administrator of the Village of Shoreham is hereby designated as the enforcing agency to discharge the responsibility of the Village of Shoreham under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The Village of Shoreham assumes responsibility for the administration and enforcement of said Act throughout its corporation limits.

B. *Code appendix enforced.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the Village of Shoreham.

C. *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Entitled "Berrien County, Michigan And Incorporated Areas" and dated April 17, 2006, and the Flood Insurance Rate Map(s) (FIRMS) panel number(s) of:

Shoreham Village:	260210084C
	260210092C
	260210101C
	260210102C
	260210103C
	260210104C
	260210112C
	260210115C

and dated April 17, 2006 are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code and part of Section 257 of the F-1 floodplain overlay district.

2. *Delineation of district.*
 - A. The floodplain district shall overlay existing zoning districts delineated on the official Village Zoning Map. The boundaries of the floodplain overlay district shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood boundary in the report entitled "The Flood Insurance Study, The Village of Shoreham," dated June 18, 1980, with accompanying flood insurance rate, flood boundary and floodway maps. The boundaries designate a regulatory floodplain and shall coincide with the 100-year flood boundary indicated on the flood boundary and floodway map. The study and accompanying maps are adopted by reference, appended and declared to be a part of this Ordinance. The term "floodplain district," as used in this Ordinance, shall mean the floodplain overlay district and shall be the designated regulatory floodplain.
 - B. Where there are disputes as to the location of a floodplain overlay district boundary or the limits of the floodway, the Village Zoning Board of Appeals shall resolve the dispute in accord with the following rules:
 - 1) Where disputes arise as to the location of the floodplain overlay district boundary or the limits of the floodway, the decision of the Village Zoning Board of Appeals shall be based upon the most current floodplain studies issued by the Federal Emergency Management Agency. Where Federal Emergency Management Agency information is not available, the best available floodplain information shall be utilized.
 - 2) Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Emergency Management Agency floodplain studies are being questioned, the Village Zoning Board of Appeals shall modify the boundary of the flood hazard area or the floodway only upon receipt of an official letter of map amendment issued by the Federal Emergency Management Agency.
 - 3) All parties to a map dispute may submit technical evidence to the Village Zoning Board of Appeals.
 - C) In addition to other requirements of this Ordinance applicable to the development on the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within the floodplain overlay zone. Conflicts between the requirements of this section and other requirements of this Ordinance or any other ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section. In such cases, the more stringent requirement shall be applied.
3. *Permitted uses.* Notwithstanding any other provisions of this Ordinance, no building or structure shall be erected, converted or structurally altered and no land and/or structure shall be used in the floodplain district except for one or more of the following uses:
 - A. Gardening, horticulture, and open recreational uses such as parks, playgrounds, playfields, athletic fields, bridle paths and nature paths are permitted.

- B. In the area outside the 100-year floodplain, uses permitted by the zoning district otherwise established for the lot are permitted, subject to the regulations of such district: provided, however, the elevation of the lowest floor designed or intended for human use or habitation, including basements, shall be at least three feet above the elevation of the nearest point of the 100-year floodplain designated in subsection (2) of this section.
- C. In the area within the 100-year floodplain, land may be used to supply open space or lot area requirements of a lot partially located outside; provided, however, no building or structure shall be located within the 100-year floodplain.
- D. *Accessory uses.* Within the 100-year floodplain area, off-street parking is permitted as a use accessory to a principal use outside the 100-year floodplain on the same lot. However, no building, structure, or equipment other than boundary monuments is permitted within the 100-year floodplain as an accessory use.
- E. *Special uses.*
 - 1) In the area within the 100-year floodplain, dumping or backfilling with any material in any manner is prohibited unless, through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved, and unless all applicable state regulations are met.
 - 2) In the area within the 100-year floodplain, the construction or location of bridges, outdoor play equipment, bleachers and similar outdoor equipment and appurtenances is prohibited unless such elements would not cause an increase in water surface elevation, obstruct flow or reduce the impoundment capacity of the floodplain. In addition, all equipment shall be anchored to prevent flotation and lateral movement. Approval of a special use permit for any of such uses shall be subject to an engineering finding by a registered engineer that the requirements of this subsection are satisfied, subject to approval by the Village engineer.
- F. *Construction.* No building or structure shall be erected, converted or structurally altered or placed and no land filled or structure used in a floodplain district unless a permit therefor shall have first been obtained from the Village Zoning Administrator after due compliance is shown with all Village ordinances, state statutes and federal regulations.
- G. *Utilities.* All on-site new and replacement water and sewer systems and appurtenances in the floodplain shall be designed to minimize infiltration of floodwater and so constructed so as to avoid impairment that might otherwise result from flooding.
- H. *Alteration of watercourses.* No alteration of any watercourse in the floodplain district shall be undertaken unless and until neighboring communities and the state department of natural resources shall have first been notified and provided with detailed plans and specifications prepared by a registered engineer. Such plans shall show full compliance with local ordinances, state statutes, state regulatory agencies and federal regulations and shall make provisions for maintaining the full carrying capacity of the altered watercourse.

- I. *Violations; enforcement.* Any building or structure which is erected, altered, maintained or changed in violation of any provision of this section is hereby declared to be a nuisance, per se. The Village Council and the duly authorized attorney for the Village and the prosecuting attorney for the county may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use of lands in the floodplain district.

- J. *Disclaimer of liability.* The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based upon engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. Approval of the use of land under this section shall not be considered a guarantee or warranty or safety from flood damage. This section does not imply that areas outside the flood hazard area will be free from flood damage. This section does not create liability on the part of the Village or any officer or employees thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

Secs. 257--290. Reserved.

TABLE OF PERMITTED USES	R-1 One-family Residential District		R-2 Suburban Residential District		R-3 Multi-family Residential District		B-1 Limited Local Commercial District	
	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use
One-family detached dwellings and permitted accessory uses.	x		x		x			
Parks and recreation areas, when publicly owned and operated.	x		x		x			
Accessory uses, including off-street parking facilities in accordance with the provisions of Article VII of this ordinance.	x		x		x			
Signs as permitted in Article VIII of this ordinance.	x		x		x		x	
Churches, rectories, and parish houses.		x		X		x		x
Planned developments, under single ownership or control, in which incidental business or recreational facilities for the convenience of the occupants may be furnished, provided the property proposed for development shall have a gross area of at least five acres. For such developments, the Village Council may vary the regulations in this section, provided such variances are consistent with the general purpose and intent of this ordinance and will result in better site planning and thus be of greater benefit to the occupants of the development and to the community.		x		X		x		
Schools, other than public				x		x		
Multiple-family dwellings, hotels, apartments and apartment hotels.					x			
One-family row dwellings (party wall) with not more than six dwellings in a row or building.					x			
Accessory uses, including off-street parking and loading facilities as permitted or required in accordance with the provisions of Article VII of this ordinance.							x	
Apparel shops.							x	
Art and school supply stores.							x	
Art galleries and studios.							x	
Barbershops and beauty parlors.							x	
Book and stationery stores.							x	
Camera and photographic supply stores or retail sale.							x	
Candy and ice cream shops.							x	

TABLE OF PERMITTED USES	R-1 One-family Residential District		R-2 Suburban Residential District		R-3 Multi-family Residential District		B-1 Limited Local Commercial District	
	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use
Catalog offices for mail order stores.							X	
China and glassware stores.							X	
Coin and philatelic stores.							X	
Custom dressmaking, millinery, tailoring or shoe repair shops, when conducted for retail sales on the premises only.							X	
Dry goods stores.							X	
Florist shops and conservatories for retail trade on the premises only.							X	
Food, meat and fruit stores.							X	
Furriers, when conducted for retail trade only.							X	
Gift shops.							X	
Hobby stores.							X	
Interior decorating shops.							X	
Jewelry stores.							X	
Leather goods and luggage stores.							X	
Loan offices and finance companies.							X	
Meat markets.							X	
Medical and dental offices and medical centers.							X	
Musical instrument stores.							X	
Offices, business and professional, including medical clinics.							X	
Paint and wallpaper stores.							X	
Photography studios, including the development of film and pictures when done as part of the retail business on the premises.							X	
Sporting goods stores.							X	
Tobacco shops.							X	
Toy stores.							X	
Travel bureau and transportation ticket offices.							X	
Private clubs or lodges and fraternal and religious institutions, except those the chief activity of which is a service normally carried on as a business.								X
Parks, when publicly owned and operated.								X
Telephone answering services.								X
Ambulance service.							X	
Art galleries and studios.							X	
Auction rooms.							X	

