

Chapter 82 - ZONING

Footnotes:

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Editor's note— Ord. No. 04-07, § 1, adopted July 12, 2004, amended ch. 82 in its entirety. The former ch. 82 pertained to similar subject matter. For the complete derivation of former ch. 82 see the Code Comparative Tables at the back of this volume.

Cross reference— Any ordinance rezoning property or amending the zoning map saved from repeal, § 1-11(11); buildings and building regulations, ch. 18; environment, ch. 26; floods, ch. 34; manufactured homes and trailers, ch. 38; parks and recreation, ch. 46; streets, sidewalks and other public places, ch. 58; subdivisions and other division of land, ch. 62; telecommunications, ch. 66.

State Law reference— Zoning, MCL 125.581 et seq.

ARTICLE I. - IN GENERAL

Sec. 82-1. - Purpose.

Pursuant to the authority granted to the Village of Sparta by the Public Acts of the State of Michigan, this chapter is established for the following purposes:

- (1) To promote and protect the public health, safety and general welfare;
- (2) To protect the character and the stability of the open space, residential, and nonresidential areas within the Village of Sparta and promote the orderly and beneficial development of these areas;
- (3) To provide adequate light, air, privacy and convenience of access to property;
- (4) To regulate the intensity of use of land and lot areas and determine the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect public health;
- (5) To lessen and avoid congestion on the public highways and streets;
- (6) To protect the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, and other health and safety hazards;
- (7) To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- (8) To enhance the social and economic stability of the village;
- (9) To enhance the aesthetic desirability of the environment throughout the village; and
- (10) To conserve the expenditure of funds for public improvements and services.

(Ord. No. 04-07, § 1(1.01), 7-12-2004)

Sec. 82-2. - Legislative intent.

- (a) Zoning districts in this chapter each have an intent and purpose based on the Village of Sparta Master Plan. The districts are located to be adequate to handle long-term needs, and yet must be monitored to accommodate any necessary changes or updates as conditions change over time.
- (b) While the regulations provide some limitations on the use of properties, the chapter is intended to provide landowners with a range of choices, flexibility, and options for development, consistent with the purposes of this chapter.

(Ord. No. 04-07, § 1(1.02), 7-12-2004)

Sec. 82-3. - Scope.

- (a) In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this chapter to impair or interfere with any other existing provision of law or ordinance. However, where this chapter imposes a greater restriction than is required by existing chapter or by rules, regulations, or permits, the provisions of this chapter shall control.
- (b) Except as otherwise noted in this chapter, nothing in this chapter shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, zoning classification, or any impermissible activities therein; and all rights are hereby declared to be subject to any subsequent amendment, change or modification hereof as may be necessary to preserve or protect public health, safety, and welfare.

(Ord. No. 04-07, § 1(1.03), 7-12-2004)

Sec. 82-4. - Title.

This chapter shall be known and may be cited as the "Village Of Sparta Zoning Ordinance."

(Ord. No. 04-07, § 1(1.04), 7-12-2004)

Sec. 82-5. - Application of regulations.

The right to continue a land use or activity or construct a building or structure which is either permitted by this chapter or established as a nonconforming building or use shall be vested with the property rather than the owner. No rights shall be terminated or gained for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to section 82-124, Nonconforming uses, structures, and lots, of this chapter.

(Ord. No. 04-07, § 1(1.05), 7-12-2004)

Sec. 82-6. - Scope of provisions.

- (a) *[Generally:]* Except as otherwise provided for in this chapter, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of, or addition to, an existing use, building and structure occurring after the effective date of this chapter, shall be subject to this chapter.
- (b) *Permitted uses:* All uses specifically listed under the heading "Permitted Uses" shall be allowed when determined to be in accordance with all provisions of this chapter and all other applicable laws, regulations or chapters having jurisdiction over the proposed use of land. Where not specifically permitted, uses are prohibited, unless determined by the zoning administrator to be similar to a use as provided in subsection (d), either as a permitted use or a special land use.
- (c) *Special land use:* All uses specifically listed under the heading of "Special Land Uses" in the district description contained in this chapter shall be conducted in accordance with the requirements of chapter 14, Special Land Uses, of this chapter. Where not specifically permitted, uses determined by the zoning administrator to be similar

to a special land use as provided in subsection (d), shall be processed as a special land use.

(d) *Uses not specifically mentioned:*

- (1) Any use of land or development activity not specifically mentioned in this chapter shall be classified by the zoning administrator. No use shall be allowed in a district under the terms of this section if the use is specifically listed as a permitted use or as a special land use in any other district.
 - (2) In making a determination of use classification, the zoning administrator shall consider the following in comparison with other uses allowed in the district:
 - a. The land area required by the proposed use;
 - b. Potential environmental hazards of the proposed use;
 - c. The potential impact on surrounding properties in terms of traffic, noise, lighting, property valuation and views;
 - d. Demand and capacity of utilities and municipal services to support the proposed use; and
 - e. Specific characteristics of the use in question such as traffic generation, parking, types of service offered, types of goods produced, methods of operation, and building characteristics.
 - (3) If the zoning administrator finds that the use is similar to a use in the district, he shall designate whether the use will be permitted use or special land use in the district.
 - (4) If the zoning administrator finds that the use is not similar in character to uses listed in this chapter, the applicant may appeal that decision in accordance with the provisions of section 82-544(b), or make application to the planning commission for consideration of an amendment to the zoning chapter to include the proposed use in one or more of the zoning districts of this chapter, either as a permitted use or a special land use in accordance with section 82-588, Amendments to the zoning chapter.
- (e) *Uses existing before this chapter:* Any use of the land or development activity existing on the effective date of this chapter may continue subject to the provisions contained in section 82-124, Nonconforming uses, structures, and lots, of this chapter.

Secs. 82-7—82-40. - Reserved.

ARTICLE II. - DEFINITIONS

Sec. 82-41. - Intent and purpose.

The purpose of this article is to establish rules for the interpretation of the text of this chapter, to define certain words and terms, and to provide for the interpretation of this chapter by adoption of a technical dictionary. Certain words and terms which may not appear in this article, but which have special application may be defined in other articles in which they apply.

(Ord. No. 04-07, § 1(2.01), 7-12-2004)

Sec. 82-42. - Use of words and terms.

- (a) If the meaning of this chapter is unclear in a particular circumstance, then the board of zoning appeals shall construe the provision to carry out the intent of the chapter if it can be discerned from other provisions of the

chapter or law.

- (b) All words and phrases shall be construed and understood according to the common preferred use of the language; but technical words and phrases as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to that peculiar and appropriate meaning.
- (c) Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural number shall include the singular, unless the context clearly indicates and stipulates the contrary.
- (d) The words "person," "proprietor," "property owner," and "operator" shall include any recognized form of legal entity.
- (e) The words "property," "lot," "parcel," "real estate," "premises," "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
- (f) The word "road" shall also mean "highway," "street," "alley," "drive," "cul-de-sac," "land" or other public thoroughfare.
- (g) The word "building" shall include the word "structure."
- (h) The words "used" or "occupied" when applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."
- (i) The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.
- (j) The word "may" shall be interpreted as permissive or discretionary.
- (k) Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows.
 - (1) "And" indicates that all connected items, conditions, provisions, or events shall apply.
 - (2) "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 - (3) "Either/or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- (l) Gender terms in masculine, feminine, and neuter gender shall be interchangeable. Use of genders shall not affect the intent of any provision.
- (m) In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the village or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

(Ord. No. 04-07, § 1(2.02), 7-12-2004)

Sec. 82-43. - Definitions "A."

Accessory:

- (1) *Structure:* A building or structure located on the same lot as the main building or structure, the use of which is incidental or secondary to the main building or principal use.
- (2) *Use:* A use of land or of a building or portion thereof which is customarily and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or main building and located on the same lot with the principal use.

Addition: A structure added to the existing structure after the completion of the existing structure that extends or increases the floor area, or height of a building or structure.

Adult uses: The term shall include adult bookstore, adult motion picture theater, adult motel, adult nightclub, and massage parlor. These terms and terms related to these definitions, as noted, shall have the following indicated meanings:

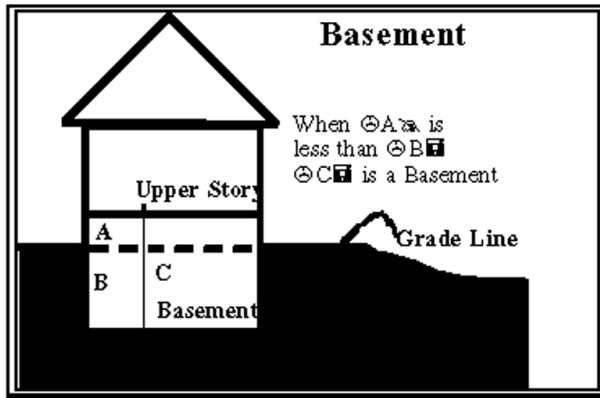
- (1) *Adult bookstore:* An establishment having as a significant portion of its stock in trade books, films, magazines and other periodicals which are distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- (2) *Adult motion picture theater:* An enclosed building used for presenting material distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- (3) *Adult motel:* A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing sexual conduct or specified anatomical areas.
- (4) *Adult nightclub:* A theater or other establishment, which features live performances by topless and/or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where these performances are distinguished or characterized by an emphasis on sexual conduct or specified anatomical areas.
- (5) *Massage parlor:* Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths, and steam baths.
 - a. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the state, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder.
 - b. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area, nor practices of licensed massage therapists
- (6) *Sexual conduct:* Considered to be characterized by, but not limited to, the following acts:
 - a. Human genitals in a state of sexual stimulation or arousal;
 - b. Acts of human masturbation, sexual intercourse or sodomy; and
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- (7) *Specified anatomical areas:* Considered to be defined by, but not limited to, the following areas:
 - a. Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Alteration: Any modification, remodeling, change or rearrangement in the structural or supporting members such as bearing walls, columns, or girders, as well as any change in the doors or windows which affect the means of egress which is undertaken without adding to the floor area, height, or physical size of the building or structure.

(Ord. No. 04-07, § 1(2.03), 7-12-2004; Ord. No. 05-08, § 1, 7-11-2005)

Sec. 82-44. - Definitions "B."

Base flood level: The highest elevation of a flood having a one percent chance of being equaled or exceeded in any given year.



Basement

Basement or cellar: That portion of a building which is partly below and partly above grade, and having at least one-half its height below grade.

Bed and breakfast: A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

Building: A combination of material, whether portable or fixed forming a structure having a roof supported by columns or by walls affording a facility or shelter for use or occupancy by person, animals, or property. This includes an existing building, or a building for which a building permit has been issued by the village as of the effective date of this section.

Buildable area: The space remaining within a lot after the minimum setback, including landscaped areas, and open space requirements of this chapter have been met.

Building official: The officer or other designated authority charged with the administration and enforcement of the village building code, or a duly authorized representative.

Build-to-line: The line, parallel to the street line, which passes through the point of the principal building nearest the front lot line.

(Ord. No. 04-07, § 1(2.04), 7-12-2004)

Sec. 82-45. - Definitions "C."

Caliper: The measurement of the diameter of a tree trunk.

Campground: Shall be as defined in Public Act 368 of 1978, as amended, MCLA 333-12501 et seq.

Change of use: A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this chapter.

Collector street: As defined by the master plan.

Commercial recreation facility: An outdoor recreational facility located near a major travel corridor or a natural feature including, but not limited to, swimming beaches, boat rentals and athletic fields.

Commercial use: An activity carried out as a use of property for financial gain including, but not limited to, retail sales, repair service or salvage operators, business offices, food service, entertainment, and brokerages, related to purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services, or the maintenance of service offices, or recreation, or amusement enterprise, or garage/basement sales, operating more than 12 days during any one 12-month period.

Commercial wireless telecommunication services: Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Condominium: The ownership of a dwelling unit and the space enclosed by the description thereof as contained in the master deed for the complex or project, which has been recorded with the Kent County Register of Deeds in accordance with the provisions of the Condominium Act 59 of 1978, as amended, MCLA 559.101 et seq. This definition includes a condominium unit, or a portion of a condominium project located within a site condominium development.

Construction: The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, and grading of a lot.

Construction contractors establishment: A parcel of land, building or structure, or a portion thereof used to store trucks, excavation equipment, supplies, tools or materials utilized by construction contractor, subcontractors, and builders.

(Ord. No. 04-07, § 1(2.05), 7-12-2004)

Sec. 82-46. - Definitions "D."

Day care:

- (1) *Commercial:* A facility, other than a private residence, receiving minor children for care for periods of less than 24 hours in a day, for more than two weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered commercial day care.
- (2) *Family:* An occupied single-family residence in which care is provided for more than one but fewer than seven minor children or adults for periods of less than 24 hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.
- (3) *Group:* An occupied single-family residence in which care is provided for at least seven but not more than 12 minor children or adults for periods of less than 24 hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

Demolition: The purposeful razing or destruction, or disassembly of a building or structure.

Density: The number of dwelling units per unit of lot area (see *Lot area*).

- (1) *Gross:* A figure equaling the total number of dwelling units on a lot divided by the total number of acres included in the lot.
- (2) *Net:* A figure which equaling the total number of dwelling units on a lot divided by the total number of acres

included in the lot, excluding any lot area owned by a governmental entity, used as a private street or occupied by a nonresidential use.

Development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; and mining, excavation, landfilling or land disturbance, and any extension of an existing use of land.

Development permit: A permit issued to a person proposing a development that is regulated by this chapter, which indicates compliance with the chapter.

Disturbed land: A parcel of land that is graded, filled, excavated or mined or stripped of its natural vegetative cover or grass for a purpose other than agriculture land use.

Drive-through service: A business establishment with driveways and approaches developed and designed to serve patrons while in the motor vehicle, or to permit patron self-service within motor vehicles, even though the establishment may have some indoor services. Establishments where food or beverages are consumed on the premises but not within a building are construed as having drive-through service. An automated teller machine (ATM) shall also be considered as a drive-through facility whether as a principal or accessory use.

Driveway: A private path of travel over which a vehicle may be driven which provides access from one or two parcels of land to a public or private road.

District:

- (1) *Nonresidential:* The NC Neighborhood Commercial District, GC General Commercial District, CBD Central Business District, LI Light Industrial District.
- (2) *Residential:* The R-1 Single-Family Residential District, R-2 Single-Family Residential District, R-3 Single- and Two-Family Residential District, and R-4 Single-, Two-Family, and Multiple-Family Residential District.
- (3) *Zoning:* An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations. Also referred to as "district."

Dwelling: A detached building or portion thereof designed or used exclusively as the primary residence or sleeping place of one or more persons, not including accessory buildings or structures, either attached or detached. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this chapter and shall comply with the provisions herein relative to dwellings.

- (1) Multiple family: A single building with abutting walls containing more than two residential dwelling units.
- (2) Single-family: A detached building designed for or occupied exclusively by one family.
- (3) Two-family: A detached building designed for or occupied by two families living independently of each other.

Dwelling unit: A building, or portion thereof, designed exclusively for human occupancy providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation. This includes an existing dwelling unit, or a unit for which a building permit has been issued by the village as of the effective date of this section.

(Ord. No. 04-07, § 1(2.06), 7-12-2004)

Sec. 82-47. - Definitions "E."

Educational institution: A private accredited kindergarten through twelfth grade school, college, trade, or business school, nursery school, pre-school, and/or related administrative offices, excluding maintenance garage.

Essential services: The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems. These may include, but are not necessarily limited to, mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment, and accessories in connection therewith reasonably necessary for the furnishing of adequate service by public utilities or municipal departments or commissions or for the public health or general welfare. Essential services shall not include buildings other than those buildings as are primarily enclosures or shelters of the above essential service equipment. Cellular telephone or communications towers as defined by this chapter shall not be considered essential services.

Excavation: Removal or recovery by any means whatsoever of soil, rock, sand, gravel, peat, muck, marrow, shale, limestone, clay or other mineral or organic substances, other than vegetation, from water or land, whether exposed or submerged.

Existing use: The use of a parcel of land or a structure at the time of the enactment of this chapter.

(Ord. No. 04-07, § 1(2.07), 7-12-2004)

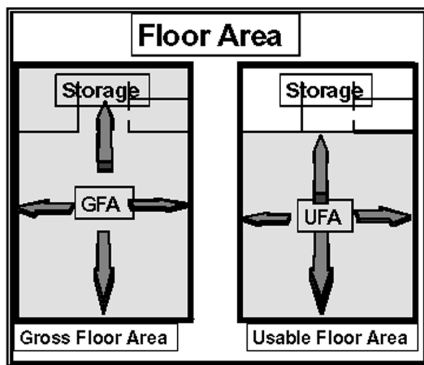
Sec. 82-48. - Definitions "F."

Family:

- (1) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or
- (2) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters; or the unusual and rapid accumulation of runoff of surface waters from any source.

Floor area: The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.



Floor Area

- (1) *Gross (GFA)*: The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/ storage rooms, thickness of walls, columns, or other features.
- (2) *Usable (UFA)*: The area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients or customers.
 - a. Floor area that is used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or the storage or processing of merchandise, including areas less than six feet in height, shall be excluded from this computation of usable floor area.
 - b. Measurement of usable floor area shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.

Frontage: The total length of the front lot line being the horizontal distance between the side lot lines, as measured at the front lot line.

(Ord. No. 04-07, § 1(2.08), 7-12-2004)

Sec. 82-49. - Definitions "G."

GFA: See floor area, gross.

General Rules of the Michigan Department of Community Health: General Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133, issued in connection with the Michigan Medical Marihuana Act, as amended.

Government and community service facility: A facility under the operational control of a governmental unit, specifically a village, county, state, the United States Government, or some combination of governmental units, including, but not limited to, offices, libraries, museums, town halls, post offices, courts, and civic centers; excluding vehicle and equipment maintenance, garages and correctional institutions.