TABLE OF PERMITTED USES	R-1 One-family Residential District		R-2 Suburban Residential District		R-3 Multi-family Residential District		B-1 Limited Local Commercial District	
	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use
Auto accessory stores.							X	
Bakery shops, including the baking and processing of food products when prepared for retail sale on the premises only.							X	
Banks and financial institutions, including drive-in teller facilities.							X	
Bicycle sales and repair.							X	
Business machines sales and service.							X	
Carpet, rug and linoleum stores.							X	
Costume rental shops.							X	
Currency exchanges.							X	
Department stores.							X	
Drugstores.							X	
Dry cleaning and pressing establishments.							X	
Frozen food stores and food lockers.							X	
Furniture stores.							X	
Garden supply stores.							X	
Glass cutting and glazing establishments.							X	
Greeting cards							X	
Hardware stores.							X	
Hotels and motels.							X	
Household appliance stores and repair.							X	
Locksmiths.							X	
Meeting halls.							X	
Orthopedic and medical appliance stores, but not including the manufacture of such articles.							X	
Pet shops, but not including animal hospitals.							X	
Philanthropic or charitable uses or institutions, provided that not more than 20 percent of the gross floor area or 2,000 square feet, whichever is greater, shall be used as office space.							X	
Photo developing and processing.							X	
Physical fitness and health services.							X	
Picture framing, when conducted for retail trade on the premises only.							X	
Plumbing, heating, and air conditioning sales and service.							X	

TABLE OF PERMITTED USES	R-1 One-family Residential District		R-2 Suburban Residential District		R-3 Multi-family Residential District		B-1 Limited Local Commercial District	
	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use
Public utility collection offices.							X	
Radio and television broadcasting stations, including cable TV.							X	
Restaurants.							X	
Retail fabric shops							X	
Schools: nonpublic, music, dance, business, commercial or trade.							X	
Tailors							X	
Taxidermists.							X	
Telephone answering services.							X	
Telephone exchanges, repeater stations, microwave relay towers and stations, mobile transmitting towers and stations, antenna towers and other outdoor equipment essential to the operation of the exchange in the interest of public convenience and necessity, including business offices in conjunction therewith.							X	
Theaters, indoor.							X	
Upholstery shops.							X	
Accessory uses, including off-street parking and loading facilities as permitted or required in accordance with the provisions of Article VII of this ordinance.							X	
Other retail business uses not specifically listed in this subsection, when found to have economic compatibility with established uses on adjoining property.							X	
Animal hospitals.								X
Automobile sales and service shops, including painting and repairing but not the painting or repairing of trucks over 1 1/2 tons capacity.								X
Automobile service stations.								X
Blueprinting and Photostatting establishments.								X
Boat showrooms.								X
Bus terminals or other public transportation facilities.								X
Catering establishments.								X

TABLE OF PERMITTED USES	R-1 One-family Residential District		R-2 Suburban Residential District		R-3 Multi-family Residential District		B-1 Limited Local Commercial District	
	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use	Permitted Use	Special Use
Cocktail lounges, taverns, liquor stores (package goods only), and any other establishments in which beer and/or liquor is to be sold either in packages or to be consumed on the premises, subject to the conditions specified in Article II of this ordinance.								X
Extermination shops.								X
Funeral homes and undertaking parlors.								X
Garages, public, for storage of private passenger automobiles and commercial vehicles under 1 1/2 tons.								X
Hand laundries.								X
Mobile home parks, provided that public or community sewer and water facilities are available for each mobile home.								X
Nursing homes or rest homes.								X
Publishing and printing.								X
Restaurants, including drive-in restaurants.								X
Water filtration plants.								X

ARTICLE V.

PLANNED UNIT DEVELOPMENT

State Law References: Planned unit development, MCL 125.3503, 125.3504.

DIVISION 1.

GENERALLY

Sec. 291. Purpose.

The purpose of planned unit development is to encourage the most orderly development of properties through advance planning and thus ensure adequate standards for the development of residential neighborhoods, provide regulations to encourage a variety of dwelling types, ensure adequate open space, protect residential areas from undue traffic congestion, and protect residential areas from the intrusion of business, industrial and other land uses that may create an adverse effect upon the living environment, and thus promote the general welfare of the community.

Sec. 292. Basic provisions and requirements.

1. The basic provisions and requirements concerning planned unit development are as follows: The subdivision, development and use of land containing five or more acres as an integral unit, combining more than one primary land use and which may provide for single-family residential, multifamily residential, education, business, commercial, recreation, park and common use areas may be described as a planned unit development.
2. In its establishment and authorization as a special use, in addition to the provisions of subsection 1 of this section, the procedures, requirements, restrictions, standards and conditions in this article shall be observed.

Sec. 293. Procedure for approval.

Procedures for approval of a planned unit development are the same as those for a special use permit, as specified in Sections 122 through 133.

Sec. 294. Contents of petition.

The formal petition for approval of a planned unit development shall contain, in addition to all other requirements, the following:

1. An outline plan of the planned unit development. This plan will be at a scale of not less than one inch equals 100 feet, and shall show all proposed streets (public and private), street classifications, rights-of-way, all principal and accessory buildings and their use, lot size, building lines, easements for utility services, off-street parking, service areas, open space, recreation facilities and any other information necessary to clearly show the proposed elements of the planned unit development.

2. Preliminary architectural plans for all residential buildings, in sufficient detail to show the basic planning, the number of units per building and the number of bedrooms per dwelling unit. Preliminary architectural plans are not required for business or other nonresidential buildings at the time of this application but must be submitted to the Village Planning Commission for its approval prior to filing an application for a building permit.
3. A topographic survey and boundary survey of the subject area, prepared and certified by a registered Michigan surveyor or including a legal description.
4. A rendered plan of the planned unit development area, showing in contrasting colors, or by other means, the respective location of all categories of land use.
5. A map of the Village, showing the planned unit development area and its relation to existing roads and streets and use districts within and immediately adjacent to the Village.
6. Preliminary plans and outline specifications of the following improvements:
 - A. Roads, streets and alleys, including classifications, width of right-of-way, widths of paved surfaces and construction details.
 - B. Sidewalks, including widths of paved surfaces and construction details.
 - C. Sanitary and storm sewer systems (private).
 - D. Water supply system (private).
 - E. Street lighting and public area lighting system.
 - F. Recommended installation for electric, gas and telephone facilities and distribution.
 - G. Sequence of phases or stages of development of the planned unit development.
 - H. A general landscape planting plan, which shall be prepared by a landscape architect and shall meet the approval of the Village Planning Commission.
7. Estimates of cost of installation of all proposed improvements confirmed by a registered Michigan engineer.
8. The petitioner's proposed covenants, restrictions and conditions to be established as a part of the planned unit development.

Sec. 295. Construction of improvements; deposit or bond for estimated cost of improvements.

The petitioner for approval of a planned unit development shall construct and install the required improvements and must post with the Village a sum in cash or negotiable securities, or a surety bond running to the Village, in an amount sufficient to cover the full cost, including engineering and inspection fees and costs, plus ten percent of such total, to ensure the satisfactory installation of such improvements. The amount of such

deposit or bond shall be based upon the confirmed estimate of cost provided for in Section 294. If a surety bond is submitted, it shall have good and sufficient surety thereupon and shall not be accepted until approved by the Village President and Village Council. If the planned unit development is to be constructed and developed in stages or phases, the deposit of cash or securities or the bond posted shall be in an amount based upon the confirmed estimated cost of installation of improvements in the respective stage or phase as approved by the Village Council. This section shall not be applicable to improvements for which a cash deposit, certified check, irrevocable bank letter of credit, or surety bond has been deposited under the Land Division Act (MCL 560.101 *et seq.*).

Sec. 296. Street classifications and specifications.

Street classifications, definitions and specifications for planned unit developments shall be as established by the county road commission or as provided for by the Village private road specification.

Secs. 297--320. Reserved.

DIVISION 2.

STANDARDS

Sec. 321. Compliance.

No planned unit development shall be authorized unless the Village Planning Commission shall find and recommend, in addition to those standards established in this Ordinance for special uses, that the provisions of this division will be met.

Sec. 322. General standards.

1. *Permitted uses.* The uses permitted by such exceptions as may be requested or recommended shall be necessary or desirable and appropriate to the purpose of the development.
2. *Prohibited uses.* The uses permitted in such development shall not be of such nature or so located as to exercise an undue detrimental influence or effect upon the surrounding neighborhood.
3. *Compliance with use requirements.* All minimum requirements pertaining to commercial, residential, institutional or other uses established in planned unit development shall be subject to the requirements for each individual classification as established in this Ordinance, except as may be specifically varied in the ordinance granting and establishing a planned unit development use.
4. *Operation and maintenance of private facilities.* When private streets and common driveways are made a part of the planned unit development or private common open space or recreation facilities are provided, the applicant shall submit as part of the application the method and arrangement whereby these private facilities shall be operated and maintained. Such

arrangements for operating and maintaining private facilities shall be subject to the approval of the Village Council.

5. *Underground installation of utility wires.*

- A. The Village Council hereby finds that overhead wires for electric, communication, or similar or associated services are hazardous to the public health and safety, adversely affect the value of property in the Village, contribute to conditions of urban blight, are incompatible with major land use planning objectives and mar the natural beauty of the Village.
- B. It is the intention of the Village Council over a period of years to eliminate overhead utility wires through police power and other appropriate means.
- C. Within the area of a plat or site plan, all distribution lines for electric, communication or similar associated services shall be placed underground in accordance with land development regulations adopted by the Village Planning Commission. Such regulations shall contain, among other things, reasonable exceptions for the authorized overhead main supply lines and overhead perimeter feed lines and necessary surface facilities. Those electric and communication facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All communication and electrical facilities shall be constructed in accordance with standards of construction approved by the state public service commission. All underground utility installations which traverse privately owned property shall be protected by easements granted by the owner of such property.
- D. Subsection (5)(C) of this section shall not apply to any plat or site plan which has received preliminary approval as of the effective date of the ordinance from which this section is derived.
- E. The Village Council may, by resolution, waive or modify any of the requirements of this subsection for underground line installations with respect to a particular plat or site plan when the strict application of such requirements would result in practical difficulties or unnecessary hardship. Prior to any such waiver or modification, all interested parties shall be notified and given an opportunity to be heard.

Sec. 323. Residential uses.

- 1. *Density.* Residential density for a planned unit development shall not be greater than the recommended density as shown on the land use plan for the Village, nor shall any lot to be used for residential purposes be less in area or dimension than that required by the district regulations applicable to the district in which the planned development is located, except that the Village Planning Commission may recommend and the Village Council may grant a reduction in such lot area and dimension, but not more than 15 percent, when the planned unit development provides common open space equal to not less than ten percent of the gross area of the planned unit development.

2. *Business uses in residential development.* Business uses may be included as part of a planned residential development when the Village Planning Commission finds that such business uses are beneficial to the overall planned unit development and will not be injurious to adjacent or neighboring properties. Such business uses shall not be greater in area than ten percent of the planned unit development.
3. *Open space.* The open areas provided in the part of a planned development containing only residential structures shall be preserved over the life of the planned unit development for use only by the residents of the planned development or dedicated to the Village for school, playground or other public uses by an instrument or guarantee acceptable to the Village Parks Board.
4. *Access.* For that part of a planned unit development devoted to residential uses, the Village Planning Commission may recommend and the Village Council may approve access to a dwelling by a driveway or pedestrian walk easement, and spacing between buildings of lesser width or depth than required by district regulations for the district in which the planned development is located, provided that:
 - A. Adequate provisions are made which perpetuate, during the period of the special use, access easements and off-street parking spaces for use by the residents of the dwellings served;
 - B. The spacing between buildings shall be approved by the Village Planning Commission and shall be consistent with the application of recognized site planning principles for securing a unified development, and due consideration is given to the openness normally afforded by intervening streets and alleys. The minimum side yards between principal buildings within a part of a planned development where subsequent transfer of ownership is contemplated shall be equivalent to side yards as would be required between buildings by district regulations for the district in which the planned unit development is located; and
 - C. The yards for principal buildings along the periphery of the development shall be not less in width or depth than required for permitted uses in the district regulations applicable to the districts in which the planned unit development is located, and the plan shall be developed to afford adequate protection to neighboring properties as recommended by the Village Planning Commission and approved by the Village Council.
5. *Variances of minimum requirements.* Wherever the applicant proposes to provide and set out, by platting, deed, dedication, restriction or covenant, any land or space separate from single-family or multifamily residential districts to be used for parks, playgrounds, commons, greenways or open areas, the Village Planning Commission may consider and recommend to the Village Council and the Village Council may vary the applicable minimum requirements of this Ordinance, which may include but shall not necessarily be limited to the following:
 - A. Rear yard.
 - B. Side yard.

- C. Lot area.
- D. Bulk.
- E. Off-street parking.
- F. Intensity of use.
- G. Street width.
- H. Sidewalks.
- I. Public utilities.

Sec. 324. Business uses.

1. *Permitted uses.* Business uses shall be as prescribed by the Village Planning Commission.
2. *Business and storage to be enclosed.* All business and storage of materials shall be conducted or stored within a completely enclosed building.
3. *Maximum lot coverage.* Not more than 30 percent of the lot area shall be covered by buildings or structures.
4. *Landscaping and open space.* At least ten percent of the lot shall be provided for landscape and open space purposes.
5. *Building height.* No building more than 35 feet in height shall be approved by the Village Planning Commission.
6. *Dwellings.* No dwellings shall be permitted in a planned business development unless a special use permit is obtained.
7. *Off-street parking.* Off-street parking shall be provided and maintained on the same lot based upon three square feet of parking space for each square foot of gross floor area, unless the Village Planning Commission recommends and the Village Council requires additional off-street parking space.
8. *Service and loading facilities.* Service and loading and unloading facilities shall be provided as recommended and approved by the Village Planning Commission.
9. *Setbacks.* No building shall be located nearer than 50 feet to any street line.
10. *Screening.* Business developments shall be adequately screened by fencing or landscaping, or both, along the boundaries of adjacent residential uses, public open space, schools, churches or other similar uses. The screen planting shall be prepared by a landscape architect and shall meet the approval of the Village Planning Commission.

11. *Lighting.* Outside lighting shall be designed and placed so as to not be disturbing to adjacent residential areas.
12. *Signs.* Signs shall comply with the regulations of the B-1 business uses permitted in this Ordinance.

Secs. 325--350. Reserved.

ARTICLE VI.

SUPPLEMENTAL DISTRICT REGULATIONS

Sec. 351. Scope of district regulations.

Except as may otherwise be provided, all buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring thereafter, and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations in this article which are applicable.

Sec. 352. Use and bulk regulations.

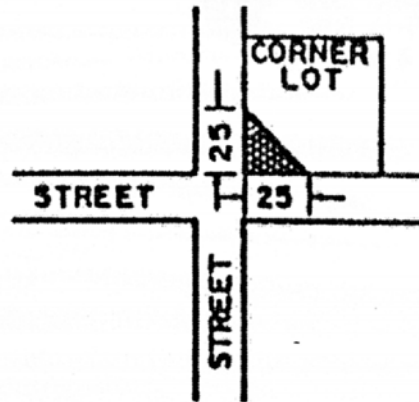
1. *Use regulations.* No building, structure or land shall hereafter be used or occupied and no building or part thereof or other structure shall be erected, raised, moved, reconstructed, extended, enlarged or altered except in conformity with regulations specified in this Ordinance for the district in which it is located.
2. *Bulk regulations.* All new buildings and structures shall conform to the building regulations established in this Ordinance for the district in which each building shall be located, except that parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, stacks and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the Village.

Sec. 353. Lot coverage.

1. *Preservation of yards, courts and other open space.* The maintenance of yards, courts and other open spaces and minimum lot area required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. No legally required yards, courts, or other open space or minimum lot area allocated to any building shall by virtue of change of ownership or for any reason be used to satisfy yard, court or other open space or minimum lot area requirements for any other building.
2. *Division of zoning lots.* No improved zoning lot shall hereafter be divided into two or more zoning lots unless all improved zoning lots resulting from each division shall conform with all the applicable bulk regulations of the zoning district in which the property is located.
3. *Location of required open space.* All yards, courts and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.
4. *Required yards for existing buildings.* No yards now or hereafter provided for a building existing on the effective date of the ordinance from which this Ordinance is derived shall subsequently be reduced below or further reduced below if already less than the minimum yard requirements of this Ordinance for equivalent new construction.

5. *Permitted obstructions in required yards.* The following shall not be considered to be obstructions when located in the required yards as specified:
- A. *All yards.* In all yards:
- 1) Open terraces not over four feet above the average level of the adjoining ground, but not including a permanently roofed-over terrace or porch.
 - 2) Awnings and canopies not projecting more than ten feet, and at least seven feet above the average level of the adjoining ground.
 - 3) Steps four feet or less above grade which are necessary for access to a permitted building or for access to a zoning lot from a street or alley.
 - 4) Chimneys projecting 18 inches or less into the yard.
 - 5) Arbors, trellises, flagpoles, fountains, sculptures, plant boxes and other similar ornamental objects.
 - 6) Fences and walls not exceeding four feet in height above natural grade level in front yards and not exceeding six feet in height in side and rear yards; and open type fences exceeding six feet in any side yard, provided that visibility through any surface of such fence shall not be reduced by more than 40 percent.
- B. *Front yards.* In front yards, one-story suspended bay windows projecting three feet or less into the yard, and overhanging eaves and gutters projecting three feet or less into the yard.
- C. *Rear yards.* In rear yards, enclosed, attached or detached off-street parking spaces, open off-street parking spaces, accessory sheds, tool rooms and similar buildings or structures for domestic or agricultural storage, balconies, breezeways and open porches, and one-story bay windows projecting three feet or less into the yard. In any residential district, no accessory building shall be nearer than five feet to the side lot line, or nearer than five feet to the rear lot line, or nearer than ten feet to any principal building unattached to the accessory building.
- D. *Side yards.* In side yards, overhanging eaves and gutters projecting into the yard for a distance not exceeding 40 percent of the required yard width, but in no case exceeding four feet.
- E. *Vision clearance on corner lots.* No building or structure hereafter erected and no planting or other obstruction to the vision of persons lawfully using the public streets shall be located:
- 1) In any residential district exceeding a height of three feet above the street grade within 25 feet of the intersecting street lines bordering corner lots; and

- 2) In any commercial district within 25 feet of the intersecting street lines bordering a corner lot, provided that this regulation shall not apply to that part of a building above the first floor.