Grade: The average elevation of the finished surface of ground after the development, filling, or excavation of a parcel of land.

Greenhouse: A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. (See nursery)

Groundcover: Grasses or other plants grown to keep soil from being blown or washed away.

Ground floor: The floor of a building that is at or nearest to the level of the ground around the building.

(Ord. No. 04-07, § 1(2.09), 7-12-2004; Ord. No. 11-06, § 1, 7-11-2011)

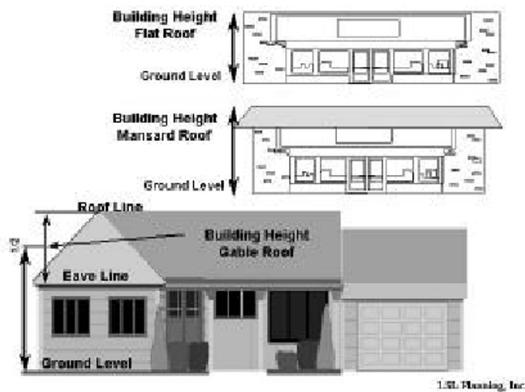
Sec. 82-50. - Definitions "H."

Hazardous substance: A chemical or other material that is or may be injurious to the public health, safety, or welfare.

Heavy equipment: Commercial vehicles with a gross vehicle weight in excess of 10,000 pounds, and excavating, grading, road building, earth moving, demolition, loading and similar equipment.

Height: The vertical distance of a structure measured from the average elevation of the finished grade within 20 feet of the structure to the highest point of the structure, or as otherwise provided in this chapter.

Height, building: The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.



Building Height

Home occupation: An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single-family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation. A home occupation shall not be construed to include day care or state licensed residential care facilities.

Human occupancy: A building or portion thereof primarily used or intended to be used for individuals to congregate for any purpose and which is equipped with means of egress, light, and ventilation facilities in accordance with the Michigan Construction Code, excluding a building or portion thereof incidental to the use for agricultural purposes of the land on which the building is located, or a building used exclusively for the purpose of storage in which there are no employees or occupants.

(Ord. No. 04-07, § 1(2.10), 7-12-2004)

Sec. 82-51. - Definitions "I."

Indoor kennel: Any lot or premises on which six or more animals, four months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or sale.

Industrial use: A structure, building, or parcel of land, or portion thereof utilized or inherently designed to be utilized for the purpose of production, manufacturing, processing, cleaning, testing, rebuilding, assembly, distribution, finishing, constructing, or printing of goods or products, and related research and development facilities.

(Ord. No. 04-07, § 1(2.11), 7-12-2004)

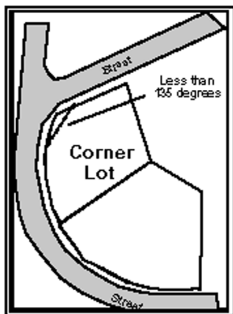
Sec. 82-52. - Definitions "L."

Land use: A description of how land is occupied or utilized.

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

Lot: A parcel of land, or contiguous parcels of land under one ownership described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this chapter and having access to a public road. The word "lot" shall include plot or parcel. A lot need not be a lot of record. A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.

- (1) *Area:* The total area within the described lot lines of a parcel of land, excluding road right-of-way.
- (2) *Corner:* A parcel of land abutting upon two or more streets at their intersection, or upon parts of the same street forming an interior angle of less than 135 degrees.

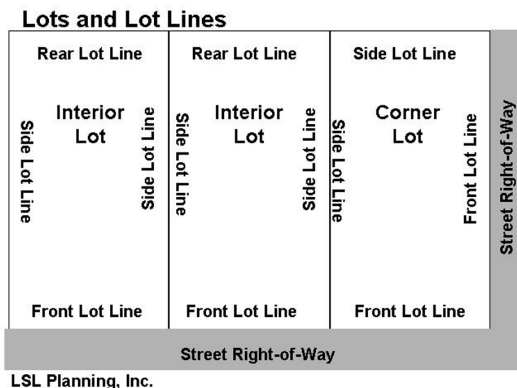


Corner Lot

- (3) *Coverage:* That portion of the area of lot that contains buildings and structures measured as a percent of the entire lot area.
- (4) *Depth:* The distance from the front lot line to the rear lot line measured in the general direction of the side lot lines of the lot.
- (5) *Interior:* A lot other than a corner lot.
- (6) *Width:* The horizontal distance between the side lot lines, as measured at the front yard setback line.

Lot line: The boundaries of a lot which divide one lot from another lot or from a public or existing private road or any

other publicly owned parcel of land.



Lots and Lot Lines

- (1) *Front:* A lot line of a length equal to or greater than the minimum lot width as required in this chapter; the road right-of-way line on interior lots which fronts a public or private road; one of the right-of-way lines on corner lots which is the lot line most parallel to the closest public or private road on all other lots.
- (2) *Rear:* The lot line opposite and most distant from the front lot line; or in the case of a triangular or otherwise irregularly shaped lot, a line 20 feet entirely within the lot parallel to and at a maximum distance from the front lot line.
- (3) *Side:* Any lot line other than a front or rear lot line.

(Ord. No. 04-07, § 1(2.12), 7-12-2004)

Sec. 82-53. - Definitions "M."

Main building: The primary building in which the principal use of a parcel is conducted.

Major thoroughfare: Major street as defined by the Village Act 51 Map. In addition, streets carrying relatively high traffic volumes in serving one or more of the following may be considered for addition to the major street system:

- (1) Streets that provide extensions to state trunk lines or county primary roads in facilitating through traffic.
- (2) Streets that provide an integral network to service the traffic demands created by industrial, commercial, educational, or other traffic-generating centers.
- (3) Streets that provide for the circulation of traffic in and around the central business district.
- (4) Streets that are designated as truck routes.
- (5) Streets that collect traffic from an area served by an extensive network of local streets.

Manufactured home: A manufactured home is a structure transportable in one or more sections, eight body feet or more in width and 32 body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to required utilities and including plumbing, heating and electrical stems contained therein.

Manufactured home development or manufactured home park: A parcel of land owned by a person upon which are located two or more manufactured homes whether attached or detached from each other or adjacent buildings which are occupied for residential purposes or are connected to a water supply or wastewater disposal system either on a temporary or permanent basis, regardless of whether or not the development offers rental lots or manufactured homes to the public.

Marihuana, also known as *medical marihuana*, also known as *marijuana*, also known as *Cannabis*: That term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 et seq., as is referred to in the Michigan Medical Marihuana Act. Any other term pertaining to marihuana used in this chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

Marihuana collective or cooperative also known as *compassion club*: Any facility, structure, dwelling or other location, whether fixed or mobile, where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act or the General Rules of the Michigan Department of Community Health. A "marihuana collective or cooperative" shall not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, compassion club, collective or cooperative within the village.

Marihuana dispensary or dispensary: Any facility, structure, dwelling or other location, whether fixed or mobile, where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act or the General Rules of the Michigan Department of Community Health. A "marihuana dispensary" shall not include the following uses: a state-licensed health care facility; a state-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, compassion club, collective or cooperative within the village.

Massage: A method of treating the external parts of the body for remedial or hygienic purposes by rubbing, stroking, kneading, adjusting or tapping with the hand or an instrument. "Massage" does not include therapy that is a means employed in the cure of disease, the management of disease or of diseased parts.

Massage (licensed): Any individuals who are licensed through the State of Michigan having a fixed place of business where massages are administered for pay who meet one or more of the following criteria:

- (1) Proof of graduation from a school of massage licensed by the state;
- (2) Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this section;
- (3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional

membership standards; or

- (4) A current occupational license from another state.

Master plan: The statement of policy adopted by the planning commission. It is the officially adopted guidelines for future community development. The plan shall consist of a series of maps, charts and written material.

Medical use of marihuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act.

Michigan Medical Marihuana Act: PA 2008, Initiated Law 1, MCL 333.26421 et seq., as amended.

Multiple family development: Two or more buildings containing multiple-family dwellings on a single lot.

Municipal water supply: A water supply system owned by a municipality, county, the State of Michigan, or an authority or commission comprised of these governmental units.

(Ord. No. 04-07, § 1(2.13), 7-12-2004; Ord. No. 05-07, § 1, 7-11-2005; Ord. No. 11-06, § 1, 7-11-2011)

Sec. 82-54. - Definitions "N."

Nonconforming:

- (1) *Building:* A building or portion thereof lawfully existing at the effective date of this chapter or amendments thereto, and which does not conform to the provisions of the chapter in the zoning district in which it is located.
- (2) *Lot of record:* A platted lot that conformed with all village zoning requirements at the time of recording of the plat, which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; or a lot outside a recorded plat that conformed with all village zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to the zoning chapter, which no longer conforms with the zoning requirements for lot area, lot width, or both.
- (3) *Use:* A use which lawfully occupied a building or land at the effective date of this chapter or amendments thereof, and that does not conform to the use regulations of the zoning district in which it is located.

Nursery: A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, houseplants, flowers, or perennial ground covers from seed or seedlings for the purpose of retail or wholesale trade.

(Ord. No. 04-07, § 1(2.14), 7-12-2004)

Sec. 82-55. - Definitions "O."

Occupancy certificate: A written document received from the building inspector stating that the village building code, as amended, and this chapter have been complied with as they apply to the construction of a building or structure and the use of a lot and that the building may now be occupied for its previously declared purpose.

Occupy: The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage, or use of equipment, merchandise or machinery in any institutional, commercial, agricultural, or industrial building.

Open space, common: Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a development that may or may not be available for the use of the public.

Owner: The owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

(Ord. No. 04-07, § 1(2.15), 7-12-2004)

Sec. 82-56. - Definitions "P."

Park: A parcel of land, building or structure used for recreational purposes including but not limited to playgrounds, sport fields, game courts, trails, picnicking areas, and leisure time activities.

Permit: An official document or certificate issued by an authorized official, empowering the holder thereof to perform a specified activity which is not prohibited by law, but not allowed without authorization.

Personal service establishments: Uses performing services on the premises, such as, but not limited to, tailors, beauty and barber shops, interior decorators, photographers, dry cleaners, physical therapy, or professional medical/mental counseling services.

Planned unit development: The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one owner or organized group.

Porch:

- (1) *Enclosed:* A covered entrance to a building or structure that is totally enclosed, and projects out from the main wall the building or structure and has a separate roof or an integrated roof with the main building or structure to which it is attached.
- (2) *Open:* A covered entrance to a building or structure that is unenclosed except for columns supporting the porch roof, and projects out from the main wall of the building or structure to which it is attached.

Principal use: The primary or predominant purpose to which a parcel of land is devoted as distinguished from an accessory use.

Public and private sanitary sewer, storm sewer, and water:

- (1) *Private sanitary sewage disposal system:* An individual on-site sewage disposal system as defined in the Kent County Health Department Sanitary Code.
- (2) *Private water supply:* A well or other water supply system approved by the Kent County Health Department pursuant to Part 127 of Act 368 of the Public Acts of 1978, as amended, MCL 333.12701 et seq.
- (3) *Public sanitary sewer:* A system of pipe owned and maintained by a governmental unit used to carry human, organic and industrial waste from the point of origin to a point of treatment or discharge.
- (4) *Public storm sewer:* A system of pipe owned and maintained by a governmental unit, used to carry storm water collected from multiple sources including streets, downspouts, and parking lots to a discharge point. Discharge points include, but are not limited to, a lake, river or tributary, and retention or detention ponds.
- (5) *Public water supply:* A water works system which provides water for drinking or household purposes to

persons other than the supplier of water, except those water works systems which supply water to only one living unit, or as further defined in Public Act 399 of 1976, as amended, MCLA 325.1001 et seq.

(Ord. No. 04-07, § 1(2.16), 7-12-2004)

Sec. 82-57. - Definitions "R."

Recreational vehicle: A vehicle or equipment intended for temporary or periodic use for recreational or leisure pursuits. These vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping or travel trailers, motorized homes, detachable travel equipment of the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

Rehabilitation: The upgrading of an existing building or part thereof that is in a dilapidated or substandard condition.

Repair: The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

Restoration: The reconstruction or replication of an existing building's original architectural features.

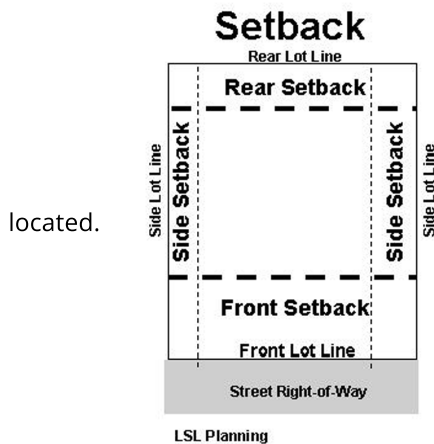
Right-of-way: A public or private strip of land acquired or utilized by reservation, dedication, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.

(Ord. No. 04-07, § 1(2.17), 7-12-2004)

Sec. 82-58. - Definitions "S."

Satellite dish antenna, or dish antenna: An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

Setback: The minimum required horizontal distance measured from the front, side, or rear lot line, as the case may be, which describes an area termed the building setback on a lot or parcel required by this chapter for the district in which it is



Setback

- (1) *Setback, front:* The minimum required horizontal distance measured from the front lot line which describes an area termed the front building setback on a lot or parcel required by this chapter for the district in which it is located.
- (2) *Setback, rear:* The minimum required horizontal distance measured from the rear lot line which describes an area termed the rear building setback on a lot or parcel required by this chapter for the district in which it is

located.

- (3) *Setback, side*: The minimum required horizontal distance measured from the side lot lines which describes an area termed the side building setback on a lot or parcel required by this chapter for the district in which it is located.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, and conforming to the Village of Sparta's sign chapter.

State licensed residential facility: A residential care family or group facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under 24-hour supervision or care for persons in need of that supervision or care. This term does not include facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

(1) *Family*: A state licensed residential facility providing resident services to six or fewer persons.

(2) *Group*: A state licensed residential facility providing resident services to more than six persons.

Stop work order: An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this chapter.

Street:

(1) *Private*: A privately owned thoroughfare including any rights-of-way and traveled surfaces which afford traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, path, trail and other thoroughfare. A private road shall include a way open to provide the primary means of ingress and egress established as a separate tract for the benefit of two or more parcels or two or more principal buildings, dwelling units, or other structures. An existing private road is a private road of a private road system which is used to provide access to existing lots, building or dwelling units as of the effective date of this section. This definition shall not apply to driveways.

(2) *Public*: A public thoroughfare including any rights-of-way and traveled surfaces that afford traffic circulation and principal means of access to an abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare, except an alley.

Structural alterations: Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or in the dimensions or configurations, or of the roof and exterior walls or means of egress.

Structure: A combination of materials whether fixed or portable, anything constructed, erected, or artificially built-up which requires a location on or below the surface of land or water, including a part or parts thereof and all equipment within the structure.

Subdivision: Subdivision means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act, Act 288 of 1967 of the Public Acts of Michigan, as amended. "Subdivide" or "subdivision" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of the Village of Sparta Land Division chapter.

Subdivision plat: A map or chart depicting the subdivision of land as regulated by the Land Division Act of 1967, Act 288 of the Public Acts of 1967, as amended.

Substantial improvement: Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred.

- (1) For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (2) The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any compatible alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

Swimming or bathing pool: A nonporous container containing water having a depth of greater than 24 inches or having a surface area of greater than 250 square feet, or a pool permanently equipped with a water recirculating system or constructed of structural materials, excepting retention or detention ponds.

(Ord. No. 04-07, § 1(2.1)8, 7-12-2004)

Sec. 82-59. - Definitions "T."

Tower, communication: Towers erected for the purpose of providing commercial wireless telecommunication services or other radio wave communications.

Travel trailer: A vehicular portable structure built on a chassis which is less than 32 feet in length and is of a width and weight that does not require special highway movement permits when drawn by a vehicle.

(Ord. No. 04-07, § 1(2.19), 7-12-2004)

Sec. 82-60. - Definitions "U."

Use: The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

Useable floor area (UFA): See *Floor area, useable*.

(Ord. No. 04-07, § 1(2.20), 7-12-2004)

Sec. 82-61. - Definitions "V."

Variance:

- (1) *Nonuse:* Permission given by the zoning board of appeals to a property owner to depart from the literal requirements of this chapter which may occur when conditions related to the property create a practical difficulty on the property owner.
- (2) *Use:* Permission given by the zoning board of appeals to a property owner to use the property for a use not otherwise permitted in the district in which the lot is located when conditions related to the property create

an unnecessary hardship on the property owner.

Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or road, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Vehicle repair (major): Any major activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines, or trailers; collision services, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; lot refinishing or steam cleaning.

Vehicle repair (minor): A place with or without the sale of petroleum products (excluding gasoline and diesel fuel for motor vehicles), where the following services may be carried out such as minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding three tons gross vehicle weight; provided, however, there is excluded any repair or work included in the definition of *Vehicle repair (major)*.

Vehicle service station: A building and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of these commodities on or in vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this chapter.

Vehicle wash establishment: A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

Veterinary hospital, clinic, and indoor kennel: Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

Village: Means the Village of Sparta, Michigan.

Village building code: The duly adopted building code of the Village of Sparta.

Village council, or council: The legislative body of the Village of Sparta, Michigan.

(Ord. No. 04-07, § 1(2.21), 7-12-2004)

Sec. 82-62. - Definitions "W."

Wall: The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.

Watercourse: An open trench either naturally or artificially created which periodically or continuously contains moving water draining an area of at least two acres which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

Wetland: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

Wind energy turbine: Definitions pertaining to wind energy turbines are located within article X of this chapter.

(Ord. No. 04-07, § 1(2.22), 7-12-2004; Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-63. - Definitions "Y."