Sec. 354. Access to public streets.

Every building, hereafter erected or moved, shall be on a lot adjacent to a public street or with access to a private street, as approved by the Village Council, and all structures shall be so located on the lot as to provide safe and convenient access for servicing, fire protection, and required off-street parking. Approval of the Village Council shall be required before private streets or easements for ingress or egress to or from a public street may be created or granted.

Sec. 355. Number of buildings on lot.

Except in the case of a planned development, not more than one principal detached residential building shall be located on a residential lot, nor shall a principal detached building be located on the same zoning lot with any other principal building. For regulations pertaining to accessory buildings, see section 357.

Sec. 356. Reserved.

Sec. 357. Accessory buildings.

1. *Location.* When a side yard is required, no part of an accessory building shall be located closer than three feet to the side lot line along such side yard. When a rear yard is required, no part of an accessory building shall be located closer than five feet to the rear lot line or to those portions of the side lot lines abutting such required rear yard. In a residential district, no detached accessory building shall be closer than ten feet to the principal building. No accessory building shall be located in front of the front building line of the principal building on any residential zoning lot.
2. *Number.* Except in the case of a planned unit development, not more than one accessory building shall be located on a residential lot nor shall an accessory building be located on a lot with any other accessory building.

3. *Time of construction.* No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
4. *Percentage of rear yard occupied.* No accessory building shall occupy more than 40 percent of the area of a required yard.
5. *Height of buildings in rear yard.* No accessory building or portion thereof located in a required rear yard shall exceed 15 feet in height.
6. *Setbacks on reversed corner lots.* On a reversed corner lot in a residential district, no accessory building or portion thereof located in a required rear yard shall be closer to the side lot line abutting the street than the required front yard on the adjacent lot to the rear. Further, in this instance, no such accessory building shall be located within five feet of any part of a rear lot line which coincides with a side lot line or portion thereof of property in a residential district.

Sec. 358. Temporary buildings for construction purposes.

Temporary buildings for construction purposes may be allowed in any district for a period not to exceed the completion date of such construction.

Sec. 359. Home occupations.

1. *Compliance.* Home occupations complying with the criteria established herein may be allowed after receipt of a home occupation permit issued by the Building Inspector/ordinance enforcement officer. Notwithstanding anything in this Ordinance to the contrary, home occupations shall include the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence; provided, however, that this provision does not prohibit the regulation of noise, advertising, traffic, hours of operation, or other conditions that may accompany the use of such a residence for such a home occupation.

A. *Procedures.*

- 1) Applications must be filed by the home owner requesting the home occupation permit; all fees must be paid by the applicant to the Village of Shoreham.
- 2) The Building Inspector must do an onsite inspection to ensure all applicable safety and building codes that would affect home occupations are adhered to.
- 3) The Building Inspector shall make recommendations for approval and/or denial of home occupation based on the findings of the inspections and/or required credentials.
- 4) The Building Inspector's recommendation will be heard by the Village Council for approval or denial (if denied the decision may be appealed to the Village Zoning Board of Appeals).

- a) Home occupations that impact or affect surrounding properties will be recommended to the Village Planning Commission and will require a public hearing as determined by the Building Inspector.
 - b) Home occupations that do not impact or affect surrounding properties but meet criteria, state licensing requirements, etc. will be inspected by the Building Inspector.
 - c) The Building Inspector's recommendations for these types of home occupations will go directly to the Village Council for approval or denial.
- 5) Final decision of all recommendations of the Building Inspector and/or Village Planning Commission will be made by the Village Council.
 - 6) Existing home occupations or special use for home occupation must be renewed annually by application and pay a renewal fee as set by action of the Village Council. Providing there are no changes to the home occupation or special use for home occupation request, the Building Inspector can renew without Village Planning Commission or Village Council approval.
 - 7) Notification must be given to the Village in writing to cancel a home occupation permit.
 - 8) Home occupations or special use permits are non-transferable.
- B. *Application.* Application for a home occupation permit shall be made to the Building Inspector/ordinance enforcement officer on a form provided by the Village of Shoreham and shall be accompanied by the prevailing non-refundable filing fee as established by resolution of the Village Council. The Building Inspector/ordinance enforcement officer shall make a decision and notify the applicant of same in writing, within five calendar days.
- C. *Voiding of permit.* The Building Inspector/ordinance enforcement officer may void any home occupation or special use for home occupation permit for noncompliance with the criteria set forth in this Ordinance. Revocation may take place at any time prior to the expiration date of the permit. If the permit is revoked or is not renewed, it becomes null and void, and said use shall be terminated.
- D. *Appeal to Village Zoning Board of Appeals.* The decision of the Building Inspector/ordinance enforcement officer concerning approval or revocation shall be final unless a written appeal is filed with the Village Zoning Board of Appeals within ten calendar days after the decision is made and written notice is given to the applicant. An appeal may only be filed by the applicant, owners of property within 1,000 feet of the subject property or the Village Council.
- E. *Inspection.* Home occupation applicants shall permit a reasonable inspection of the premises by the Building Inspector/ordinance enforcement officer to determine compliance with this Ordinance.

- F. *Criteria for home occupations.* Home occupations shall be allowed by permit if in conformance with all of the following regulations:
- 1) No person other than the occupants residing on the premises shall work on the premises in such home occupation.
 - 2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants, and not more than 25 percent of the habitable space of the dwelling unit shall be used in the conduct of the home occupation.
 - 3) There shall be no change in the outside appearance of the building or premises or other visible evidence of the conduct of such home occupation. There shall be no advertising, display, or other indications of a home occupation on the premises.
 - 4) No traffic shall be generated by such home occupation in greater volume than would be normally expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
 - 5) No equipment or process shall be used in such home occupation, which requires hazardous materials or creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
 - 6) Hazardous material shall include but not be limited to (1) any material listed in the list of toxic pollutants found in 40 CFR § 401.15 as amended; (2) any material designated as hazardous material by applicable state law; (3) any compressed gas, explosive, flammable liquid, flammable solid oxidizer, poison or radioactive material.
 - 7) No storage or display of goods shall be visible from outside the structure.

Sec. 360. Existing special uses.

Where a use is classified as a special use and exists as a permitted use at the date of the adoption of the ordinance from which this Ordinance is derived, it shall be considered a legal use, without further action of the Village Council, the Village Zoning Administrator, the Village Zoning Board of Appeals or the Village Planning Commission.

Sec. 361. Uses not specifically permitted.

When a use is not specifically listed in this Ordinance as a permitted use or special use for the respective zoning district, it shall be assumed that such uses are expressly prohibited in the respective zoning

district by this Ordinance unless a written decision of the Village Zoning Board of Appeals rules otherwise, notwithstanding any provisions in this Ordinance to the contrary and to the extent mandated by Section 206 of the Michigan Zoning Enabling Act (MCL 125.3206):

Sec. 362 Swimming Pools.

It shall be unlawful for any person or persons to install, place, or construct a swimming pool upon any lot or parcel of land in the Village of Shoreham without first securing approval of placement from the Village Council or its designee, and securing a building permit and complying with all applicable requirements regarding swimming pools contained in any pertinent State and Village Code.

Sec. 363 Screening and Landscaping.

One hundred percent (100%) of any residential lot in all residential zoning districts, excluding that portion used for buildings, off-street parking, loading, maneuvering areas, drives, and pedestrian walks, shall be landscaped with a lawn, garden, or other suitable planted ground cover, which may include trees and shrubs.

Secs. 364--390. Reserved.

ARTICLE VII.

OFF-STREET PARKING AND LOADING

Sec. 391. Purpose of article.

The purpose of this article is to alleviate or prevent the congestion of the public streets, and so promote the safety and welfare of the public, by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use to which property is put.

Sec. 392. General provisions.

1. *Applicability of parking and loading requirements.* The off-street parking and loading provisions of this Ordinance shall apply as follows:
 - A. For all buildings and structures erected and all uses of land established after the effective date of the ordinance from which this Ordinance is derived, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of the ordinance from which this Ordinance is derived and provided that construction is begun within one year of such effective date and diligently prosecuted to completion, parking and loading facilities as required in this Ordinance need not be provided.
 - B. When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other unit of measurement specified in this Ordinance for required parking or loading facilities, parking and loading facilities as required in this Ordinance shall be provided for such increase in intensity of use. However, no building or structure lawfully erected or used or lawfully established prior to the effective date of the ordinance from which this Ordinance is derived shall be required to provide such additional parking or loading facilities unless and until the aggregate increase in units of measurement existing upon the effective date of the ordinance from which this Ordinance is derived, in which event parking or loading facilities as required in this Ordinance shall be provided for the total increase.
 - C. Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the building or structure was erected prior to the effective date of the ordinance from which this Ordinance is derived, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use if the latter were subject to the parking and loading provisions in this Ordinance.
2. *Reduction of existing parking and loading facilities.* Accessory off-street parking or loading facilities which are located on the same lot as the building or use served which were in existence on the effective date of the ordinance from which this Ordinance is derived or were provided voluntarily after such effective date shall not hereafter be reduced below, or, if

already less than, shall not further be reduced below, the requirements of this Ordinance for a similar new building or use.

3. *Voluntary establishment of parking and loading facilities.* Nothing in this Ordinance shall be deemed to prevent the voluntary establishment of off-street parking and loading facilities to serve any existing use of land or buildings, provided that all regulations in this Ordinance governing the location, design, improvement and operation of such facilities are adhered to.
4. *Restoration after damage or destruction.* For any conforming or legally nonconforming building or use which is in existence on the effective date of the ordinance from which this Ordinance is derived, which subsequent thereto is damaged or destroyed by fire, collapse, explosion or other cause and which reconstructed, reestablished or repaired, off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Ordinance for equivalent new uses or construction.
5. *Ownership and control of off-site parking facilities.* When required parking facilities are provided on land other than the zoning lot on which the building or use served by such facilities is located, they shall be and remain in the same possession or ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory. No such off-site parking facilities shall be authorized and no occupancy permit shall be issued where the plans call for parking facilities other than on the same zoning lot until and unless the Village Zoning Board of Appeals has reviewed the plans and heard the applicant and made findings that the common ownership or possession of the zoning lot and the site of the parking facilities is reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use or building.
6. *Plot plan.* Any application for a building permit, or for a certificate of occupancy where no building permit is required, shall include therewith a plot plan drawn to scale and fully dimensioned showing any parking or loading facilities to be provided in compliance with this Ordinance.

Sec. 393. Design, maintenance and use of parking facilities.

1. *Use of residential parking facilities.* Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this article shall be used for the parking of passenger vehicles owned by occupants of the dwelling structures to which such facilities are accessory or by guests of the occupants. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking of vehicles belonging to the employees, owners, tenants, visitors or customers of business or manufacturing establishments. Workers at a residence may also use the residential parking area while performing their duties.
2. *Joint parking facilities.* Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any zoning district in which separate parking facilities for each constituent use would be permitted, provided that the total number of

spaces so located together shall not be less than the sum of the separate requirements for each use.

3. *Computations resulting in fractional number of spaces.* When determination of the number of off-street parking spaces required by this Ordinance results in a requirement of a fractional space, any fraction of one-half or more shall be counted as one additional required parking space.
4. *Size and clearance of parking spaces.* A required off-street parking space shall be at least ten feet in width and at least 20 feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical clearance of at least seven feet.
5. *Access to parking facilities.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley, in a manner which will least interfere with traffic movements. No driveway across public property or curb cut shall exceed a width of 30 feet.
6. *Distance of parking areas from lot lines.* Off-street parking spaces may be located in any yard except the required front yard in residential and commercial districts, but shall not be closer than five feet to the lot line.
7. *Parking or storage in right-of-way.* No person shall park, deposit, leave or store any motor vehicle or tangible personal property of any type or description at any time within the right-of-way of any street within the Village, except as permitted by Village Ordinance.
8. *Design and maintenance standards.*
 - A. *Open and enclosed parking spaces.* Accessory parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed in a building. Accessory parking spaces located in a residence district elsewhere than on the same lot occupied by the use served shall be open to the sky except when otherwise allowed as a special use.
 - B. *Surfacing.* All open off-street parking areas and driveways shall be improved with a compacted macadam base, not less than four inches thick, surfaced with asphaltic concrete or some comparable all-weather dustless material.
 - C. *Screening and landscaping.* All open automobile parking areas containing more than five parking spaces shall be effectively screened on each side adjoining or fronting on any property situated in a residence district or any institutional premises by a wall, fence or densely planted compact hedge not less than four feet and not more than six feet in height. Such required screening shall conform with the front and side yard setback requirements of the district in which the parking is located.
 - D. *Lighting.* Any lighting used to illuminate off-street parking areas shall be designed and constructed in such a manner to:

- 1) Insure that direct or directly reflected light is confined to the area needing it and that it is not directed off the property.
 - 2) That all light sources and light lenses are shielded.
 - 3) That any light sources or light lenses over 2,000 lumens are not directly visible from beyond the boundary of the site.
 - 4) That light from any illuminated source shall be so shaded, shielded, or directed that the light intensity or brightness will not be objectionable to surrounding areas.
- E. *Signs.* Accessory signs are permitted on parking areas.
- F. *Repair and servicing of vehicles.* No motor vehicle repair work of any kind shall be permitted in conjunction with accessory off-street parking facilities provided in a residence district. In addition, the sale of gasoline and motor oil in conjunction with accessory off-street parking facilities is not permitted in any residence district.

Sec. 394. Location of parking facilities.

The location of off-street parking spaces in relation to the use served shall be as prescribed in this section. All distances specified shall be walking distances between such parking spaces and a main entrance to the use served.

1. *Uses in residence district.* Parking spaces accessory to dwellings shall be located on the same zoning lot as the use served. Spaces accessory to uses other than dwellings may be located on a lot adjacent to or directly across a street or alley from the lot occupied by the use served, but in no case at a distance in excess of 300 feet from such use.
2. *Uses in business districts.* All required parking spaces shall be within 1,000 feet of the use served, except for spaces accessory to dwelling units, which shall be within 300 feet of the use served. However, no parking spaces accessory to a use in a business district shall be located in a residence district, except that private, free, off-street parking accessory to such uses and municipal parking lots may be allowed by special use permit in accordance with Article II of this Ordinance within 200 feet of and adjacent to any business district.

Sec. 395. Schedule of parking requirements.

For the following uses, accessory off-street parking spaces shall be provided as required in this section. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing or both on the premises at any one time.

1. *Residential uses.* Parking spaces shall be provided as follows:
 - A. *One-family dwellings and two-family dwellings.* A two-car parking garage shall be provided for each dwelling unit.

- B. *Multiple-family dwellings.* Two parking spaces shall be provided for every dwelling unit.
 - C. *Hotels, Motels, inns and auto courts.* 1.2 parking spaces shall be provided for each guest or sleeping room or suite, plus one additional space for the owner or manager and each employee.
 - D. *Private clubs.* One parking space shall be provided for every 100 sq. ft. of usable floor area.
2. *Retail and service uses.* Parking spaces shall be provided as follows:
- A. *Retail storage and banks.* One parking space shall be provided for each 200 square feet of floor area in excess of 2,000 square feet. Drive-in banks or other similar drive-in establishments shall provide three stacking spaces per teller or customer service window; in addition, one parking space shall be provided for each employee.
 - B. *Establishments dispensing food or beverages for consumption on the premises.* One parking space shall be provided for each 50 square feet of floor area. One parking space shall be provided for each employee.
 - C. *Theaters (indoor).* One parking space shall be provided for each four seats; in addition, one parking space shall be provided for each employee.
3. *Offices; business, professional and governmental.* One parking space shall be provided for each 200 square feet of floor area; in addition, one parking space shall be provided for each employee.
4. *Medical or dental clinics.* Eight parking spaces shall be provided for each doctor or professional person; in addition, one parking space shall be provided for each employee.
5. *Community service uses.* Parking spaces shall be provided as follows:
- A. *Auditoriums.* One parking space shall be provided for each four auditorium seats. Adequate space shall also be provided for buses used in connection with the activities of the institution, and all loading and unloading of passengers shall take place upon the premises.
 - B. *Schools.* One parking space shall be provided for each employee or one parking space per every 28 sq. ft. of usable floor area of the largest auditorium or public assembly area, whichever is greater.
 - C. *Health centers, government operated.* Eight parking spaces shall be provided for each doctor or professional person; in addition, one parking space shall be provided for each employee.
 - D. *Hospitals.* Two parking spaces shall be provided for each hospital bed, plus one parking space for each employee (other than staff doctors), plus one parking space for each doctor assigned to the staff.

- E. *Libraries, art galleries and museums, public.* One parking space shall be provided for each 1,000 square feet of gross floor area.
- 6. *Places of assembly.* For stadiums, arenas, auditoriums (other than church, college or institutional schools), undertaking establishments, funeral parlors, convention halls, exhibition halls, skating rinks and other similar places of assembly) parking spaces equal in number to 40 percent of the capacity in persons shall be provided; in addition, one parking space shall be provided for each employee.
- 7. *Miscellaneous uses.* Parking spaces shall be provided as follows:
 - A. *Institutions for the care of the insane or feeble-minded.* Two parking spaces shall be provided for each bed, plus one parking space shall be provided for each staff doctor, plus spaces adequate in number as determined by the Village Zoning Administrator to serve the visiting public.
 - B. *Private clubs and lodges without sleeping for guests.* Parking spaces equal to 25 percent of the capacity in persons shall be provided.
 - C. *Rest homes and nursing homes.* Two parking spaces shall be provided for each bed, plus one parking space for each two employees, (other than staff doctors), plus one parking space for each doctor assigned to the staff.
 - D. *Sanitariums, convalescent homes or institutions for the aged or for children.* Two parking spaces shall be provided for each bed, plus one parking space for each employee (other than staff doctors), plus one parking space for each doctor assigned to the staff.
 - E. *Other uses.* For other permitted uses, parking spaces shall be provided in adequate number as determined by the Village Zoning Board of Appeals, to serve persons employed or residing on the premises as well as the visiting public.