Yard: A yard is an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein. Figures 1 & 2 below shows the visual depiction of yard definitions.

- (1) *Front:* The open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line. On a corner lot the front yard shall be the yard separating the narrowest street frontage from the street.
- (2) *Secondary front:* On a corner lot, the secondary front yard faces the lot's secondary street. The secondary front yard includes the area from the lot line abutting the secondary street to the face of the building and from the front line of the building (boundary of the front yard) to the rear lot line. If the property access is on the secondary side yard and the architectural elements of the home indicate a different intended front yard orientation the zoning administrator may designate the secondary front yard as the front yard and the front yard as the secondary front yard on the lot.
- (3) *Rear:* The open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
- (4) *Side:* The open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

Figure 1 (Corner Lot)

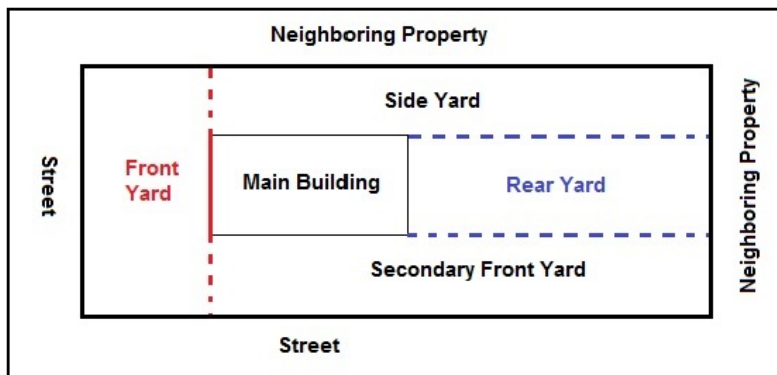
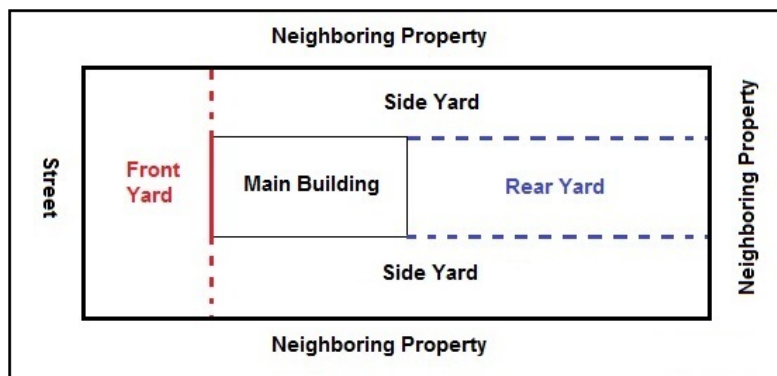


Figure 2 (Regular Lot)

Figure 2 (Regular Lot)



(Ord. No. 04-07, § 1(2.23), 7-12-2004; Ord. No. 17-03, § 1, 10-9-2017)

Sec. 82-64. - Definitions "Z."

Zoning: The dividing of the village into districts of a number and shape considered best suited to carry out the purposes of the Zoning Act and the creation of uniform regulations throughout each individual district.

Zoning act: The Michigan Zoning Enabling Act, Public Act 110 of 2006, of the State of Michigan, as amended.

Zoning administrator: The public official whose duty is to administer and enforce this chapter.

Zoning board of appeals or board: The zoning board of appeals for the Village of Sparta as provided in the Zoning Act.

Zoning chapter: The Village of Sparta Zoning chapter or this chapter.

(Ord. No. 04-07, § 1(2.24), 7-12-2004; Ord. No. 06-02, § 1, 8-14-2006)

Secs. 82-65—82-100. - Reserved.

ARTICLE III. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 82-101. - Intent and purpose.

- (a) It is the purpose of this article to establish regulations and conditions that are generally applicable to all districts of this chapter unless otherwise indicated. The purpose of this article is to provide uniform regulations applicable within the Village of Sparta that supplement the specific requirements for each district, and each permitted use.
- (b) The regulations of this article shall apply to all districts of this chapter, unless specifically excepted elsewhere in this chapter.

(Ord. No. 04-07, § 1(3.01), 7-12-2004)

Sec. 82-102. - Essential public services.

The erection, construction, alteration or maintenance of essential public services shall be permitted in any zoning district; it being the intention thereof to exempt government and service facilities from the application of this chapter.

(Ord. No. 04-07, § 1(3.02), 7-12-2004)

Sec. 82-103. - Accessory buildings and structures.

(a) *General requirements.*

- (1) Accessory buildings and structures located on the same lot and not otherwise regulated by this chapter, shall be permitted subject to the regulations of this section.
- (2) Attached accessory buildings and structures shall be made structurally a part of the main building and shall conform to the site development requirements of the district in which the building or structure is located.
- (3) Detached accessory buildings and structures shall be no closer than ten feet from the main building or structure.
- (4) Accessory buildings and structures in excess of 100 square feet must be designed, constructed, and finished

such that the exterior appearance is compatible in terms of materials, color and general construction with that of the principal structure.

- (5) Accessory buildings and structures shall not be occupied for dwelling purposes.
- (6) Height for accessory buildings and structures shall not exceed the accessory structure height requirement of the district it is located in or the primary structure height.

(b) *Detached accessory buildings and structures, residential districts or uses.*

- (1) Detached accessory buildings and structures shall be located only in the rear yard or side yard. In no case shall a detached accessory building be closer than five feet from any lot line, as measured from the closest point of the building.
- (2) One detached accessory building shall be permitted on a property for a residential district or use as provided in the site development requirements of the district in which the principal use is located, and as provided by the requirements of section 82-131.
- (3) One additional detached storage shed shall be permitted for a residential district or use not to exceed 100 square feet in area. A swimming pool and cover structure shall also be permitted on a lot, subject to the requirements of section 82-116 and any other applicable chapter.

(c) *Detached accessory buildings, nonresidential districts or uses.*

- (1) No more than two detached accessory buildings shall be permitted on any lot.
- (2) The total area of all accessory buildings shall not exceed 25 percent of the floor area of the main building(s).
- (3) Detached accessory buildings shall not be located in the front yard, and in no case shall be closer than ten feet from any lot side or rear line.
- (4) No detached accessory building shall exceed the permitted height for main buildings in the district in which it is located, except as provided in section 82-131.

(d) *Wind energy turbines.*

- (1) Wind energy turbines located on the same lot as the main building or structure are a permitted accessory use in all zoning districts subject to the requirements of article X of this chapter.

(Ord. No. 04-07, § 1(3.03), 7-12-2004; Ord. No. 12-07, § 1, 4-9-2012; Ord. No. 15-02, § 1, 11-9-2015; Ord. No. 16-02, § 1, 7-11-2016)

Sec. 82-104. - Access to streets.

All lots created after the effective date of this chapter shall have the required minimum lot width, as measured at the front setback line, and direct access from the lot to a public or private street, or a private drive created in accordance with the requirements of this chapter.

(Ord. No. 04-07, § 1(3.04), 7-12-2004)

Sec. 82-105. - Main building or principal use.

Each parcel shall contain only one main building or principal use, except for groups of related commercial, industrial, and office buildings, and multiple family dwellings, determined by the zoning administrator to constitute a collective main use. Collective main uses shall be contained within a single, integrated complex, sharing parking, signs, access, and other similar features which, in the opinion of the zoning administrator, form a unified function and appearance.

(Ord. No. 04-07, § 1(3.05), 7-12-2004)

Sec. 82-106. - Keeping of animals.

The keeping, housing, raising, use or care of animals is permitted subject to the following limitations and conditions:

- (1) Customary household pets may be kept on a noncommercial basis provided that the number of these animals does not exceed four. Customary household pets include such animals as dogs, rabbits, birds, and similar animals; but do not include horses, pigeons, chickens, ducks, geese, goats, sheep, pigs and other farm livestock.
- (2) Animals other than household pets not specified elsewhere in this Code may be kept subject to the following requirements:
 - a. Minimum lot size of three acres for the first two animals.
 - b. An additional one-half acre for each additional animal, provided that no more than a total of 20 acres shall be counted toward the allowance to accommodate animals under this limitation.
 - c. When animals are kept or permitted to roam outdoors, an adequate fence shall be provided and maintained to confine the animals from adjoining properties and roads.

(Ord. No. 04-07, § 1(3.06), 7-12-2004; Ord. No. 20-01, § 2, 9-14-2020)

Sec. 82-107. - Required area or space.

No lot, yard, court, parking area or other space shall be so reduced in area or dimension as to make the area or dimension less than the minimum required under this chapter. If already less than the minimum required under this chapter, the area or dimension shall not be further reduced.

(Ord. No. 04-07, § 1(3.07), 7-12-2004)

Sec. 82-108. - Change of use or alteration.

- (a) No building or structure erected or moved upon a lot that does not meet the requirements of this chapter shall be used or occupied as a dwelling.
- (b) Except as may otherwise be permitted in this chapter, any change in the use of lot or structure, or any alteration of an existing lot or structure shall require the issuance of a development permit in accordance with section 82-585, Development permits, and the compliance with all provisions of this chapter.

(Ord. No. 04-07, § 1(3.08), 7-12-2004)

Sec. 82-109. - Earth removal, grading and filling.

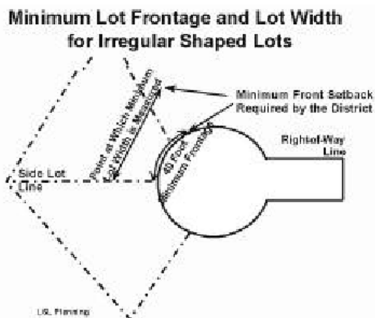
- (a) The following requirements shall apply to all construction activities requiring a development permit pursuant to section 82-585, Development permits, in order to protect adjacent properties, public roads and watercourses, and to provide for adequate drainage of surface water.
- (b) Filling of property to an elevation above the established grade of adjacent developed property shall not be permitted without the expressed written approval of the village engineer.
- (c) The final grade surface of ground areas surrounding a building or structure shall be designed and landscaped such that surface water flows away from the building or structure and is managed to avoid increased flow onto

adjacent properties or public roads, erosion or earthen filling of a roadside ditch, the blockage of any watercourse, or creation of standing water over a private sewage disposal drainage field.

- (d) Any land development which disturbs the existing grade of more than one acre of land or lies within 500 feet of a river, stream, lake or open drain, shall require a soil erosion and sedimentation control permit pursuant to Part 91, Public Act 451 of 1994, as amended, prior to issuance of a development permit.
- (e) Any land development, dredging, filling, or other activity requiring a permit pursuant to Part 301, Inland Lakes and Streams Act 1972, amended 1994 Public Act 451, shall be required to obtain the permit prior to the issuance of a development permit.

(Ord. No. 04-07, § 1(3.09), 7-12-2004)

Sec. 82-110. - Cul-de-sac (irregular shaped) lots.



- (a) A cul-de-sac shall be determined to commence at the intersection of the radius of the cul-de-sac with the street right-of-way line.
- (b) The minimum lot width for a lot on a cul-de-sac shall be measured at a line drawn between the two points located at the intersection of a line extending along the side lot lines equal to the distance of the required front setback. If the minimum lot width is not met at this point, the front setback for the lot shall be increased to a point where the minimum lot width is achieved.
- (c) A lot on a cul-de-sac shall have not less than 40 feet of lot frontage as measured along the front lot line.

(Ord. No. 04-07, § 1(3.10), 7-12-2004)

Sec. 82-111. - Projections into yards.

- (a) Architectural elements attached to and necessary to the integrity of the building, or the health or safety of the occupants, such as ramps for the disabled, cornices, eaves, gutters, chimneys, pilasters, unenclosed steps, fire escapes, and similar features shall be permitted to encroach upon the minimum setback requirements of this chapter, provided such projection into a required front or rear yard area is no closer than ten feet from a street right-of-way line or rear lot line. No encroachment shall be permitted into the side setback of the lot.
- (b) Unenclosed terraces, patios, porches, and decks shall be permitted to encroach upon the minimum yard area and setback requirements of this chapter provided they are:
 - (1) Attached to the main building;
 - (2) Elevated no more than 30 inches above the average surrounding final grade;
 - (3) Not fully enclosed by a wall or fence over 5½ feet in height;
 - (4) Located no closer than ten feet from a street right-of-way line or rear lot line; and

(5) Does not encroach into the side setback of the lot.

(c) Terraces, patios, porches, and decks that are enclosed (covered with a roof), not including steps leading to such structures, shall be attached to and considered part of the main building and comply with all regulations applicable to main buildings.

(d) Those structures covered in subsections (a) and (b) above are considered conforming structures, and therefore, shall be permitted to be rebuilt if destroyed or removed by any means.

(Ord. No. 04-07, § 1(3.11), 7-12-2004)

Sec. 82-112. - Fences and walls.

(a) *Fences in front yard.* Fences and walls in front yards of all districts shall not exceed four feet in height, and shall be of non-solid construction, such as cyclone fencing, which have openings of at least 75 percent in each square foot of fencing, or wall. Fences or walls located in the front yard must be one foot from the inside edge of the sidewalk or right-of-way line.

(b) *Fences on corner lot.* On a corner lot which has two front lot lines, fences and walls shall comply with section 82-112(a) unless the secondary front yard meets the requirements of section 82-113. If so the fence shall be allowed to be of solid construction and up to six feet in height. Fences or walls located in the front yard or secondary front yard must be one foot from the inside edge of the sidewalk or right-of-way line.

(c) *Fences in side yard & rear yard.* Solid walls and fences, and those of open construction, not exceeding six feet in height are permitted in side and rear yards of all districts, except that unless otherwise permitted, the requirements of section 82-113 shall be met.

(d) Fencing material shall be all weather, low maintenance, must be wood, vinyl, chain link or similar material.

(e) The interior posts of fence shall face property owner and finished side shall face outward toward adjacent property or right-of-way.

(f) *Prohibited fences.* The following fences are prohibited:

(1) A fence consisting in whole or part of coils of barbed wire, concertina wire or razor wire;

(2) A fence with razored edges, broken glass, affixed spikes, projecting nails or other pointed instruments of any kind or description attached; fence gates shall not be constructed so as to create a hazard to the public by the projection of any pointed instrument or member when open or partially open;

(3) A fence charged or connected with an electrical current, provided however, this provision shall not be construed to apply to electrical fences installed below ground as elements of an animal control or security system;

(4) A standard barbed wire fence except upon essential service sites or industrial properties which do not abut property zoned or used for residential purposes; in such locations standard barbed wire may be installed on the top of a fence on arms or cradles extending inward over the owner's property provided that the fence has a minimum height of six feet above the adjacent grade and the combined height of the fence and barbed wire and arms does not exceed eight feet above the adjacent grade;

(5) A fence which consists in whole or part of woven plastic or other similar materials utilized within a chain link fence; and

(6) A fence with all metal (i.e. barn siding, roof material, etc.), opaque paneling.

(g) *Fences in industrial districts.*

- (1) On a lot occupied by a principal structure, no fence may be located within the required front yard.
- (2) No fence may exceed eight feet in height.
- (3) All fences should attempt to be decorative in nature and should be wrought iron, wood, brick, stone and similar replications of these materials. However, when abutting residentially zoned and/or used property, and when used to screen parking or outdoor storage areas, the fence shall be constructed of an opaque material.
- (4) Chain link or similar fencing is permitted everywhere except within the front yard and when abutting residentially zoned and/or used property.
- (5) No fencing shall be permitted within the clear vision area (see section 82-113).

(h) *Permit requirements.*

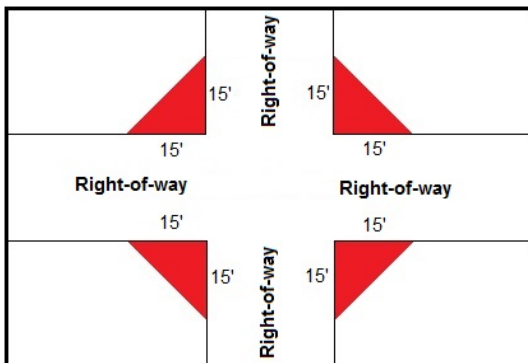
- (1) Prior to the construction of any fence or wall, an application for a permit to construct the fence shall be filed with the village. No fence shall be constructed without first obtaining approval from the zoning administrator.
- (2) The fee for the permit shall be established by village council.

(Ord. No. 04-07, § 1(3.12), 7-12-2004; Ord. No. 04-11, § 1(Att. A), 10-11-2004; Ord. No. 16-03, § 1, 7-11-2016; Ord. No. 17-02, § 1, 10-9-2017)

Sec. 82-113. - Intersection visibility.

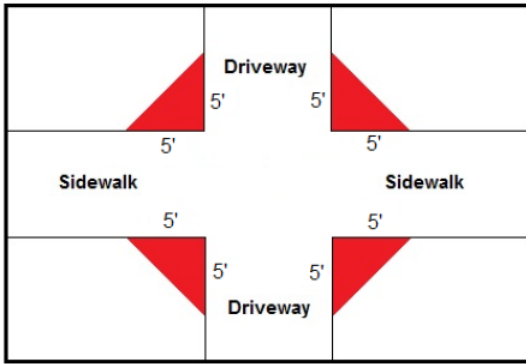
- (a) *Intersection visibility.* No fence, wall, sign, hedge, screen or any planting shall be erected or maintained to obstruct vision between a height of three feet and eight feet within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two points which are located on those intersecting right-of-way lines 15 feet from the point of intersection of the right-of-way lines. See figure 1 for visual reference.

Figure 1 (Intersection Visibility)



- (b) *Driveway/sidewalk visibility.* When a driveway intersects with a sidewalk or path, no fence, wall, sign, hedge, screen or any planting shall be erected or maintained to obstruct vision between a height of three feet within the triangular area formed at the intersection of a driveway with a sidewalk or path. A straight line shall be drawn between the outside edge of the driveway and the outside edge of the sidewalk or path, at a distance of five feet from their point of intersection to form each triangle. See figure 2 for visual reference.