Sec. 396. Off-street loading facilities.

For every building or addition to an existing building hereafter erected to be occupied by storage, display of goods, retail stores or blocks of stores of over 10,000 square feet, wholesale stores, markets, hotels, hospitals, funeral homes, laundromats, dry cleaners, restaurants or other similar uses requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided off-street loading spaces as follows:

- 1. *Location.* All required loading spaces shall be located on the same zoning lot as the use served. No loading space for vehicles over two tons capacity shall be closer than 60 feet to any property in a residence district unless completely enclosed by a building, wall or a uniformly painted solid fence or wall or any combination thereof, not less than six feet in height. No permitted or required loading space shall be located within 25 feet of the nearest point of intersection of any two streets.
- 2. *Required number of loading spaces.* Off-street loading spaces shall be required in relation to floor area as follows:

- A. Floor area up to 20,000 square feet: one space.
 - B. Floor area of 20,000 to 50,000 square feet: two spaces.
 - C. Floor area of 50,000 to 100,000 square feet: three spaces.
 - D. Each additional 100,000 square feet or fraction thereof of floor area: one additional space.
3. *Size and clearance of loading spaces.* Unless otherwise specified, a required loading space shall be at least ten feet in width by at least 60 feet in length, exclusive of aisles and maneuvering space, and shall have a vertical clearance of at least 16 feet.
 4. *Access.* Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
 5. *Surfacing.* All open off-street loading spaces shall be improved with a compacted macadam base, not less than eight inches thick, surfaced with not less than three inches of asphaltic concrete of some comparable all-weather dustless material.
 6. *Repair and servicing of vehicles.* No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residence or business districts.
 7. *Use of loading spaces as parking area.* Space allocated to any off-street loading space shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
 8. *Uses not specifically listed.* For special uses other than those provided for in this section, loading spaces adequate in number and size to serve such uses, as determined by the Village Council, shall be provided.
 9. *Adequate receiving facilities required for all uses.* Uses for which off-street loading spaces are required in this section but which are located in buildings of less floor area than the minimum prescribed for such required facilities shall be provided with adequate receiving facilities off any adjacent alley, service drive, or open space on the same lot which is accessible by motor vehicle.

Secs. 397--420. Reserved.

ARTICLE VIII.

SIGNS

Sec. 421. Purpose and intent of article.

The purpose of this article is to regulate and limit the construction or reconstruction of signs to protect the public peace, morals, health, safety and general welfare of the residents of the Village and to preserve, improve and enhance the scenic beauty consistent with the provisions of USC title 23, section 131, as amended, and to preserve property values and encourage and promote business and industry, including the tourist industry. Such signs as will not, by reason of their size, location, construction or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic safety, or otherwise endanger public welfare shall be permitted. Further, the regulation of such permitted signs is meant to prevent them from causing annoyance or disturbance to the residents of the Village. For purposes of this article, the word "sign" shall, unless specifically stated otherwise, also include within its meaning the words "advertising sign."

Sec. 422. Reserved.

Sec. 423. Off-premises signs.

1. All off-premises signs are prohibited, except to identify access to a business or facility located on an adjoining premise, or a real estate sign for a nearby premise.
2. Any off-premises sign requires the property owner's permission.

Sec. 424. Blocking accessway or window; attaching sign to tree or utility pole.

1. No sign shall block any required accessway or window.
2. No sign shall be attached to a tree or utility pole.
3. No sign shall be permitted within the public right-of-way except signs permitted pursuant to Sections 426 and 428(2).

Sec. 425. Permitted signs generally.

Signs are permitted according to the district in which they are located or intended to be located. Certain types of signs are permitted in certain districts according to the regulations in this article.

Sec. 426. Signs permitted in all districts.

The following signs are permitted in all districts:

1. Highway directional signs and markers, which shall be made and installed in accordance with the specifications of the Village, announcing the location of or directing traffic to given locations, which include but are not limited to the following:

- A. Service areas: automobile, food, lodging.
 - B. Public and quasipublic information signs.
 - C. Businesses or business districts.
2. Parking area signs, as follows:
- A. One sign per parking area or lot, designating the conditions of use or identity of such parking area and limited to a maximum size of nine square feet, shall be permitted. On a corner lot, two such signs, one facing each street, shall be permitted.
 - B. Signs designating parking area entrances or exits are limited to one sign for each such entrance or exit and to a maximum size of two square feet each.
3. Temporary signs, as follows:
- A. One sign is permitted per premises, not exceeding 32 square feet in area. Sign must be 15 feet minimum from the road right-of-way.
 - B. Sign must not restrict traffic flow or the line of site to any pedestrian or motor vehicle traffic in the vicinity of the sign's location.
 - C. The name, address, and telephone number of the sign owner must be posted in the left hand corner or other visible space on the temporary sign.
 - D. Sign must be stable or temporarily anchored for any wind or storm occurrence.
 - E. Election campaign signs must be removed within 10 days after a general or special election.

Sec. 427. Residential districts.

1. The following types of signs are permitted in residential districts:
- A. *Identification signs.* One sign is permitted per dwelling unit, not exceeding two square feet in area.
 - B. *Institutional bulletin boards.* One sign is permitted per public or semipublic institution, located on the premises, and not exceeding 32 square feet in area; provided, however, that the Village Zoning Board of Appeals is given the specific authority to permit an institutional bulletin board of not to exceed 100 square feet where, in its discretion, such sign will cause no adverse effect to vehicular or pedestrian traffic.
 - C. *Real estate signs.* One sign is permitted per premises or building, located on the same premises or building, or as allowed in Section 423, only while the real estate is actually on the market for sale, rent or lease, provided that the sign does not exceed seven square feet in area. A temporary sign may be approved by the Village Zoning Board of Appeals

up to 100 square feet in area for signs proposed to be located on unimproved or undeveloped parcels of real estate.

- D. *Business identification signs.* One sign is permitted to identify access to a commercial or industrial enterprise located on an adjoining premises, and not exceeding 32 square feet in area; provided, however, that the Village Zoning Board of Appeals is given the specific authority to permit an identification sign not to exceed 100 square feet where, in its discretion, such sign will cause no adverse effect to vehicular or pedestrian traffic and will not detract from the residential character of the district.

2. In all residential districts, the following classes of signs are permitted in accordance with the regulations set forth in this section:

- A. Nonflashing, nonilluminated accessory signs, as follows:

- 1) Nameplates and identification signs, subject to the following:

- a) For one-family and two-family dwellings, there shall be not more than one nameplate, not exceeding two square feet in area for each dwelling unit, indicating the name or address of the occupant or a permitted occupation.
- b) For multiple-family dwellings, for apartment hotels and for buildings other than dwellings, a single identification sign not exceeding nine square feet in area and indicating only the name of the management thereof may be displayed.
- c) In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding 25 square feet in area. On corner lots, two such signs, one facing each street, shall be permitted. The signs shall be removed by the person erecting the sign within two weeks after completion of the structure indicated.
- d) No sign shall project higher than one story or 15 feet above curb level, whichever is lower.
- e) No sign shall project beyond the property line into the public way.

- 2) For sale and to rent signs, subject to the following:

- a) *Area and number.* No sign shall exceed a total of seven square feet in area. Additional auxiliary or satellite signs in conjunction with the main sign shall be considered in the computation of the total sign area allowable. Only one sign per zoning lot shall be permitted.
- b) *Projection.* No sign shall project beyond the property line into the public way.

- c) *Height.* No sign or post or standard shall project higher than 5.5 feet above ground level.
 - d) *Width.* Signs and supports shall not exceed 4.5 feet in width.
- B. Nonflashing, illuminated business identification signs relating only to the name, address and use of an adjoining premise, subject to the following:
- 1) *Number.* Only one sign per zoning lot shall be permitted.
 - 2) *Projection.* No sign shall project beyond the front yard or side yard setback requirement.
 - 3) *Height.* No sign shall project higher than 15 feet above ground level.
 - 4) *Illumination.* Signs shall be shaded whenever necessary to avoid casting bright light upon property located in any residential district or public way.
 - 5) *Facing materials.* The facing of all signs placed on state primary highways shall be constructed of plastic materials. The finish of the sign shall not be pasted to the surface.

Sec. 428. Business districts.

In all business districts, the following signs are permitted, subject to the requirements set forth in this section:

- 1. All signs and nameplates that are permitted in residential districts are permitted in business districts.
- 2. Signs on marquees, canopies and awnings are permitted. Restrictions imposed in this section on the projection of signs across property lines into the public way shall not apply to signs located on marquees or canopies, provided that any sign located on a marquee or canopy shall be affixed flat to the surface thereof and, further, no sign shall extend vertically or horizontally beyond the limits of the marquee or canopy, except that individual freestanding letters may project to a height not exceeding 18 inches above the limits of the marquee or canopy. Restrictions imposed in this section on the projection of signs across property lines into the public way shall not apply to signs located on awnings, provided that any sign located on an awning shall be affixed flat to the surface thereof, shall be nonilluminated and nonflashing, and shall indicate only the name and address of the establishment on the premises. Further, no such sign shall extend vertically or horizontally beyond the limits of the awning.
- 3. Signs relating only to the name and use of buildings or premises upon which they are placed are permitted.
- 4. Signs, clocks or other advertising devices erected upon standards or separate supports shall be placed so as to be entirely within the property lines of the premises upon which the sign is located, and no part of the sign or standard shall have a total height greater than 25 feet above

the level of the street upon which the sign faces or above the adjoining ground level, nor shall the surface of any such sign exceed an area of 100 square feet.

5. For an integrated planned business development in single ownership and management or under unified control, an additional sign may be erected not exceeding 100 square feet in area advertising only its name and the location. Such sign shall be placed so as to be entirely within the property lines of the premises upon which it is located, and the bottom edge of such sign shall be at least eight feet above the level of the ground, and the overall height shall not exceed 20 feet above curb level or above the street level.
6. No sign may be painted, pasted or similarly posted directly on the surface of any wall, nor shall any sign be permitted to be placed on any wall, fence or standard facing the side of any adjoining lot located in a residence district.
7. No illuminated sign shall be of the flashing or intermittent type, except that advertising devices denoting the time, temperature and other similar information shall not be considered a flashing sign for the purpose of this Ordinance. Signs which may be in conflict with public traffic signs shall not be permitted. Illuminated signs shall be shaded so as not to shine on adjacent residential properties or public ways.
8. Traffic or directional signs designating entrances, exits and conditions of use of parking facilities, accessory to the main use of the premises, may be maintained, provided they are located within the property lines of the subject lot.
9. In all business districts, permitted signs are subject to the following:
 - A. *Area.* The gross surface area of signs on the front or rear wall of any principal building shall not exceed one-tenth of the area of the front face (including doors and windows) of the principal building. The gross surface area of signs on a side wall of a principal building shall not exceed one-tenth of the area of the side wall (including doors and windows) of the principal building.
 - B. *Location.* The signs may front on the front, side or rear wall of the principal building.
 - C. *Projection.* Signs suspended from any building shall not project more than 12 inches beyond the front of the building, and the bottom of such signs shall not be less than ten feet above the finished grade of the sidewalk. Any sign projecting or suspended from a building shall not exceed ten feet in height, subject to approval of the Village Zoning Administrator.
 - D. *Height.* No sign shall project higher than 25 feet above curb level, and in no case shall a sign project higher than four feet above the roofline. Any proposed sign in excess of 25 feet in height shall be erected only with the approval of the Village Planning Commission.
 - E. *Illumination.* Signs shall be shaded whenever necessary to avoid casting bright light upon property located in any residential district or public way.

- F. *Facing materials.* The facing of all signs placed on state primary highways shall be constructed of plastic materials. The finish of the sign shall not be pasted to the surface.
10. The following signs accessory to automobile service stations are permitted:
- A. Racks for the orderly display of cans of engine oil for convenience in dispensing oil may be located on or at the ends of pump islands, with a limit of two for each island.
 - B. Two open portable tire racks, not more than seven feet in height, including signs, and six feet in length, on casters, for the purpose of displaying new tire casings, shall be permitted for each gasoline or tire service station.
 - C. Items for sale on the premises may be openly displayed within ten feet of the principal building. Products may be displayed under pump island canopies or between pumps within the area of the pump island base.
 - D. A sign may be painted on the inside and outside front door of a closed tire rack but shall not be painted on the sides or rear.

Secs. 429. Reserved.

Sec. 430. Sign permit required; application; fee.

No person shall construct, alter, rebuild, enlarge, erect or place a sign without first filing with the building official a written application and obtaining a permit therefor. Such application shall be in duplicate and shall contain all such information and drawings as may be required by the building official, including at least the name of the property owners, the name of the person in charge of the sign, and drawings of the sign or structure showing the type, size, location and method of attachment. The building official may require that all plans be drawn by a registered architect or structural engineer licensed by the state. The fee for such permit shall be as established by the Village Council. Temporary signs exceeding the 30-day definitional limit shall be removed. The return of temporary signs to the owner may accumulate daily charges as established by the Village Council.

Sec. 431. Exemptions from permitted requirements.

The following signs are exempt from the permit requirements but must comply with all other regulations of this article:

1. Memorial signs and tablets displayed on private property, not to exceed five square feet.
2. Address numerals.
3. Signs permitted by Section 427.(1) (A), (B) and (C).
4. Temporary non-commercial signs not exceeding 2 square feet.

5. Temporary election campaign signs.

Secs. 432--460. Reserved.

ARTICLE IX.

WIRELESS COMMUNICATIONS SUPPORT STRUCTURES

Sec. 461. Purpose of article.

The purpose of this article is to provide a procedure for the application, siting, regulation, construction and operation of towers, structures and related facilities that utilize the radio frequency spectrum for the purpose of transmitting, rebroadcasting or receiving radio signals.

Sec. 462. Reserved.

Sec. 463. Special use permit required; application.

Special land use permit requirements under this article are as follows:

1. *Permit required.* No telecommunication tower shall be erected in the Village without first having acquired a permit as described in this section.
2. *Application procedure.* An application shall be submitted by the owner of record with the application fee as required by Council resolution. Such application shall be submitted to the Village Clerk, who shall then review the application for completeness pursuant to the conditions contained in this section.
3. *Contents of application.* In addition to the information required on the application form, an application submitted under this article shall include:
 - A. A statement describing the efforts by the applicant utilized to determine the feasibility of collocation. If collocation is unavailable or not practical, the applicant shall provide a statement which identifies the facts, characteristics and/or circumstances which render collocation unavailable or technically not practical for the coverage area and capacity needs. Any such documentation must be verified by a certified Michigan professional engineer.
 - B. A site plan prepared in accordance with the requirements found in Section 153. The site plan shall identify the zoning districts of all property within two miles of the proposed site.
 - C. An engineering drawing of the tower design signed by a certified Michigan structural or professional engineer verifying that the tower design meets all wind load and soil load bearing requirements for the intended site.
 - D. A maintenance plan, and any applicable maintenance agreement, which shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long-term continuous maintenance to a reasonably prudent standard.

- E. The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated by the applicant during all times the facility is on the premises.
- F. A list of all property owners within a one-half-mile radius of the proposed site.
- G. A map showing the location and name and address of the owners and/or operators of any other telecommunication tower within the Village and any other tower within a five-mile radius of the proposed site, identifying any other collocation utilized on each tower.
- H. An application fee in the amount established for special use permits, along with a sufficient deposit to cover any mailing and publication costs required for the public hearing.

Sec. 464. Public hearing on special use permit.

Providing all the requirements in Section 463 have been satisfied, the Village Council shall schedule a public hearing, to be held no sooner than 28 days after the meeting at which the public hearing was scheduled. All property owners within a one-half-mile radius of the proposed site shall be notified by first class mail of the public hearing.

Sec. 465. Standards for approval of special use permit.

The following site and developmental requirements shall apply for approval of a special land use permit under this article:

1. The proposed site must meet all front, side and rear yard setback minimum requirements where not specifically addressed in this article and any minimum road frontage requirements that may be established.
2. The use of guy wires is strictly prohibited. All towers shall be self-supporting.
3. The base of the tower shall be fenced with a six-foot-high fence. The fence shall be constructed in conformance with Article VI, Section 353 (5) (A) (6).
4. Wireless Communications support structures shall only be located in business district(s).
5. Any such site which is approved shall maintain a separate access road or driveway. No other use shall be served by the driveway or road.

Sec. 466. Notice of denial of special use permit.

The Village Council shall issue a written statement within two weeks of denial of an application made pursuant to this article.

Sec. 467. Design and performance standards.