Figure 2 (Driveway/Sidewalk Visibility)



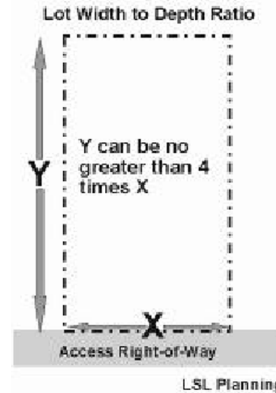
(c) This section shall only apply to intersections of driveways with sidewalks or paths which are created after the effective date of this ordinance. Any encroachment on this area permitted and approved by the village prior to the effective date of this ordinance is not subject to this section.

(Ord. No. 04-07, § 1(3.13), 7-12-2004; Ord. No. 17-04, § 1, 10-9-2017)

Sec. 82-114. - Lot width/depth ratio.

Lots created after the effective date of this chapter having a lot area of less than ten acres shall have a lot width that is

equal to, or greater than, one-fourth the depth of the lot.



Lot Width to Depth Ratio

(Ord. No. 04-07, § 1(3.14), 7-12-2004)

Sec. 82-115. - Required water supply and sanitary sewage facilities.

No structure for human occupancy shall be erected, altered, or moved upon any premises and used in whole or in part for residential, assembly, business, industrial, institutional, mercantile or storage purposes unless the water supply and waste water disposal system conforms with the requirements of the Michigan Department of Public Health, Kent County Health Department, and/or any village ordinance applicable to public sanitary sewer and public water supply.

(Ord. No. 04-07, § 1(3.15), 7-12-2004)

Sec. 82-116. - Swimming pools.

(a) *Installations, etc.; permit required; application.* No person shall erect, install, locate or maintain a swimming pool (hereinafter referred to as a "pool"), unless a permit therefor has first been obtained from the building inspector. The application for the permit shall include the size of the pool, the type of construction and its location on the lot, and such application shall be on forms provided by the village.

- (1) Swimming pools with a depth less than 24 shall not require zoning or building permits.
- (b) *Location.* Pools used for swimming or bathing shall be constructed in conformance with the village building code and shall conform to the setback requirements for accessory uses pursuant to section 82-103, accessory buildings and structures.
- (c) *Water supply.* Cross-connections between the village water supply and any other source or sources of water supply for pools are prohibited. The line from the public water supply to the pool shall be protected against backflow of polluted water by means of an air gap and shall discharge at six inches above the maximum high-water level of the pool make-up tank or the pool itself.
- (d) *Fences.*
 - (1) A fence approved by the zoning administrator shall be erected on any lot on which there is located a commercially manufactured swimming pool, hot tub, or other similar structure which contains 24 inches of water or more in depth at any point. The approved fence shall be erected and maintained either surrounding the property or pool area in a manner sufficient to make the swimming pool inaccessible to small children. The fence will not be required if a motorized pool cover is installed in accordance with the current state residential building code.
 - (2) The wall or fence shall be permanent and substantial fence or wall that is at least four feet in height above the ground level or with such other barrier as meets the requirements of the state construction code and is approved by the building official. All gates and doors which permit access to the pool area shall be capable of being locked and shall be locked at all times when no person is present upon the lot or parcel of land upon which the pool is located.
 - (3) All gates and doors shall be of the self-closing and latching type, with the latch on the inside of the gate positioned in such a manner that it is not readily available for children to open.
 - (4) Notwithstanding the provisions of subsections (a) through (c) hereof, if the entire lot or parcel of land upon which the pool is located is enclosed, then the foregoing requirements for the maintenance of a fence or wall may be waived by the building inspector if he or she determines that all the requirements for the pool fence or wall specified herein are complied with.
 - (5) If a pool has a top which is four or more feet above grade, which does not have a deck with readily climbable supports and which is, itself, constructed in such a manner that it is not readily climbable, the building inspector may, at his or her discretion, waive the requirements contained in subsections (a) through (c) hereof for a pool fence or wall, if the access to the pool and the gate and door arrangements are as provided for herein or with such other barrier as meets the requirements of the state construction code and is approved by the building official.
- (e) *Discharge.* Discharge of swimming pools must be in accordance with sections 74-355 and 74-356.

(Ord. No. 04-07, § 1(3.16), 7-12-2004; Ord. No. 21-05, § 1, 6-14-2021)

Sec. 82-117. - Satellite dish antennas.

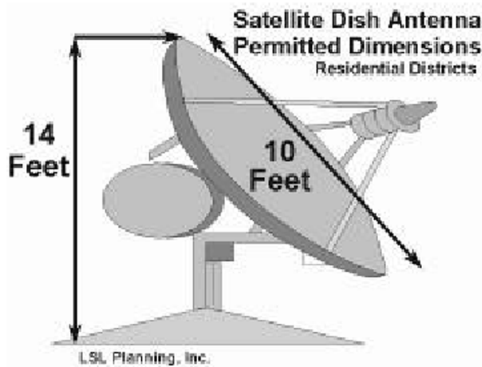
- (a) *Placement.*
 - (1) In residential districts a satellite dish antenna shall be permitted only in a rear yard, or mounted or attached to a building.
 - (2) A satellite dish antenna shall comply with the side and rear yard setback requirements applicable to main

buildings in the district in which it is located.

- (3) In nonresidential districts a satellite dish antenna shall be located only in the side or rear yard or mounted on top of a building.
- (4) No more than two satellite dish antennas shall be located on the same lot as a main building.
- (5) Satellite dish antennas are permitted only in connection with, incidental to and on the same lot as a principal use or main building.

(b) *Height.*

- (1) In residential districts, a ground mounted satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed 14 feet in height, or ten feet in diameter.



Satellite Dish Antennas

- (2) In the nonresidential districts, a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed the maximum height permitted for main buildings in the district in which it is located.

(c) *General provisions.*

- (1) These regulations shall not apply to dish antennas that are one meter (39.37 inches) or less in diameter in residential districts or two meters (78.74 inches) or less in diameter in nonresidential districts.
- (2) The building inspector may waive any provision of this section if its enforcement inhibits or prevents the proper operation of the satellite dish antenna.
- (3) No portion of a satellite dish antenna, shall contain any name, message, symbol, or other graphic representation visible from adjoining properties, except as required by the manufacturer or federal regulations for safety purposes.
- (4) The antenna shall be anchored in a manner approved by the building inspector as being adequate to secure the satellite dish antenna during high winds.
- (5) An antenna, shall not be erected, constructed, or installed until a building permit has been obtained from the building inspector.
- (6) These regulations are formulated to ensure that adequate protection measures are provided in this chapter for ensuring that sight distance is not impaired, that dish antennas are located and constructed in a manner that will not afford the potential for injury, and to ensure that the intent and purposes of this chapter are met.

(Ord. No. 04-07, § 1(3.17), 7-12-2004)

Sec. 82-118. - Regulations applicable to single-family dwellings outside manufactured home parks.

- (a) Any single-family dwelling, whether constructed and erected on a lot, or a manufactured home, shall be permitted outside a manufactured home park only if it complies with all of the requirements of this section.
- (b) The dwelling shall meet the minimum square footage requirements for the district in which it is located.
- (c) Design features:
 - (1) The minimum width of exterior wall across any front, side, or rear architectural elevation shall be at least 20 continuous feet. Any dwelling existing prior to the date of this chapter shall not be considered a nonconforming building.
 - (2) All dwellings shall have either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
 - (3) The dwelling shall contain permanently attached steps connected to exterior door areas or to porches connected to the door areas where a difference in elevation requires it.
 - (4) The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the main structure and construction of a foundation as required herein.
 - (5) The dwelling shall contain an interior storage area in a habitable basement or cellar located under the dwelling, or in a defined storage room space separate from closet areas, garage, and utility or furnace rooms. The minimum storage area shall be equal to ten percent of the floor area of the dwelling or 100 square feet, whichever is less.
- (d) The dwelling shall conform to the village building code and all other pertinent construction and fire codes. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations allow standards of construction that are less stringent than those imposed by the building code in effect in the village, then in that event, the less stringent federal or state standard or regulation shall apply. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (e) In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within and connected to the manufactured home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
- (f) The dwelling shall be placed upon and secured to a permanent foundation in accordance with the village building code. The area between the grade elevation of the lot and the structure shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable code for single-family dwellings. In the event that the dwelling shall be installed pursuant to the manufacturer's set-up instructions, the dwelling shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Home Commission.
- (g) If the dwelling has wheels, towing mechanisms or undercarriages, they shall be removed.
- (h) The dwelling shall be connected to a public sanitary sewer and public water systems, if available, or private systems approved by the Kent County Health Department.
- (i) The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity.

- (1) The compatibility of design and appearance shall be determined in the first instance by the zoning administrator review of the plans (which may include elevation sketches or photographs) submitted for a particular dwelling, and an appeal by an aggrieved party to the zoning board of appeals in accordance with the provisions of subsection 82-119. Administrative appeals.
- (2) Any determination of compatibility shall be based upon the standards set forth in this subsection regarding dwellings as well as the character, design and appearance of one or more residential dwellings located outside of manufactured home parks within 300 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within that area; or where the area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of manufactured home parks throughout the village.
 - (j) The requirements of this section shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
 - (k) The foregoing standards shall not apply to manufactured homes located in a state licensed manufactured home park except as required by state or federal law or otherwise specifically required in any village ordinance pertaining to these parks.

(Ord. No. 04-07, § 1(3.18), 7-12-2004)

Sec. 82-119. - Temporary buildings.

Mobile offices, tool sheds, storage trailers, shall be permitted during the time of actual construction provided they are located pursuant to section 82-103, Accessory buildings and structures, and are in compliance with village chapters and the Kent County Health Department requirements, if applicable. These structures shall be removed within 12 working days after the completion or abandonment of construction work on the property.

(Ord. No. 04-07, § 1(3.19), 7-12-2004)

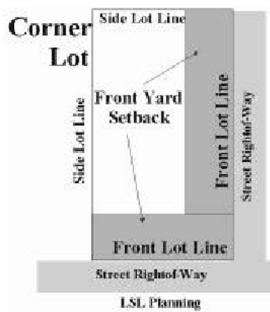
Sec. 82-120. - Temporary occupancy in vehicular dwelling.

The owner or renter of any premises upon which a dwelling is situated may permit the parking of an occupied recreational vehicle (RV), motor home, or travel trailer, of a guest or visitor on the premises for a period not exceeding a total of 15 days in any period of 365 consecutive days, provided that a permit is applied for by the owner of the property and issued by the zoning administrator. The application for this permit shall include the serial number and license number of the unit, the name and permanent address of the owner thereof, and a statement warranting that the occupants of the unit shall have unrestricted use of the sewer and water supply facilities of the dwelling.

(Ord. No. 04-07, § 1(3.20), 7-12-2004)

Sec. 82-121. - Determination of lot measurements.

- (a) A corner lot shall have two front lot lines, two side lot lines, and no rear lot line.



GENERAL PROVISIONS

Corner Lot

- (b) Required front yard setbacks shall be measured from both front lot lines.
- (c) For a lot with three front lot lines, the remaining lot line shall be a rear lot line.
- (d) The minimum lot width of a corner lot shall be determined at the shorter of the two front lot lines.
- (e) The front building line on any lot with an outside simple curve will be the straight-line chord that intersects the side lot lines at the point of intersection with the required front setback line.
- (f) The front building line on any lot with an inside simple curve will be the straight-line tangent perpendicular to the arc radius at the midpoint of the curve.
- (g) Front building lines on lots with compound, broken-back or reverse curves will be determined using the tangent or chord which provides the greatest setback toward the interior of the lot from the required setback line and front lot line.
- (h) Average setbacks.
 - (1) Where the front setbacks for 50 percent or more of the existing main buildings entirely or partially within 200 feet of the side lot lines, on the same side of the street and in the same zoning district of the subject lot are less than the required front setbacks for the zoning district of the subject lot, the required front setback for the subject lot shall be the average of the front setbacks of those existing main buildings within the 200-foot distance.
 - (2) The permitted front setback reduction shall only be permitted if there are two or more lots occupied by main buildings within the two hundred-foot distance.
 - (3) In no case shall the required front setback resulting from the application of this subsection be less than 20 feet.

(Ord. No. 04-07, § 1(3.21), 7-12-2004)

Sec. 82-122. - Exterior lighting requirements.

- (a) Parking lot lighting shall be as required in subsection 82-468(e).
- (b) Lighting provided for security or visibility on any site shall be shielded to reduce glare and shall be arranged and maintained to direct the light away from any residential district or use.
- (c) Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.

(Ord. No. 04-07, § 1(3.22), 7-12-2004)

Sec. 82-123. - Home occupations.

- (a) Home occupations shall be approved by the zoning administrator, who may issue a permit upon receipt of a letter from the applicant stating his or her intent to comply with the requirements of this section and the specific measures by which compliance will be maintained.
- (b) A home occupation shall be conducted only within the premises of a single-family detached dwelling unit. Home occupations are not permitted within two-family or multiple-family dwellings.
- (c) There shall be no outdoor, on-site storage of materials, equipment, or accessory items and/or display of materials, goods or supplies used in the conduct of the home occupation. The on-site storage of commercial vehicles used incidentally for or used in the home occupation business shall not be permitted.
- (d) Only members of the immediate family who reside on the premises and not more than one nonresident employee shall be employed in any part of the operation of the home occupation.
- (e) Home occupations are permitted only in the main structure or building. All activities related to the home occupation shall be carried on entirely within the dwelling unit and are limited to one home occupation business per family member. In no case shall more than 25 percent or 300 square feet, whichever is smaller, of the gross floor area of the main building be utilized for a home occupation. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
- (f) A home occupation shall not generate a traffic burden through excessive traffic or create an adverse effect for the general area in which it is located. The following factors shall be considered by the zoning administrator to determine whether the traffic effects on a neighborhood may be excessive:
 - (1) Whether the subject parcel is located at the entrance or the interior of a subdivision where increased traffic volumes may be otherwise anticipated.
 - (2) Whether the nature of the proposed home occupation requires scheduled appointments or whether traffic volumes may be higher at certain times of the day.
 - (3) Whether traffic volumes may vary on a seasonal basis.
 - (4) Whether the home occupation could be conducted in such a manner as to reduce traffic generated in the area.
- (g) No more than two customers, clients, students or patients shall be on the premises in which a home occupation is located at any one time.
- (h) Any parking for vehicles associated with the home occupation shall be provided off the street. The home occupation shall not require any additional parking.
- (i) No retail or other sales of merchandise or products shall be conducted upon the premises except for incidental products directly related to or necessary for the home occupation.
- (j) The establishment of a home occupation shall not necessitate exterior modification to any building on the property, except as may be required by the zoning administrator to comply with adopted building codes and requirements.
- (k) No equipment or process shall be used in a home occupation which creates fumes, odors, dust, vibration, noise, smoke or electrical interference detectable to the normal senses outside the dwelling unit, or creates a fire hazard or other conditions which might pose a nuisance to adjacent properties. 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.
- (l) Visits by customers, clients, students or patients to a dwelling unit in which a home occupation is located shall be

limited to between the hours of 8:00 a.m. to 8:00 p.m., local time.

- (m) Signs shall be as allowed as permitted in article VII.
- (n) All building, housing, fire and other local or state codes and ordinances shall be adhered to for home occupations.
- (o) A registered primary caregiver, as defined by and in compliance with the General Rules of the Michigan Department of Community Health (the "General Rules"), the Michigan Medical Marihuana Act (the "Act"), and the requirements of this section, shall be allowed as a home occupation. Nothing in this section, or in any companion regulatory section adopted in any other provision of this chapter, is intended to grant, nor shall they be construed as granting immunity from prosecution for growing, sale, consumption, use, distribution or possession of marihuana not in strict compliance with the Act and the General Rules. Also, since federal law is not affected by the Act or the General Rules, nothing in this section, or in any companion regulatory section adopted in any other provision of this ordinance, is intended to grant, nor shall they be construed as granting immunity from criminal prosecution under federal law. The Act does not protect users, caregivers or the owners of properties on which medical use of marihuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act. The following requirements for a registered primary caregiver shall apply:
 - (1) The medical use of marihuana shall comply at all times and in all circumstances with the Michigan Medical Marihuana Act and the General Rules of the Michigan Department of Community Health, as they may be amended from time to time.
 - (2) A registered primary caregiver must be located outside of a 1,000-foot radius from any school or library, as defined by the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7410, to insure community compliance with federal "drug-free school zone" requirements.
 - (3) Not more than one primary caregiver shall be permitted to service qualifying patients on a parcel.
 - (4) Not more than five qualifying patients shall be assisted with the medical use of marihuana within any given calendar week.
 - (5) All medical marihuana shall be contained within the main building in an enclosed, locked facility inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered primary caregiver or qualifying patient, as reviewed and approved by the village building official and the village police department.
 - (6) All necessary building, electrical, plumbing and mechanical permits shall be obtained for any portion of the residential structure in which electrical wiring, lighting or watering devices that support the cultivation, growing or harvesting of marihuana are located.
 - (7) If a room with windows is utilized as a growing location, any lighting methods that exceed usual residential periods between the hours of 11:00 p.m. to 7:00 a.m., local time, shall employ shielding methods, without alteration to the exterior of the residence, to prevent ambient light spillage that may create a distraction for adjacent residential properties.
 - (8) That portion of the residential structure where energy usage and heat exceeds typical residential use, such as a grow room, or where the storage of any chemicals such as herbicides, pesticides and fertilizers occurs, shall be subject to inspection and approval by the village fire department to ensure compliance with applicable provisions of the fire code.

(Ord. No. 04-07, § 1(3.23), 7-12-2004; Ord. No. 04-11, § 2(Att. B), 10-11-2004; Ord. No. 11-06, § 1, 7-11-2011)

Sec. 82-124. - Nonconforming uses, structures, and lots.

(a) *General provisions.*

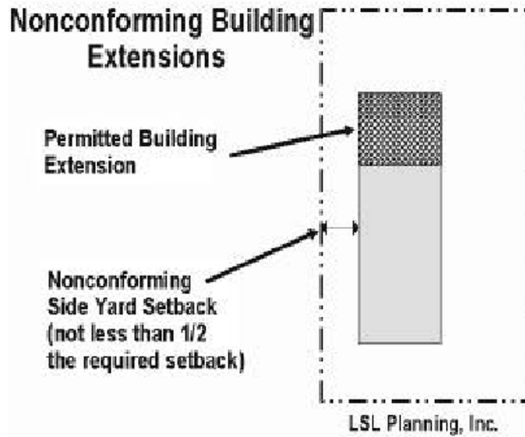
- (1) Any lot, use of land, or structure which has been established in violation of the provisions of a previous zoning ordinance having jurisdiction at the time the use of land or structure was established, and any lot, use of land, or structure which has been lawfully established under a previous zoning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

(b) *Nonconforming uses.*

- (1) No part of any nonconforming use shall be moved unless the movement eliminates the nonconformity.
- (2) If a nonconforming use is abandoned for any reason for a period of more than one year, any subsequent use shall conform to the requirements of this chapter.
- (3) A nonconforming use shall be determined to be abandoned if one or more of the following conditions exists, and shall be deemed to constitute an intent on the part of the property owner to abandon the nonconforming use:
 - a. Utilities, such as water, gas and electricity to the property, have been disconnected;
 - b. The property, buildings, and grounds, have fallen into disrepair;
 - c. Signs or other indications of the existence of the nonconforming use have been removed;
 - d. Removal of equipment or fixtures that is necessary for the operation of the nonconforming use;
 - e. Other actions, which in the opinion of the zoning administrator constitute an intention of the part of the property owner or lessee to abandon the nonconforming use.
- (4) A nonconforming use shall not be changed to any other nonconforming use. A nonconforming use that is succeeded by a conforming use shall lose its nonconformity and shall thereafter be continued in compliance with the provisions of this chapter.
- (5) No nonconforming use shall be permitted to expand or enlarge the size of any building or structure, or extend the land area occupied by the nonconforming use, unless approved by the zoning board of appeals, after a finding that the expansion, enlargement, or extension of the nonconforming use:
 - a. Shall not have a substantial detrimental effect on the use and enjoyment of adjacent uses or lots;
 - b. Shall comply with all parking, sign, or other applicable regulations applicable to the area affected by the proposed enlargement, increase, or greater area;
 - c. Shall comply with any reasonable conditions imposed by the zoning board of appeals that are necessary to ensure that the proposed enlargement, increase, or greater area will not prove detrimental to adjacent properties, the neighborhood, or the community.

d. Shall not be larger than 25 percent or the original nonconforming area.

(c) *Nonconforming structures.*



- (1) The expansion of a nonconforming structure shall be permitted provided that the addition is in compliance with this chapter.
- (2) No nonconforming building shall undertake a structural change requiring a building permit, pursuant to the village building code, as amended, provided, however, that mechanical, electrical, and plumbing permits shall be issued when no structural alteration or modification is involved.
- (3) Nothing in this section shall be construed to prevent the strengthening or restoring to safe condition of any building, structure, or part thereof declared to be unsafe by any public official charged with protecting the public health or safety. These structures may be altered to the extent necessary to comply with the order of that public official.
- (4) A nonconforming residential structure damaged by fire, collapse, explosion, high winds, vandalism, or other means beyond the owner's control may be repaired or replaced to its former condition and location.
- (5) A nonconforming, nonresidential structure destroyed to an extent of more than 50 percent of its replacement value, exclusive of the foundation, shall be reconstructed only in conformance with the provisions of this chapter. Should a nonresidential nonconforming building or structure be destroyed to an amount equal to or less than 50 percent of its replacement value, exclusive of the foundation, it may be reconstructed in its previously nonconforming location.
- (6) A nonconforming structure shall not be moved in whole or in part except when such moving results in full compliance with the provisions of this chapter.
- (7) Extensions: Where a nonconforming setback of a structure is equal to or less than one-half of the distance required by this chapter a nonconforming setback may be extended along the same plane as the existing nonconforming setback, provided that in so doing, the setback itself is not further reduced and all other required setbacks are met.

(d) *Nonconforming lots of record.*

- (1) A nonconforming lot may be used for the purposes for which it is zoned and shall be issued a development permit, provided that:
 - a. If already less than the minimum requirements of this chapter, a required lot area or lot width shall not be divided or reduced in dimensions or area so as to increase its noncompliance with the minimum requirements of this chapter.

- b. The lot area and lot width shall be at least two-thirds of the required lot area and lot width for the district in located.
 - c. Any main building shall meet the setback requirements of the district in which the lot is located, or obtain a variance from the zoning board of appeals.
- (2) Contiguous nonconforming lots in common ownership.
- a. For any two or more nonconforming lots of record or combination of lots and portions of lots of record, in existence at the time of the passage of this chapter, or an amendment to it, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter if they:
 - 1. Are in common ownership;
 - 2. Are adjacent to each other or have continuous frontage, and;
 - 3. Individually do not meet the lot width or lot area requirements of this chapter.
 - b. These parcels shall be combined into lot or lots complying as nearly as possible with the lot width and lot size requirements of this chapter. No portion of that parcel shall be used or divided in a manner that diminishes compliance with lot width and area requirements of this chapter.

(Ord. No. 04-07, § 1(3.24), 7-12-2004)

Sec. 82-125. - Site condominiums.

- (a) A site condominium unit shall be a unit created by the division of land on the basis of condominium ownership that is not subject to the provisions of the Land Division Act, Public Act 288 of 1967, as amended.
- (b) A site condominium unit shall be treated as a separate lot or parcel and may have such buildings constructed thereon and such uses conducted thereon as allowed in its zoning district provided the unit meets the district regulations for the zoning district in which it is located.
- (c) A site plan, including all the condominium documents required for the establishment of a condominium, shall be reviewed and approved by the village council in accordance with article V.
- (d) Monuments shall be set at all boundary corners and deflection points and at all road right-of-way intersection corner and deflection points. Lot irons shall be set at all condominium site corners and deflection points of condominium site lines.
 - (1) The zoning administrator and the village engineer may grant a delay in the setting of required monuments or irons for a reasonable time, but not to exceed one year from the date of approval by the village council, on condition that the developer deposit with the village clerk cash, a certified check, or an irrevocable bank letter of credit running to the Village of Sparta, whichever the developer selects, in an amount as determined from time to time by resolution of the village council.
 - (2) Such deposit shall be returned to the developer upon receipt of a certificate by a surveyor registered in the State of Michigan that the monuments and irons have been set as required, within the time specified.
 - (3) If the developer defaults, the village council shall promptly engage a registered surveyor to set the monuments and irons in the ground as shown on the condominium site plan, at the developer's expense.
- (e) All rights-of-way and utility easements shall be described separately from individual condominium sites and shall be accurately delineated by bearings and distances on the condominium subdivision plan and the final site plan.
 - (1) The rights-of-way and utility easements shall be separately designed for their individual purpose, such as access, roadway, location, installation, maintenance and replacing of public utilities.

- (2) The developer shall dedicate to the Village of Sparta all easements for utilities. Water, sewer and electrical easements may be placed within streets, subject to the approval of the village engineer and the standards of the Village of Sparta.
- (3) All streets and roads proposed for any site condominium shall be developed within the minimum design, construction, inspection, approval, and maintenance requirements of this chapter, other applicable village chapters, and the comparable requirements of the Kent County Road Commission, if applicable.

(Ord. No. 04-07, § 1(3.25), 7-12-2004)

Sec. 82-126. - Surface water protection.

- (a) No uses nor the construction or location of any structures shall be allowed within any area designated by the master plan as environmentally sensitive or where there are drainage courses and watercourses, except as may be allowed according to the requirements and provisions of any chapters, standards and regulations of the village.
- (b) No cutting, trimming or otherwise clearing of trees and other natural vegetation shall be allowed within 100 feet of rivers and free-flowing streams, or within floodplains and wetlands, as defined by the master plan, without the express written approval of the village manager.
- (c) Native protective strip.
 - (1) A minimum strip of 25 feet bordering each bank of any watercourse or water body, as measured from the bank or high water line, shall be maintained in its natural vegetative state, except for the permitted clearing of dead or noxious plants.
 - (2) Within this strip, a space of no greater than ten feet in width may be selectively trimmed and pruned to allow for the placement of walkways, and/or for a view of the waterway, with the approval of the building department.
 - (3) Any walkway constructed inside the strip shall be on the land side and may be oriented perpendicular to the water line. Because the intent of the native protective strip is water quality protection, impervious materials such as asphalt or concrete shall not be used.
 - (4) The building department may allow limited clearing of the vegetative strip when required for construction of a permitted building or structure outside the vegetative strip, provided that the land cleared is returned to a vegetative state which is approximately the same quality or greater and extent as that which existed prior to the clearing.
 - (5) Individual trees within the native protective strip may be removed which are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the watercourse or water body.
 - (6) The native protective strip shall not be used for any motorized vehicular traffic, parking, or for storage of any kind, including junk, waste, or garbage, or for any other use not otherwise authorized by this chapter.

(Ord. No. 04-07, § 1(3.26), 7-12-2004)

Sec. 82-127. - Natural feature setback.

- (a) It is the intent of this section to require a minimum setback from natural features and to regulate the use of property within the setback in order to prevent physical harm, impairment and/or destruction of or to natural features and environmentally sensitive areas. It has been determined that, in the absence of a minimum setback,

intrusions in or onto natural features would occur, resulting in harm, impairment and/or destruction of natural features contrary to the public health, safety and general welfare.

- (b) This section shall not apply to property for which a site plan has been approved or for which a preliminary subdivision plat has received tentative approval or any subsequent approvals prior to the adoption of this chapter, provided the site plan or plat remains in effect and in good standing.
- (c) Except as may be permitted pursuant to subsection (d) of this section, a minimum setback of 25 feet from a natural feature shall be observed and any filling, land balancing, dredging, construction or any deposit, installation or removal of any material, including structures, soils, minerals, and/or vegetation, within a natural feature setback is prohibited.
- (d) Reduction of setback.
 - (1) The minimum setback may be reduced upon application by the property owner and determination by the official or body responsible for review and approval of the proposed construction, activity or operation that the construction, activity or operation is not likely to endanger or materially and adversely affect the natural feature.
 - (2) Incidental to the consideration of an application to reduce a natural feature setback, the village may require, at the applicant's expense, an investigation to determine the nature, location and boundaries of the natural feature.
 - (3) In determining whether to authorize a reduction of the minimum setback, the official or body responsible for review and approval of the proposed construction, activity or operation shall consider the following criteria:
 - a. The nature, environmental sensitivity and size of the natural feature.
 - b. The nature, necessity and economic value of the proposed construction, activity or operation.
 - c. The feasibility of alternatives.
 - d. The probable impact of the proposed construction, activity or operation on the natural feature and the cumulative effect of other existing and anticipated activities on the natural feature.
 - e. The probable impact on fish and wildlife and their habitats.
 - f. The maintenance of historic, scenic, ecological and recreational values, and the character of the area.
- (e) Exemptions.
 - (1) The following activities shall be exempt from regulation under this section, although other sections of this chapter may apply:
 - a. Lawn maintenance.
 - b. Grading and filling required by the village.
 - (2) Exemptions are also made from regulation under this section (although other sections of this chapter may apply) for the construction, maintenance, cleaning and improvements of the following:
 - a. Public streets, highways, roads or pedestrian-bicycle pathways within an existing right-of-way or a public easement;
 - b. Sanitary sewer, storm drainage systems and facilities; electric, gas, telephone and cable television lines;
 - c. Maintenance, repair, cleaning and upgrading of any natural and manmade drainage course, watercourse, drain, pipe, ditch, stream, creek, swale, detention and retention basin and pond which serves to transport or hold stormwater runoff.

- d. Activities that are authorized on state regulated wetlands without a state permit under section 30305 of Pub of 1995 (MCL 324.30305).
- (3) Except for emergencies, exemptions may only be granted with prior written notice and consent from the village engineer is obtained prior to commencement of work. Granting of exemptions shall be based on the following:
- a. Prior written notice is given to the village engineer and written consent is obtained from the village manager prior to commencement of work;
 - b. The work is conducted using best management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of wetlands are not impaired; and
 - c. Any adverse effect on the aquatic environment will be minimized.
- (f) The village may require that a suitable protective barrier be erected and maintained to prevent construction or development activity from encroaching into the natural feature setback.

(Ord. No. 04-07, § 1(3.27), 7-12-2004)

Sec. 82-128. - Outdoor dining/seating.

- (a) Outdoor dining/seating must be accessory to an approved use.
- (b) Outdoor dining/seating area may not encroach into a public right-of-way. Permission of the zoning administrator may allow outdoor dining in the right-of-way if said dining is not a nuisance or obstructs traffic. Permission to do so may be revoked if dining within the right-of-way becomes a nuisance, obstructs movement of foot or vehicle traffic, or for other reasons relating to the public wellbeing.
- (c) The site plan shall indicate maintenance of eight feet of clear space from tree canopies.
- (d) All alcoholic beverages shall be sold to patrons seated at tables and only for consumption on the premises. No outdoor bars, patron dancing, or live entertainment shall be permitted in the outdoor dining/seating.
- (e) The area designated for outdoor dining/seating must be enclosed with a decorative metal fence consistent with the fencing requirements of the village and no more than 25 percent opaque. This requirement may be waived by the zoning administrator if no alcohol is served on the premises and the zoning administrator determines that fencing is not needed to separate the area from an adjacent public right-of-way or to protect pedestrians utilizing adjacent sidewalks or walkways.
- (f) Outdoor dining/seating shall not extend between the hours of 12:00 a.m. and 7:00 a.m.
- (g) Lighting visible from the public right-of-way should be unobtrusive and in keeping (night and day) with the architectural character of the district. Indirect lighting and accent lighting for public entrances are encouraged.

(Ord. No. 04-07, § 1(3.28), 7-12-2004; Ord. No. 12-04, § 1, 4-9-2012)

Sec. 82-129. - Roads—Privately constructed.

- (a) *Public road required.* A private driveway may provide principal access for no more than two uses or structures. Service for more than two structures or uses shall require direct access to a public street.
- (b) *Village standards and dedication.* All privately constructed roads shall be constructed to village standards and dedicated to the public. An applicant proposing a road for dedication shall submit an application including a written description of the proposed development to be served, the names and addresses of the applicant and

the contractor and detailed site plans and construction plans as set forth in subsection (c). The application shall also include escrow deposits as required per section 58-172 of the Code of Ordinances, and proof that the applicant is the owner of record of the property underlying the proposed road.

- (c) *Site plans and construction plans.* The applicant shall file a site plan and construction plans and specifications, showing the proposed location, adjacent properties, proposed street grades, drainage, utilities, lighting, hydrants and proposed improvements prepared by a registered engineer for review and approval of the village engineer.
- (d) *Construction.* Upon approval by the village engineer construction of the road may be undertaken by a contractor reasonably acceptable to the village manager. All construction shall comply with the plans and specifications approved by the village engineer. The applicant or its contractor shall arrange with the village engineer for inspection of the road construction.
- (e) *Dedication and acceptance of road.* The applicant shall correct any deficiencies identified by the village or its engineer during either an interim or final review. Upon the village engineer's final review and approval of the completed road improvements, the submission of "as-built" plans acceptable to the village engineer and the submission of a document in a form acceptable to the village manager that either conveys or dedicates the road and needed right-of-way, the village council shall consider acceptance of the road as a village road. Permits for occupancy of properties served by the road shall not be issued until the road has been dedicated and accepted.
- (f) *Applicability.* These regulations apply to all privately constructed roads constructed after the date of their adoption. Furthermore, these regulations will also apply to existing private roads when any of the following occurs:
 - (1) A private road serving fewer than three parcels is subsequently intended to serve three or more parcels.
 - (2) A private road serving fewer than three dwellings or commercial uses is subsequently intended to serve a total of three or more dwellings or commercial uses.
 - (3) Extensions or additions are added to an existing private road.
 - (4) The village determines that an existing private road is unsafe or will not permit reasonable year-round access to firefighting and emergency vehicles to all portions of the private road.

These regulations will apply not only to the new portion of a privately constructed road, but the entire length of the road.

(Ord. No. 04-07, § 1(3.29), 7-12-2004; Ord. No. 05-02, § 1, 2-14-2005)

Sec. 82-130. - Storage of recreational vehicles and equipment.

- (a) Recreational vehicles and equipment may be located outside of an enclosed building on any lot within a residential district provided that the following requirements are met:
 - (1) Recreational vehicles and equipment shall not be located within the required front yard or nearer than five feet to a side or rear lot line.
 - (2) Notwithstanding the provisions of this section, recreational vehicles and equipment may be parked within any yard, but not within a required yard, for cleaning, loading, or unloading purposes for not more than 48 hours within any seven-day period.
 - (3) Recreational vehicles and equipment may be used for living or housekeeping purposes for a period not exceeding 14 days in any calendar year, provided that running water or indoor sewage facilities within the equipment is not utilized.