The following provisions shall apply to Wireless Communications support structures:

1. The tower must be set back from all property lines a distance equal to its height, unless engineering plans and specifications have been verified by the Village engineer showing that the structural integrity of the tower will withstand high winds and impacts, and the likelihood of a tower failure is minimal. The applicant shall bear all costs associated with the Village engineering review.
2. Accessory structures are limited to uses associated with the operation of the tower and may not be located any closer to any property line than 30 feet.
3. Accessory structures shall not exceed 600 square feet of gross building area.
4. All buffer yard requirements in this Ordinance shall be satisfied.
5. The division of property for the purpose of locating a wireless communication facility is prohibited unless all requirements and conditions of this Ordinance are met.
6. The tower construction plans shall be certified by a registered structural engineer licensed in the state.
7. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
8. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
9. Communication towers in excess of 100 feet in height above grade level shall be prohibited within a two-mile radius of a public airport or one-half-mile radius of a heliport.
10. No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, on or upon any required setback area for the district in which the antenna or tower is to be located. In no case shall a tower or antenna be located within 30 feet of a property line. The applicant may apply to the Village Zoning Board of Appeals for a setback variance.
11. Metal towers shall be constructed of, or treated with, corrosion-resistant material.
12. Antennas and metal towers shall be grounded for protection against a direct strike of lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
13. Towers with antennas shall be designed to withstand a uniform wind loading as prescribed in the building code.
14. All signals and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet above the ground at all points, unless buried underground.

15. Towers shall be located and designed so that they do not interfere with telephone, radio, and television reception in nearby residential areas.
16. Towers shall be located so as to allow maintenance vehicles to maneuver on the property.
17. The base of the tower shall occupy no more than 500 square feet.
18. The minimum spacing between communication tower locations shall be two miles, to prevent a concentration of towers in the Village.
19. The height of the tower shall not exceed 300 feet from grade.
20. Towers shall be artificially lighted only to the extent required by the Federal Aviation Administration, or by the Village Council, whichever is greater. Where possible, considering all site restrictions, any such lighting shall not unduly interfere with the peace and repose of the surrounding land uses, whether or not in the same zoning district.
21. Existing on-site vegetation shall be preserved to the maximum extent practicable.
22. No advertisement or identification of any kind, except as required for emergency purposes, shall be displayed or erected on the property.
23. The antenna shall be painted to match the exterior treatment of the tower. The paint scheme shall minimize the off-site visibility of the antenna and tower.
24. Structures shall be subject to any state and federal regulations concerning non-ionizing electromagnetic radiation. If more restrictive standards are adopted in the future, the antenna shall be made to conform to such regulation within 30 days or the special land use approval will be subject to revocation by the Village Council. All costs for testing and verification of compliance shall be borne by the operator of the antenna.
25. There shall be no employees located on the site. Occasional or temporary repair service activities are excluded from this restriction.
26. Where the property adjoins any residentially zoned property or land use, the developer shall plant two alternating rows of evergreen trees, having a minimum height at time of planting of five feet, on ten-foot centers, along the entire perimeter of the tower and related structures. In no case shall the evergreens be any closer than 20 feet to any structure. These trees shall be maintained by the applicant, and dead trees shall be replaced during the following planting season. Any necessary replacements shall also be a minimum height of five feet at the time of replacement. These trees shall be maintained by the applicant perpetually, and dead trees shall be replaced during the following planting season.
27. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate collocation.

28. The site and tower shall be maintained in compliance with all applicable laws, codes and ordinances. The Village may require landscaping or other improvements to the site so as to minimize the aesthetic or other damage the tower causes to the surrounding properties.

Sec. 468. Abandonment.

A telecommunication tower shall be removed by the property owner within six months of being abandoned. If the present-day owner and applicant fail to do so within six months of abandonment, the special use permit shall be considered revoked. The Village may, at its sole discretion, enter the property and cause the demolition of the tower, antennas, and any necessary structures. Prior to demolition, the Village shall provide written notice of demolition via first class mail to the present-day owner and applicant not less than 30 days prior to demolition. All costs, including attorneys' fees, associated with demolition shall be placed on the tax bill of the property as a special assessment.

Note: For properties located within the Churchill Farms PUD, the following elements of Sec. 251. R-1 Estate Residential District of the Zoning Ordinance vary as follows:

4. *Minimum lot size.*

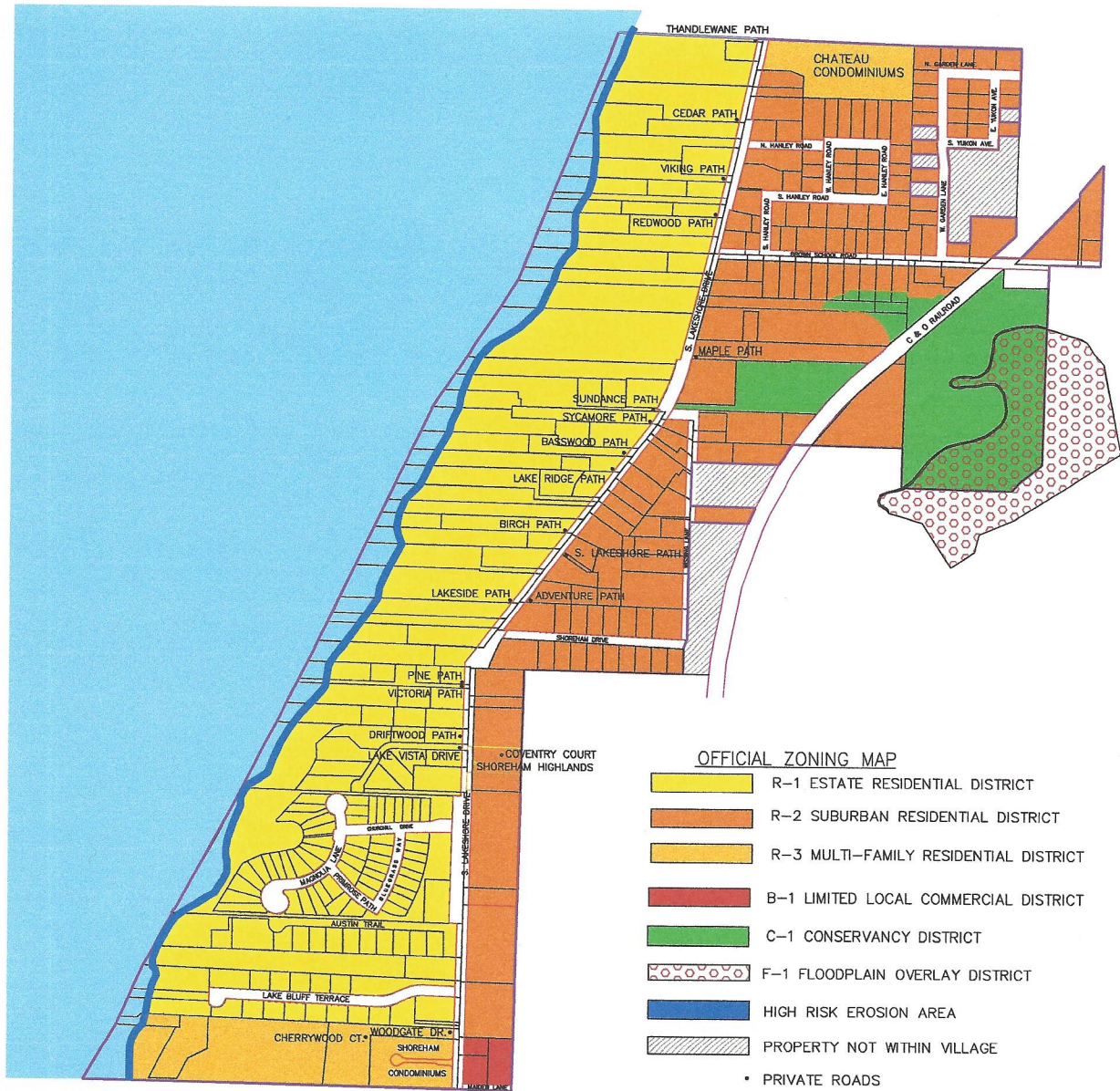
- A. *One-family dwellings.* Every one-family detached dwelling hereafter erected shall be located on a lot having an area of not less than the amount specified in the site plan for the Churchill Farms PUD for that particular lot, a width at the established building line of not less than the amount specified in the site plan for the Churchill Farms PUD for that particular lot, frontage of not less than the amount specified in the site plan for the Churchill Farms PUD for that particular lot and a depth of not less than the amount specified in the site plan for the Churchill Farms PUD for that particular lot. The street and/or highway right-of-way line bordering the front of the lot or parcel of land shall be the point of beginning for the depth measurement required in this subsection.

- D. *Yard areas.* No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building structure or enlargement:
 - 1) *Front yard.* A front yard of not less than 20 feet.

 - 2) *Side yard.* A side yard on each side of the main building of not less than 7.5 feet.

 - 3) *Rear yard.* A rear yard of not less 20 feet

OFFICIAL ZONING MAP
OF THE VILLAGE OF SHOREHAM,
BERRIEN COUNTY, MICHIGAN



THIS IS TO CERTIFY THAT THIS IS THE OFFICIAL ZONING MAP REFERRED TO IN SECTION 222 OF THE ZONING ORDINANCE OF THE VILLAGE OF SHOREHAM, BERRIEN COUNTY, MICHIGAN.

Bruno Trapikas
BRUNO TRAPIKAS – VILLAGE PRESIDENT

Debra Trapikas
DEBRA TRAPIKAS – VILLAGE CLERK

May 10, 2017
DATE OF ADOPTION