- (4) No vehicular display for purpose of sale shall be carried on or permitted upon such premises, except in licensed approved vehicle sales establishments.
- (5) Outside parking or storage of recreational vehicles and equipment, or commercial vehicles or automobiles which are not used in the operation of the business is prohibited; provided, however, that such provision shall not apply to any equipment or vehicle which is temporarily on the premises for repair or service and which is stored or parked in a designated parking place. No more than one tow truck may be parked in the front or side yards or in the street at an automobile service station location. Outdoor storage of disabled, abandoned, junk, wrecked and/or unlicensed vehicles is prohibited. Outdoor storage of rubbish and junked equipment or parts is prohibited unless such rubbish, junked equipment or parts are stored adjacent and to the rear of the principal building and are in a fully screened area approved by the village planning commission, and provided, further, that such rubbish and junked equipment or parts shall be removed from the property at least once every week.
- (b) Where physical features of a property, such as, but not limited to, immovable structures or a tree with a diameter of four inches or greater, prohibit recreational vehicles and equipment from being parked in compliance with this section, the owner may apply to the zoning administrator for permission to park the recreational equipment on the lot. This permission shall be granted, provided that the following requirements are met:
 - (1) A twenty-foot setback shall be maintained from the recreational equipment to the edge of the street pavement or curb; or, if a sidewalk exists, the twenty-foot setback shall be measured from the inside edge of the sidewalk.
 - (2) Parking approval, if granted by the zoning administrator, shall be effective for five years following the date of issuance. The zoning administrator may grant additional approvals in accordance with this section.

(Ord. No. 04-07, § 1(3.30), 7-12-2004)

Sec. 82-131. - Height exceptions for buildings and structures.

- (a) The height requirements in all districts may be exceeded by the following exceptions: parapet walls not over four feet in height, chimneys, silos, farm barns and buildings accessory to active farming operations, cupolas, domes, spires, or other ornamental projections and public water towers provided they are located a minimum of the same distance as their height from any adjoining property line.
 - (1) The height of antennas, whether attached to a support structure or a building in residential zoning districts, serving dwelling units, is limited to 35 feet.
 - (2) Amateur radio antennas in residential zoning districts operating under a license issued by the Federal Communications Commission may exceed a height of 35 feet, and are subject to the requirements of section 82-387 (hh).
- (b) In industrial zones, height requirements may be exceeded by: stack chimneys, cooling towers, fire towers, elevator buildings and bulkheads, storage tanks, grain elevators, and other necessary appurtenances provided they are located a minimum of the same distance as their height from any adjoining property line.
- (c) The height for wind energy turbines shall be as required by article X.
- (d) The height for wireless communication towers and antennas shall be as required by sections 82-387 (c) and (hh).
- (e) In no case shall the height of any building or structure exceed 80 feet, except as provided by the procedures and requirements of article IV, and by the specific requirements of section 82-388.

(Ord. No. 16-02, § 2, 7-11-2016)

Secs. 82-132—82-150. - Reserved.

DIVISION 2. - ZONING DISTRICTS AND MAP

Sec. 82-151. - Establishment of districts.

For the purposes of this chapter, the Village of Sparta is divided into the following zoning districts:

R-1	Single Family Residential District
R-2	Single Family Residential District
R-3	Single and Two-Family Residential District
R-4	Single Family, Two-Family, and Multiple Family Residential District
NC	Neighborhood Commercial District
GC	General Commercial District
CBD	Central Business District
LI	Light Industrial District
PUD	Planned Unit Development Districts
	Residential PUD
	Mixed Use PUD
	Commercial PUD
	Industrial PUD
	Traditional Neighborhood Development PUD

(Ord. No. 04-07, § 1(4.01), 7-12-2004)

Sec. 82-152. - Official zoning districts map.

The boundaries of the zoning districts enumerated in section 82-151 are hereby established as shown on the "Official Zoning Map, Village of Sparta," which accompanies this text; this map with all notations, references and other information shown thereon is hereby adopted by reference as a part of this chapter. One copy of the official zoning map shall be maintained and kept up to date by the village clerk, accessible to the public, and the final authority as to the current zoning status of all property in the village.

(Ord. No. 04-07, § 1(4.02), 7-12-2004)

Sec. 82-153. - Interpretation of district boundaries.

- (a) If because of the scale, lack of details, or illegibility of the official zoning map, there is any uncertainty, contradiction, or conflict regarding the intended location of any district boundaries shown on the map, interpretation concerning the exact location of district boundary lines shall be determined by the zoning administrator, using the following standards:
- (1) The boundaries of zoning districts are intended to follow centerlines of alleys, streets, other rights-of-way, or lot lines, or to be parallel or perpendicular thereto, unless the district boundary lines are otherwise clearly indicated on the official zoning map.
 - (2) Where district boundaries are indicated to approximately follow lot of record lines, those lines shall be construed to be boundaries.
 - (3) Unless shown by dimension on the official zoning map, where a district boundary divides a lot of record the location of the boundary shall be determined by use of the scale shown on the map.
 - (4) Where district boundaries are indicated as approximately following village limits, they shall be construed as following the village limits.
 - (5) A boundary indicated as following the centerline of a stream, river, canal, lake or other body of water shall be construed as following that centerline.
 - (6) If a district boundary is indicated as being parallel to, or an extension of a feature described in this section it shall be so construed.
- (b) Where physical or natural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered in this section the zoning administrator shall determine the district boundaries. Any person who disagrees with the interpretation of the zoning administrator may file an appeal in accordance with the provisions of section 82-544(b)(1), Powers and duties, zoning board of appeals.

Sec. 82-154. - Zoning of vacated areas.

If a street, alley or other public right-of-way within the village is vacated by official governmental action and if the lands within the boundaries thereof attach to and become part of lands adjoining the street, alley or public right-of-way, such lands shall automatically acquire and be subject to the same zoning regulations applicable to adjoining lands as regulated by this chapter.

(Ord. No. 04-07, § 1(4.04), 7-12-2004)

Sec. 82-155. - Zoning of filled land; use of waters.

If earthen fill is placed in any lake or stream, the created land shall automatically and without further governmental action acquire and be subject to the same zoning regulations applicable for lands to which the land attaches or is adjacent; and the created land shall be used for those purposes as are permitted under this chapter for the adjoining lands.

(Ord. No. 04-07, § 1(4.05), 7-12-2004)

Sec. 82-156. - Zoning of annexed areas.

When property is annexed into the village, the planning commission shall consider the appropriate district classification and shall propose an amendment to this chapter concerning the annexed land to the village council within one year of the effective date of the annexation. In the interim period, the property shall be considered to be in the R-1 district.

Secs. 82-157—8-170. - Reserved.

DIVISION 3. - R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 82-171. - Intent and purpose.

The R-1 district is intended to provide for stable, low density areas by ensuring compatible residential density, encouraging a safe environment for family life, and protecting these areas from undesirable land uses. The purpose of this district is to preserve the character, amenities and property values associated with low-density residential development. This district allows for primarily single-family homes, but may allow, in a limited number of cases, other uses compatible with single-family residential and supportive of cohesive residential neighborhoods such as parks and public service facilities/buildings.

(Ord. No. 04-07, § 1(5.01), 7-12-2004)

Sec. 82-172. - Permitted uses.

In the R-1 district no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Parks and playgrounds.
- (2) Single-family detached dwellings, including home occupations, meeting the requirements of section 82-123, Home occupations.
- (3) State licensed residential care family facilities.
- (4) Family day care facilities.
- (5) Accessory buildings and uses, meeting the requirements of section 82-103, Accessory buildings and structures.

(Ord. No. 04-07, § 1(5.02), 7-12-2004)

Sec. 82-173. - Special land uses.

Land and/or buildings in the R-1 district may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, special land uses:

- (1) Campgrounds.
- (2) Private cemeteries.
- (3) Private educational institutions.
- (4) Golf courses and country clubs, including related uses, such as snack bars, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.
- (5) Public utility structures.
- (6) Religious institutions.
- (7) State-licensed residential care group facilities.
- (8) State-licensed group day care facilities.
- (9) Bed and breakfast accommodations.

(Ord. No. 04-07, § 1(5.03), 7-12-2004; Ord. No. 12-05, § 1, 4-9-2012)

Sec. 82-174. - Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, Site Plan Review.
- (2) Parking is required in accordance with article VI, Off-Street Parking and Loading.
- (3) Signs are permitted in accordance with the requirements of article VII, Signs.
- (4) Setbacks, height, area, and lot dimensions are required as noted below:

R-1 District Regulations	Requirements		
Minimum Lot Requirements	Area:	12,000 sq. ft.	
	Width:	100 ft.	
	Front:	35 ft.	
	Side:	One Side	7 ft.
		Total Both Sides	15 ft.
	Rear:	35 ft.	
Maximum Lot Coverage	35%		

Building Requirements	Maximum Height	35 ft. or 2 ½ stories, whichever is less		
	Minimum Dwelling Unit Size	1,040 sq. ft. with a minimum of 624 sq. ft. on ground floor		
<i>Residential Accessory Buildings</i> (See Section (82-103))	<i>Lot Size:</i>	<i>Number</i>	<i>Size</i>	<i>Max Height</i>
	Less than 12,000 sq. ft.	1	720 sq. ft.	16 ft.
	12,000 sq. ft.— 14,999 sq. ft.	1	1,000 sq. ft.	21 ft.
	15,000 sq. ft.—1 acre	1	1,200 sq. ft.	21 ft.
	More than 1 acre	1	1,500 sq. ft.	21 ft.
Nonresidential Accessory Buildings (See <u>Section 82-103(c)</u>)				

(Ord. No. 04-07, § 1(5.04), 7-12-2004; Ord. No. 15-02, § 1, 11-9-2015)

Secs. 82-175—82-190. - Reserved.

DIVISION 4. - R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

Sec. 82-191. - Intent and purpose.

The R-2 district is intended to provide for stable, moderate density single-family areas by insuring compatible density, encouraging a safe environment for family life, and protecting these areas from undesirable land uses. The purpose of this district is to preserve the character, amenities and property values associated with moderate density residential development. This district allows for primarily single-family homes, but may allow, in a limited number of cases, other uses compatible with single family residential and supportive of cohesive residential neighborhoods such as parks and public service facilities/buildings.

(Ord. No. 04-07, § 1(6.01), 7-12-2004)

Sec. 82-192. - Permitted uses.

In the R-2 district no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Parks and playgrounds.
- (2) Single-family detached dwellings, including home occupations, meeting the requirements of section 82-123, Home occupations.
- (3) State licensed residential care family facilities.
- (4) State licensed family day care facilities.
- (5) Accessory buildings and uses, meeting the requirements of section 82-103, Accessory buildings and structures.

(Ord. No. 04-07, § 1(6.02), 7-12-2004)

Sec. 82-193. - Special land uses.

Land and/or buildings in the R-2 district may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, Special Land Uses:

- (1) Bed and breakfast establishments.
- (2) Campgrounds.
- (3) Private cemeteries.
- (4) Private educational institutions.
- (5) Golf courses and country clubs, including related uses, such as snack bars, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.
- (6) Public utility structures.
- (7) Religious institutions.
- (8) State licensed residential care group facilities.
- (9) State licensed group day care facilities.

(Ord. No. 04-07, § 1(6.03), 7-12-2004)

Sec. 82-194. - Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, Site Plan Review.
- (2) Parking is required in accordance with article VI, Off-Street Parking and Loading.
- (3) Signs are permitted in accordance with the requirements of article VII, Signs.
- (4) Setbacks, height, area, and lot dimensions are required as noted below:

R-2 District Regulations	Requirements	
Minimum Lot Requirements	Area:	5,500 sq. ft.
	Width:	50 ft.

	Front:	20 ft.		
	Side:	One Side	7 ft.	
		Total Both Sides	15 ft.	
	Rear:	25 ft.		
Maximum Lot Coverage	35%			
Building Requirements	Maximum Height	35 ft. or 2 ½ stories, whichever is less		
	Minimum Dwelling Unit Size	1,040 sq. ft. with a minimum of 624 sq. ft. on ground floor		
<i>Residential Accessory Buildings (See Section (82-103))</i>	<i>Lot Size:</i>	<i>Number</i>	<i>Size</i>	<i>Max Height</i>
	Less than 5,500 sq. ft.	1	624 sq. ft.	16 ft.
	5,501 sq. ft.— 11,999 sq. ft.	1	720 sq. ft.	16 ft.
	12,000 sq. ft.— 14,999 sq. ft.	1	1,000 sq. ft.	21 ft.
	15,000 sq. ft.—1 acre	1	1,200 sq. ft.	21 ft.
	More than 1 acre	1	1,500 sq. ft.	21 ft.
Nonresidential Accessory Buildings (See subsection <u>82-103(c)</u>)				

(Ord. No. 04-07, § 1(6.04), 7-12-2004; Ord. No. 15-02, § 1, 11-9-2015)

Secs. 82-195—82-210. - Reserved.

DIVISION 5. - R-3 SINGLE- AND TWO-FAMILY RESIDENTIAL DISTRICT

Sec. 82-211. - Intent and purpose.

The R-3 district is intended to provide for stable, low density areas by ensuring compatible residential density, encouraging a safe environment for family life, and protecting these areas from undesirable land uses. The purpose of this district is to preserve the character, amenities and property values associated with medium-density residential development. This district allows for primarily single-family and two-family homes, but may allow, in a limited number of cases, other uses compatible with single family residential and supportive of cohesive residential neighborhoods such as parks and public service facilities/buildings.

(Ord. No. 04-07, § 1(7.01), 7-12-2004)

Sec. 82-212. - Permitted uses.

In the R-3 district no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Parks and playgrounds.
- (2) Single family detached dwellings, including home occupations, meeting the requirements of section 82-123, Home occupations.
- (3) State licensed residential care family facilities.
- (4) Family day care facilities.
- (5) Two-family dwellings.
- (6) Accessory buildings and uses, meeting the requirements of section 82-103, Accessory buildings and structures.

(Ord. No. 04-07, § 1(7.02), 7-12-2004)

Sec. 82-213. - Special land uses.

Land and/or buildings in the R-3 district may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, Special Land Uses:

- (1) Bed and breakfast establishments.
- (2) Private cemeteries.
- (3) Private educational institutions.
- (4) Government service facilities, and community centers.
- (5) Public utility structures.
- (6) Religious institutions.
- (7) State licensed residential care group facilities.
- (8) State licensed group day care facilities.

(Ord. No. 04-07, § 1(7.03), 7-12-2004)

Sec. 82-214. - Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, Site Plan Review.
- (2) Parking is required in accordance with article VI, Off-Street Parking and Loading.
- (3) Signs are permitted in accordance with the requirements of article VII, Signs.
- (4) Setbacks, height, area, and lot dimensions are required as noted below:

R-3 District Regulations	Requirements			
Minimum Lot Requirements	Area:	7,500 sq. ft. per dwelling unit		
	Width:	75 ft.		
	Front:	25 ft.		
	Side:	One Side	7 ft.	
		Total Both Sides	15 ft.	
	Rear:	25 ft.		
Maximum Lot Coverage	35%			
Building Requirements	Maximum Height	35 ft. or 2 ½ stories, whichever is less		
	Minimum Dwelling Unit Size	960 sq. ft. with a minimum of 500 sq. ft. on ground floor		
<i>Residential Accessory Buildings</i> <i>(See Section (82-103))</i>	<i>Lot Size:</i>	<i>Number</i>	<i>Size</i>	<i>Max Height</i>
	Less than 12,000 sq. ft.	1	720 sq. ft.	16 ft.
	12,000 sq. ft.—14,999 sq. ft.	1	1,000 sq. ft.	21 ft.
	15,000 sq. ft.—1 acre	1	1,200 sq. ft.	21 ft.
	More than 1 acre	1	1,500 sq. ft.	21 ft.

Nonresidential Accessory Buildings (See subsection 82-103(c))

(Ord. No. 04-07, § 1(7.04), 7-12-2004; Ord. No. 15-02, § 1, 11-9-2015)

Secs. 82-215—82-230. - Reserved.

DIVISION 6. - R-4 SINGLE-, TWO-FAMILY, AND MULTIPLE FAMILY RESIDENTIAL DISTRICT

Sec. 82-231. - Intent and purpose.

The R-4 district provides opportunities for more affordable housing, and a wider variety of housing types. Lands within this classification will contain the most intensive residential development, including single-family dwellings on smaller lots, two-family and multiple family dwellings, as well as other residential related development.

(Ord. No. 04-07, § 1(8.01), 7-12-2004)

Sec. 82-232. - Permitted uses.

In the R-4 district no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Parks and playgrounds.
- (2) Single-family detached dwellings, including home occupations, meeting the requirements of section 82-123, Home occupations.
- (3) State licensed residential care family facilities.
- (4) Family day care facilities.
- (5) Two-family dwellings.
- (6) Accessory buildings and uses, meeting the requirements of section 82-103, Accessory buildings and structures.

(Ord. No. 04-07, § 1(8.02), 7-12-2004)

Sec. 82-233. - Special land uses.

Land and/or buildings in the R-4 district may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, Special Land Uses:

- (1) Bed and breakfast establishments.
- (2) Private cemeteries.
- (3) Private educational institutions.
- (4) Government service facilities, and community centers.
- (5) Manufactured home parks.

- (6) Multiple family dwellings.
- (7) Public utility structures.
- (8) Religious institutions.
- (9) State licensed residential care group facilities.
- (10) State licensed group day care facilities.

(Ord. No. 04-07, § 1(8.03), 7-12-2004)

Sec. 82-234. - Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, Site Plan Review.
- (2) Parking is required in accordance with article VI, Off-Street Parking and Loading.
- (3) Signs are permitted in accordance with the requirements of article VII, Signs.
- (4) Setbacks, height, area, and lot dimensions are required as noted below:

R-4 District Regulations	Requirements			
Minimum Lot Requirements	Area:	7,500 sq. ft. per dwelling unit		
	Width:	75 ft.		
	Width:	25 ft.		
	Side:	One Side	7 ft.	
		Total Both Sides	15 ft.	
	Rear:	25 ft.		
Maximum Lot Coverage	35%			
Building Requirements	Maximum Height	35 ft. or 2 ½ stories, whichever is less		
	Minimum Dwelling Unit Size	960 sq. ft. with a minimum of 500 sq. ft. on ground floor		
<i>Residential Accessory Buildings</i>	<i>Lot Size:</i>	<i>Number</i>	<i>Size</i>	<i>Max Height</i>

<i>(See Section (82-103)</i>	Less than 12,000 sq. ft.	1	720 sq. ft.	16 ft.
	12,000 sq. ft. - 14,999 sq. ft.	1	1,000 sq. ft.	21 ft.
	15,000 sq. ft. - 1 acre	1	1,200 sq. ft.	21 ft.
	1 acre or more	1	1,500 sq. ft.	21 ft.

Nonresidential Accessory Buildings (See subsection 82-103(c))

Multiple Family Dwellings and Nonresidential Uses

Minimum Lot Requirements	Area	4,500 sq. ft. per dwelling unit		
		Multiple family developments shall not exceed a gross density of 10 units per acre (minimum lot size 30,000 sq. ft.)		
	Width	75 ft.		
Minimum Yard Requirements	Front	If parking is in the front yard	100 ft.	
		No parking in front yard	50 ft.	
	Side	One Side	10 ft.	
		Total Both Sides	25 ft.	
			For multiple family developments the distance between buildings shall be at least equal to the height of the taller building	
	Rear	35 ft.		
Maximum Lot Coverage	35%			
Building Requirements	Maximum Height		35 ft. or 2 ½ stories, whichever is less	

Minimum Dwelling Unit Size (per unit)	1 bedroom	550 sq. ft.
	2 bedrooms	800 sq. ft.
	3 bedrooms	960 sq. ft.
	Per bedroom over 3	120 sq. ft.
Residential Accessory Buildings (See <u>Section 82-103</u>)		
Nonresidential Accessory Buildings (See subsection <u>82-103(c)</u>)		

(Ord. No. 04-07, § 1(8.04), 7-12-2004; Ord. No. 15-02, § 1, 11-9-2015)

Secs. 82-235—82-250. - Reserved.

DIVISION 7. - O-OFFICE DISTRICT

Footnotes:

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Editor's note— Ord. No. 12-02, § 1, adopted Feb. 13, 2012, repealed Div. 7 in its entirety and enacted a new Div. 7 to read as set out herein. Former Div. 7, §§ 82-251—82-254, pertained to NC neighborhood commercial district and derived from Ord. No. 04-07, § 1(9.01—9.04), adopted July 12, 2004.

Sec. 82-251. - Intent and purpose.

The office district (O) is intended for a variety of smaller business and professional office uses that will typically generate lower volumes of traffic than retail uses, and will have less impact upon single-family residential neighborhoods which may be adjacent to the office district. The zoning ordinance anticipates that locations zoned office may include residential structures that may be converted to office uses.

(Ord. No. 12-02, § 1, 2-13-2012)

Sec. 82-252. - Permitted uses.

In the O district no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

(1) Office buildings for any of the following occupations:

- a. Executive, governmental, administrative, legal, professional, designers, real estate, accounting, financial, drafting, service organizations, travel agencies, and other similar professional activities.

- b. Medical, optical, dental, and veterinary offices and clinics.
- (2) Banks, credit unions, savings and loan associations, and other similar uses, excluding those with drive-through facilities.
- (3) Radio and television stations.
- (4) Research, development and testing laboratories and offices without manufacturing.
- (5) Religious institutions.
- (6) Utility and public service buildings, without storage yards, but not including essential public service structures such as poles, wires, and underground utility systems.
- (7) Buildings, structures, and uses accessory to the permitted uses.

(Ord. No. 12-02, § 1, 2-13-2012)

Sec. 82-253. - Special land uses.

Land and/or buildings in the O district may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, special land uses:

- (1) Personal service establishments conducting services on the premises such as barber and beauty shops, shoe repair, tailoring, dry cleaning pick-up and drop-off excluding the actual cleaning process, stores selling wireless communication devices, and fitness centers.
- (2) Private educational institutions.
- (3) Essential public service buildings and structures.
- (4) Wireless telecommunication facilities.
- (5) Buildings, structures, and uses accessory to the approved special land use.

(Ord. No. 12-02, § 1, 2-13-2012)

Sec. 82-254. - Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, site plan review. Site plan review is required in the case of newly established uses as permitted in the O-office district; additions or renovations of buildings and structures for a use permitted in the O-office district or for a legally existing non-conforming use subject to the requirements of section 82-124; and for conversions from any use to a use permitted in the O-office district.
- (2) Parking is required in accordance with article VI, off-street parking and loading. Modifications of requirements for parking and loading from that required by article VI of this ordinance are permitted upon approval of the planning commission or recommendation of the planning commission and approval of the village council in the case of a special land use. When modifying parking and loading requirements, the planning commission and village council shall take into consideration the following:
 - a. The size of the parcel upon which the proposed use is located;
 - b. The size of the structure in relation to the proposed use;
 - c. The nature of the proposed use and the number of parking spaces required compared to similar uses;

- d. That the modification of required parking will still result in safe access and circulation.
- (3) Signs are permitted in accordance with the requirements of article VII, signs, and specifically the requirements of section 82-506 requirements for individual zoning districts, GC-general commercial districts permitted signs, except the following shall also be required:
 - a. Ground signs shall not exceed 32 square feet in size and shall not exceed six feet in height.
 - b. Ground signs shall be set back a minimum of five feet from any side or rear property line.
 - c. No freestanding signs are permitted in the O district.
- (4) Landscaping is required in accordance with the requirements of division 1 generally for commercial zones or uses.
- (5) Lawfully existing structures. Structures lawfully existing as of the date of adoption of this ordinance [section] shall be conforming in regard to height, required yards, lot area, lot width, and lot coverage. Existing structures shall be permitted to be enlarged or altered so long as the depths of the existing setbacks are not decreased unless decreasing the depth results in a setback as required by this section. In no case shall an existing structure be enlarged or expanded such that the structure extends into the public or private road right-of-way. If existing structures are enlarged or expanded, the total area of all principal buildings, accessory buildings, and structures shall not exceed a coverage of 40 percent of the lot area.
- (6) Setbacks, height, area, and lot dimensions are required as noted below:

O District Regulations	Requirements		
Minimum Lot Requirements	Area	12,500 sq. ft.	
	Width	80 ft.	
Minimum Yard Requirements	Front	25 ft	
	Side	Abutting a residential district or use	25 ft.
		Abutting a Nonresidential district	10 ft.
Rear	25 ft.		
Maximum Lot Coverage	40%		
Maximum Height	35 ft. or 2½ stories, whichever is less		
Nonresidential Accessory Buildings (See subsection <u>82-103(c)</u>)			

- (7) Driveways within the office district shall be provided as follows, provided that the planning commission may

modify the requirements for driveways if traffic or pedestrian safety, traffic circulation, or unique site conditions warrant the modification. When modifying the requirements for driveways, the planning commission may require traffic studies or the opinion of qualified professionals.

- a. Each lot may be permitted one driveway, provided the spacing requirements of this subsection can be achieved.
 - b. The planning commission may permit additional driveways for any site, providing the spacing and alignment criteria listed below are met, and a traffic impact study is completed that justifies an additional driveway.
 - c. The planning commission may permit two one-way driveways rather than a single dual movement driveway for particular uses where safer, more efficient circulation and function of the drives can be demonstrated.
 - d. The applicant shall submit evidence indicating that the sight distance requirements of the Michigan Department of Transportation (MDOT) or Kent County Road Commission, as appropriate, are met.
 - e. Driveways shall be spaced from existing signalized intersections adequately to minimize conflicts with signal operations. If the site has access to a traffic signal or if the driveway has potential to be signalized, the site shall be designed and directional signs provided to direct traffic flow to use the signal.
 - f. Interior drives shall provide circulation between uses through the use of shared driveways and internal access connections rather than separate, individual driveways. Site plan or other zoning approvals shall be conditioned on the submission of easement agreements that clearly describe future access conditions and restrictions.
 - g. Stacking or queuing depth at driveways shall be sufficient to accommodate expected peak hour volumes without conflict to inbound or internal circulation.
 - h. Driveway spacing:
 1. Driveways shall be spaced a minimum of 100 feet from driveways on the same side of the street, centerline to centerline.
 2. Driveways shall be aligned with driveways on the opposite side of the street or offset spaced a minimum of 150 feet, centerline to centerline.
 3. Driveways shall be spaced at least 75 feet from an intersection of a private or public street measured from near pavement edge of the street to near pavement edge of the driveway throat.
- (8) Frontage roads and service drives:
- a. The planning commission may require the construction of frontage roads or rear service drives along parcels to connect future or existing developments.
 - b. The planning commission shall require development of service drives where service drives can provide access to signalized locations, where service drives may minimize the number of driveways onto an abutting roadway, and as a means to ensure that traffic is able to safely ingress and egress the site.
 - c. Where service drives and frontage roads are constructed they shall be set back as far as reasonably possible from the intersection of the access driveway with the street.
 - d. A minimum of 25 feet shall be maintained between the public street right-of-way and the pavement of the service drive.

- (9) Setbacks and landscaping:

- a. Parking is permitted in the required front yard but in no case shall parking be permitted within the public or right-of-way.
 - b. The front yard, except for necessary entrance or service drives, shall be landscaped according to the requirements of division 1 generally, landscaping.
 - c. Parking areas shall be landscaped according to the requirements of division 1 generally, landscaping. Where parking is permitted in the required front yard, front yard landscaping may substitute for up to 50 percent of the required parking lot landscaping.
 - d. No outside storage shall be permitted in any yard adjacent to the street.
- (10) Site lighting shall comply with the provisions of section 82-122, exterior lighting requirements, in addition to the following provisions:
- a. Off-street parking areas for uses in the office district shall be adequately lit to ensure security and safety.
 - b. Light fixtures shall be provided with light cut-off fixtures that direct light downward. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.
 - c. Lighting shall illuminate only the parking lot or other areas approved for illumination by the planning commission.
- (11) Site design requirements:
- a. Mechanical equipment and service areas shall be visually screened from adjacent properties, public roadways, or other public areas. Architectural designs for buildings shall include design features to contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks, telecommunications equipment, and service yards. Brick shall be used as the predominant material utilized on facades that are visible from a public right-of-way or parking lots. Other materials may be used for architectural accents, provided they have the appearance of wood or cut or cast stone.
 - b. Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls visible from a public street and/or residential uses shall be designed using architectural features and landscaping (abutting the building) for at least 50 percent of the wall length.
 - c. Other walls shall incorporate architectural features and landscaping for at least 30 percent of the wall length.
 - d. On-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street.
 - e. The predominant building materials shall be those characteristic of the village, such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.
 - f. Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. High-intensity colors such as black, neon, metallic or fluorescent for the facade and/or roof of the building are prohibited except as approved for building trim.
 - g. Conversions from any use to uses as permitted in the O-office district, and additions and renovations of buildings and structures existing as of the date of the adoption of this section shall be subject to the

requirements of this section. The planning commission, the village council, or zoning administrator as the case may be, shall have the authority to modify or waive these requirements or to extend them to the entire existing building and site.

In determining whether to apply these requirements to conversions, additions and renovations of existing buildings, the following criteria shall be considered:

1. Whether compliance with this section will result in architectural consistency with the existing building and buildings on adjacent properties, and whether compliance will improve the overall aesthetics of the building.
2. The practicality of requiring compliance with this section based on the design and structural integrity of the existing building.
3. The practicality of requiring compliance with this section based on the unique characteristics of the site.

(12) Canopies:

- a. Canopies, such as over drop-off areas, shall be designed to be consistent with the approved building materials and colors. Support columns shall be brick or materials compatible with the main building. The planning commission may require a peaked roof to complement the main building.
- b. Canopy lighting shall be mounted flush with the canopy surface.

(Ord. No. 12-02, § 1, 2-13-2012)

Secs. 82-255—82-270. - Reserved.

DIVISION 8. - GC GENERAL COMMERCIAL DISTRICT

Footnotes:

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Editor's note— Ord. No. 12-03, § 1, adopted Feb. 13, 2012, repealed Div. 8 in its entirety and enacted a new Div. 8 to read as set out herein. Former Div. 8, §§ 82-271—82-274, pertained to similar subject matter and derived from Ord. No. 04-07, § 1(10.01—10.04), adopted July 12, 2004; Ord. No. 05-06, § 1, adopted July 11, 2005.

Sec. 82-271. - Intent and purpose.

The general commercial (GC) district is intended primarily for uses emphasizing community shopping needs, generally along major roadways, including service stations, restaurants, and other related uses. Managing access to individual properties will receive strong consideration during the review of individual sites. The use of combined drives, service drives, and well-planned access points will be stressed. Efforts will be made to discourage the placement of loading areas, outside storage and other unattractive features in areas clearly visible from the roadway. This district is further intended to provide for uses, which, due to either size or nature, are not well suited for locations within the central business district.

This district is also intended to provide for the limited need for convenience commercial establishments and other businesses which due to either size or nature, are not well suited for locations within the central business district. The purpose of this district is to enhance the living environment of residential areas by allowing, when needed, small

convenience establishments; and to maintain the character of the adjacent residential areas by providing a location for these needed businesses.

(Ord. No. 12-03, § 1, 2-13-2012)

Sec. 82-272. - Permitted uses.

In the GC district no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Bars or taverns. Outdoor seating areas may be permitted, pursuant to section 82-128, outdoor dining/seating.
- (2) Executive, administrative and professional offices.
- (3) Financial institutions with or without drive-through service.
- (4) Funeral homes and mortuaries.
- (5) Personal service establishments.
- (6) Restaurants, not including drive through service. Outdoor seating areas may be permitted where patrons are served, pursuant to section 82-128, outdoor dining/seating.
- (7) Enclosed theaters, assembly halls or concert hall.
- (8) Offices and showrooms of contractors, decorators or similar trades in connection with whom not more than 25 percent of the usable floor area of the building or part of the building occupied by the establishment is used for making, assembling, repairing, remodeling, altering, finishing or refinishing the products or merchandise of the trade. All storage of materials shall be within the confines of the building or part thereof occupied by the establishment.
- (9) Private clubs, lodges, fraternal organizations, and other similar uses.
- (10) Religious institutions.
- (11) Retail stores selling commodities within an entirely enclosed building.
- (12) Wholesale establishments.
- (13) Accessory buildings and uses pursuant to section 82-103, accessory buildings and structures.
- (14) Outdoor display of merchandise as a use accessory to the principal use of the parcel subject to the following requirements:
 - a. The merchandise displayed outdoors is the same as or is related to that which is offered inside the building which is the principal use of the parcel.
 - b. The area where merchandise is displayed outdoors shall not create unsafe conditions for vehicles, pedestrians or those on a bicycle.
 - c. The area devoted to the outdoor display of merchandise shall at all times be kept neat and orderly.
 - d. The outdoor display of merchandise shall not be located within on-street or off-street parking spaces.

(Ord. No. 12-03, § 1, 2-13-2012)

Sec. 82-273. - Special land use.

Land and/or buildings in the GC district may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, special land uses:

- (1) Commercial day care facilities.
- (2) Commercial recreation facilities.
- (3) Private educational institutions.
- (4) Residential uses meeting the lot area requirements of the R-4 district.
- (5) Nonresidential uses as permitted in sections 82-252 and 82-253 located in converted residential buildings.
- (6) Nurseries and greenhouses.
- (7) Vehicle service stations including major and minor repair and servicing.
- (8) Building material suppliers.
- (9) Commercial storage warehouses.
- (10) Hotels and motels.
- (11) New and used vehicle, boat or farm implement sales including incidental servicing and minor repair.
- (12) Nonresidential uses as permitted in section 82-272 located in converted residential buildings.
- (13) Massage (licensed).
- (14) Open air businesses.
- (15) Restaurants, including drive through service. Outdoor seating may be permitted where patrons are served pursuant to section 82-128, outdoor dining/seating.
- (16) Shopping center or shopping mall.
- (17) Vehicle-wash establishments, either self-service or automatic.
- (18) Veterinary hospital, clinic or indoor kennel.
- (19) Wireless telecommunication facilities.

(Ord. No. 12-03, § 1, 2-13-2012)

Sec. 82-274. - Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, site plan review.
- (2) Parking is required in accordance with article VI, off-street parking and loading.
- (3) Signs are permitted in accordance with the requirements of article VII, signs.
- (4) Setbacks, height, area, and lot dimensions are required as noted below.

CG District Regulations	Requirements	
Minimum Lot Requirements	Area	15,000 sq. ft.
	Width	100 ft.

Minimum Yard Requirements	Front	35 ft	
	Side	Abutting a residential district	25 ft.
		Abutting a Nonresidential district	10 ft.
Rear	25 ft.		
Maximum Lot Coverage	50%		
Maximum Height	35 ft. or 2½ stories, whichever is less		
Nonresidential Accessory Buildings (See subsection <u>82-103(c)</u>)			

(5) Driveways within the general commercial district shall be provided as follows:

- a. Each lot may be permitted one driveway, provided the spacing requirements of this subsection can be achieved.
- b. One additional driveway may be permitted on parcels with lot widths exceeding 500 feet.
- c. The planning commission may permit additional driveways for any site, providing the spacing and alignment criteria listed below are met, and a traffic impact study is completed that justifies an additional driveway.
- d. The planning commission may permit two one-way driveways rather than a single dual movement driveway for particular uses where safer, more efficient circulation and function of the drives can be demonstrated.
- e. The applicant shall submit evidence indicating that the sight distance requirements of the Michigan Department of Transportation (MDOT) or Kent County Road Commission, as appropriate, are met.
- f. Driveways shall be spaced from existing signalized intersections adequately to minimize conflicts with signal operations. If the site has access to a traffic signal or if the driveway has potential to be signalized, the site shall be designed and directional signs provided to direct traffic flow to use the signal.
- g. Interior drives shall provide circulation between uses through the use of shared driveways and internal access connections rather than separate, individual driveways. Site plan or other zoning approvals shall be conditioned on the submission of easement agreements that clearly describe future access conditions and restrictions.
- h. Stacking or queuing depth at driveways shall be sufficient to accommodate expected peak hour volumes without conflict to inbound or internal circulation.
- i. Driveway spacing:
 1. Driveways shall be spaced a minimum of 185 feet from driveways on the same side of the street, centerline to centerline.

2. Driveways shall be aligned with driveways on the opposite side of the street or offset spaced a minimum of 150 feet, centerline to centerline.
 3. Driveways shall be spaced at least 150 feet from an intersection of a private or public street measured from near pavement edge of the street to near pavement edge of the driveway throat.
 4. The planning commission may modify the spacing if traffic or pedestrian safety, traffic circulation, or site conditions warrant the modification, based on the unique characteristics of the site, traffic studies or other qualified professional opinion.
- (6) Frontage roads and service drives:
- a. The planning commission may require the construction of frontage roads or rear service drives along parcels to connect future or existing developments.
 - b. The planning commission shall require development of service drives where service drives can provide access to signalized locations, where service drives may minimize the number of driveways onto an abutting roadway, and as a means to ensure that traffic is able to safely ingress and egress the site.
 - c. Where service drives and frontage roads are constructed they shall be set back as far as reasonably possible from the intersection of the access driveway with the street.
 - d. A minimum of 25 feet shall be maintained between the public or private street right-of-way and the pavement of the service drive.
- (7) Setbacks and landscaping:
- a. Parking is not permitted in the required front yard. The required front yard, except for necessary entrance or service drives, shall be landscaped.
 - b. The planning commission shall consider a landscape plan submitted in conjunction with any site plan in the general commercial district.
 - c. No outside storage shall be permitted in any yard adjacent to the street.
- (8) Site lighting shall comply with the provisions of section 82-122, Exterior lighting requirements, in addition to the following provisions:
- a. Off-street parking areas for uses in the neighborhood commercial district shall be adequately lit to ensure security and safety.
 - b. Light fixtures shall be provided with light cut-off fixtures that direct light downward. Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.
 - c. Lighting shall illuminate only the parking lot or other areas approved for illumination by the planning commission.
- (9) Site design requirements:
- a. Buildings shall to be sited to protect natural features. To the extent possible, natural features such as natural grade, trees, vegetation, water bodies, and others shall be incorporated into the site plan.
 - b. Mechanical equipment and service areas shall be visually screened from adjacent properties, public roadways, or other public areas. Architectural designs for buildings shall include design features to contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks, telecommunications equipment, and service yards. Brick shall be used as the predominant material utilized on facades that are visible from a public right-of-way or parking lots. Other materials may be used for architectural accents, provided they have the appearance of wood or cut or cast stone.

- c. Buildings with exterior walls greater than 50 feet in horizontal length shall be constructed using a combination of architectural features and a variety of building materials and landscaping near the walls. Walls visible from a public street and/or residential uses shall be designed using architectural features and landscaping (abutting the building) for at least 50 percent of the wall length.
- d. Other walls shall incorporate architectural features and landscaping for at least 30 percent of the wall length.
- e. On-site landscaping shall abut the walls so that the vegetation combined with the architectural features significantly reduce the visual impact of the building mass as viewed from the street.
- f. The predominant building materials shall be those characteristic of the village, such as brick, wood, native stone and tinted/textured concrete masonry units and/or glass products. Other materials such as smooth-faced concrete block, undecorated tilt-up concrete panels, or prefabricated steel panels should only be used as accents and not dominate the building exterior of the structure. Metal roofs may be allowed if compatible with the overall architectural design of the building.
- g. Exterior colors shall be of low reflectance, subtle, neutral or earth tone colors. High-intensity colors such as black, neon, metallic or fluorescent for the facade and/or roof of the building are prohibited except as approved for building trim.

(10) Canopies:

- a. Canopies, such as over gasoline pumps, drive-through structures, or drop-off areas shall be designed to be consistent with the approved building materials and colors. Support columns shall be brick or materials compatible with the main building. The planning commission may require a peaked roof to complement the main building.
- b. Canopy lighting shall be mounted flush with the canopy surface.

(Ord. No. 12-03, § 1, 2-13-2012)

Secs. 82-275—82-290. - Reserved.

DIVISION 9. - BD CENTRAL BUSINESS COMMERCIAL DISTRICT

Sec. 82-291. - Intent and purpose.

The central business commercial district (CBD) is intended to promote the consolidation of commercial activities in the existing town center by providing for a variety of retail, office, restaurant and entertainment activities within the district. The purpose of this district is to encourage and promote the business use of existing residential buildings within the district and the development and expansion of the town center to serve the needs of the surrounding area. The central business area of the Village of Sparta is viewed as the older, traditional center of the village, and is characterized by smaller lot sizes, more intense land uses, mixed land uses and higher percentages of lot coverage. This area permits the integration of business activity, governmental functions, services and residential land uses.

(Ord. No. 04-07, § 1(11.01), 7-12-2004)

Sec. 82-292. - Permitted uses.

In the CBD no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Comparison retail stores selling commodities including but not limited to food, drugs, liquor, furniture, clothing, dry goods notions, gifts or hardware and using no more than 20 percent of the usable floor area for repair facilities.
- (2) Financial institutions with or without drive-through service.
- (3) Enclosed theaters, assembly halls or concert hall.
- (4) Executive, administrative and professional offices.
- (5) Personal service establishments.
- (6) Restaurants, bars or taverns, not including drive through service. Outdoor seating areas incidental to the primary restaurant, bar or tavern business may be permitted where patrons are served, pursuant to section 82-128, outdoor dining/seating.
- (7) Hotels and motels.
- (8) Bed and breakfast accommodations.
- (9) Off-street parking facilities.
- (10) Offices and showrooms of contractors, decorators or similar trades in connection with whom not more than 25 percent of the usable floor area of the building or part of the building occupied by such establishment is used for making, assembling, repairing, remodeling, altering, finishing or refinishing the products or merchandise of the trade. All storage of materials shall be within the confines of the building or part thereof occupied by such establishment.
- (11) Accessory buildings and uses pursuant to section 82-103, accessory buildings and structures.
- (12) Residential uses when combined with commercial businesses permitted in section 82-292.

(Ord. No. 04-07, § 1(11.02), 7-12-2004; Ord. No. 12-06, § 1, 4-9-2012)

Sec. 82-293. - Special land uses.

Land and/or buildings in the CBD may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, special land uses:

- (1) Residential uses meeting the lot area requirements of the R-4 district.
- (2) Commercial day care facilities.
- (3) Building material suppliers.
- (4) Private educational institutions.
- (5) Religious institutions.
- (6) Shopping center or shopping mall.
- (7) Open air business.
- (8) Vehicle service station and incidental repair and servicing.
- (9) Veterinary hospital, clinic or indoor kennel.
- (10) Nurseries and greenhouses.

- (11) Commercial recreation facilities.
- (12) Nonresidential uses as permitted in this section located in converted residential buildings.
- (13) Wireless telecommunication facilities.

(Ord. No. 04-07, § 1(11.03), 7-12-2004; Ord. No. 12-06, § 1, 4-9-2012)

Sec. 82-294. - Site development requirements.

All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, Site Plan Review.
- (2) Parking is required in accordance with article VI, Off-Street Parking and Loading.
- (3) Signs are permitted in accordance with the requirements of article VII, Signs.
- (4) Setbacks, height, area, and lot dimensions are required as noted below:
 - a. Front setback. The required building setback for lots with frontage on the following street segments shall be a minimum of zero feet and a maximum of ten feet from each right-of-way line abutting the lot. This required building setback is also called a build-to line. A minimum of 80 percent of that portion of the building fronting on the right-of-way line must be within the above required setback.
Street segments.

East Division Street within the limits of the CBD zone;

North State Street and South State Street within the limits of the CBD zone;

North Union Street and South Union Street within the limits of the CBD zone;

South Washington Street within the limits of the CBD zone;

Maple Street within the limits of the CBD zone;
 - b. Side setback. None required except a minimum setback of 15 feet abutting a residential district.
 - c. Any building which does not meet the front setback requirements of this section but which existed before the effective date of this section 82-294 shall be allowed to expand provided the expansion will result in the building being within or closer to the setback or build-to line required for the street on which the building fronts. Approval from the zoning board of appeals is not required for this type of expansion; however, all other requirements of this zoning ordinance shall apply.
 - d. Rear setback. None required except a minimum setback of 15 feet abutting a residential district.

(Ord. No. 04-07, § 1(11.04), 7-12-2004; Ord. No. 11-04, §§ 1, 2, 7-11-2011)

Sec. 82-295. - General building design accent standards.

(a) *Building walls and materials.*

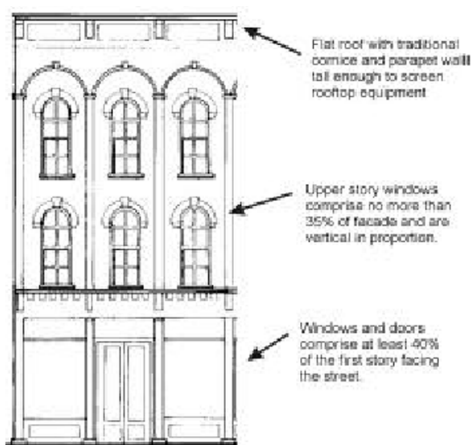
- (1) When building walls are 100 feet or greater in length, design variations must be applied to assure that the building is not monotonous in appearance. Variations include but are not limited to the following:
 - a. Recess and projections along the building facade. Variations in depth should be a minimum of ten feet.
 - b. Architectural details or features.

- c. Enhanced ornamentation around building entryways.
- d. Landscaping.
- e. Streetscape elements, such as benches or planters.
- f. Variations in building height.

(2) The use of exterior wall materials on walls that are visible from a public road or a parking lot shall be in compliance with the maximum percentages permitted in the following chart. The following materials are not permitted on any wall visible from a public road or parking lot: precast concrete, concrete formed in place, metal, reflective glass, wood siding, vinyl siding, fiberglass, reinforced concrete, polymer plastic (fypon), exterior insulation and finishing systems (EIFS), plaster, stucco and similar materials.

Material	Maximum % Permitted
Brick or face brick	100%
Stone	10%
Split face block	25%
Glass block	25%
Cast stone	10%

(b) *Front facades.*



Front Facades

- (1) Blank walls shall not face a public street.
- (2) Walls facing a public street shall include windows and architectural features customarily found on the front facade of a building, such as awnings, cornice work, edge detailing or other decorative finish materials.
- (3) A prominent and usable public building entrance shall be provided at the front of the building.

- (4) Wall massing shall be broken up with vertical pilasters or other architectural elements to reduce scale.
 - (5) Windows and doors shall comprise at least 40 percent of the first floor front facade of a building.
 - (6) The window area of a facade above the first floor shall not exceed 35 percent of the total facade area of that floor.
- (c) *Windows.*
- (1) Windows above the first floor shall be vertical in proportion. Large window widths shall be broken up to maintain a vertical proportion.
 - (2) Window areas shall be nonreflective glass and clear or lightly tinted in color.
 - (3) Window areas shall not be permanently blocked in a manner that obstructs views into the buildings, such as shelving, unless it is used as a display case (intended for exterior display) for products sold on-site.
- (d) *Pedestrian orientation.*
- (1) Buildings shall be designed at a pedestrian scale with relationship to the street and sidewalk.
 - (2) Convenient and safe pedestrian access shall be provided between the public sidewalk and the building entrance.
- (e) *Awnings and canopies.*
- (1) Awnings with straight sheds may supplement facades. Awnings shall not be cubed or curved except over doorways. Awnings shall be of an opaque material. Translucent or internally lit awnings shall not be permitted.
 - (2) Canopies, such as over drive-through structures, shall be designed to be consistent with the approved building materials and colors. Support columns shall be brick or materials compatible with the main building. The planning commission or village manager may require a peaked roof to complement the main building.
 - (3) Lighting fixtures mounted under canopies used for vehicular shelter shall be aimed downward and installed such that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy. No lighting, except that is permitted by the sign chapter, shall be permitted on the top or sides of a canopy.

(Ord. No. 04-07, § 1(11.05), 7-12-2004)

Secs. 82-296—82-310. - Reserved.

DIVISION 10. - LI LIGHT INDUSTRIAL DISTRICT

Sec. 82-311. - Description and intent.

- (a) The light industrial (LI) district is designed to primarily accommodate wholesale activities, warehouses, and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The LI district is structured to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly, and/or treatment of finished or semi-finished products from previously prepared material, it being the intent of the district that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, not be permitted.

(b) The intent of this district is to:

- (1) Provide sufficient space, in appropriate locations, to meet the needs of the village's expected future economy for selected types of manufacturing and related uses.
- (2) Protect abutting residential districts from objectionable influences (see (3) below) by separating them from manufacturing activities, and by prohibiting the use of industrial areas for new residential development.
- (3) Promote manufacturing development which is free from danger of fire, explosions, toxic and noxious matter, radiation, and other hazards and from offensive noise, vibration, smoke, odor and other objectionable influences.
- (4) Promote the most desirable use of land in accordance with a well-considered plan.
- (5) Protect the character and established pattern of adjacent development, and in each area conserve the value of land and buildings and other structures and protect the village's tax revenue.

(Ord. No. 04-07, § 1(12.01), 7-12-2004)

Sec. 82-312. - Permitted uses.

In the LI district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this division:

- (1) Vehicle service station and incidental repair and servicing.
- (2) Building material suppliers.
- (3) Contractor or builder's office, including an accessory storage equipment yard.
- (4) Dry cleaning plants.
- (5) Laboratories: experimental, film, or testing.
- (6) Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
- (7) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps or other small molded rubber products.
- (8) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.
- (9) Offices and showrooms of contractors, decorators or similar trades in connection with whom not more than 25 percent of the UFA of the building or part of the building occupied by the establishment is used for retail use. All storage of materials shall be within the confines of the building or part thereof occupied by the establishment.
- (10) Offices when accessory to any permitted use or special land use, provided that they do not exceed 50 percent of the GFA of the principal use.
- (11) Public and private utility uses, including electric and gas service buildings and yards; water supply and sewage disposal plants; water and gas tank holders; heating and electric power generating plants, and all accessory uses.
- (12) Storage yards for construction and contractor's equipment, provided all property lines abut an LI district.
- (13) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.

- (14) The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared such as but not limited to bone; canvas; cellophane; cloth; cork; feathers; felt; fiber; fur; glass; hair; horn; leather plastics; precious or semiprecious metals or stones; sheet metal, excluding large stampings such as automobile bodies; shell; textiles; yarns; tobacco; wax; wire; wood, excluding lumber and planing mills.
- (15) The manufacture, compounding, processing, packaging or treatment of such products as but not limited to bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware, and cutlery; tool, die, gauge and machine shops.
- (16) Warehouse, storage, including commercial storage warehouses; and transfer facilities, including truck and railroad related facilities accessory to warehousing.
- (17) Wholesale establishments.
- (18) Accessory buildings and uses, meeting the requirements of section 82-103, Accessory buildings and structures.

(Ord. No. 04-07, § 1(12.02), 7-12-2004)

Sec. 82-313. - Special land uses.

Land and/or buildings in the LI district may be used for the following purposes when approved by the village council in accordance with the requirements of article IV, Special Land Uses.

- (1) Adult uses.
- (2) Commercial communication towers, including commercial television, radio, and public utility transmitting and/or receiving towers and receiving microwave antennas, and their attendant facilities.
- (3) Freight yards and terminals.
- (4) Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.
- (5) Junkyards.
- (6) Veterinary hospital, clinic or indoor kennel.
- (7) Lumber and planing mills.
- (8) Metal plating, buffing and polishing, subject to appropriate measures to control the types of process to prevent noxious results and/or nuisances.
- (9) Rental space for storage of vehicles such as travel trailers, motor homes, recreational vehicles, campers, snowmobiles, boats, etc.
- (10) Restaurants or other places serving food or beverage, except those with drive through services, provided all property lines abut an LI district.
- (11) Tractor trailer and trucking facilities, including storage and repair.
- (12) Utility trailer rental facilities.
- (13) Vehicle repair facilities, major and minor.
- (14) Waste lagoon ponds, industrially oriented and permanent in character.
- (15) Wireless telecommunication facilities.

(Ord. No. 04-07, § 1(12.03), 7-12-2004)

Sec. 82-314. - Site development requirements.

(a) All permitted uses and special land uses are subject to the following site development requirements:

- (1) Site plan review is required in accordance with article V, site plan review.
- (2) Parking is required in accordance with article VI, off-street parking and loading.
- (3) Signs are permitted in accordance with the requirements of article VII, signs.
- (4) Landscaping in accordance with chapter 78, article IV, landscaping.
- (5) Setbacks, height, area, and lot dimensions are required as noted below:

LI requirements		District regulations
Minimum lot requirements	Lot area	20,000 sq. ft.
	Lot width	120 ft.
Minimum setbacks (ft.)	Front yard	20
	Side yard(s)	20
	Rear yard	20
Maximum lot coverage		65%
Maximum building height (stories/ft.)		2/35 ft.
Nonresidential accessory buildings (see subsection <u>82-103</u> (c))		

(b) Outdoor storage.

- (1) Any outdoor storage or activity areas abutting or adjacent to a residential district or use shall be enclosed on all sides with a six-foot fence or solid wall that is completely obscuring on those sides facing the residential district, which meets the design requirements listed in section 82-112, fences and walls. In no case shall the outdoor storage of materials abutting or adjacent to a residential district or use be stacked higher than the height of the visual screen unless the planning commission or other approving authority determines that the material is stored in a manner that it is not visible from off-site, or that the material is located such a substantial distance from adjacent properties that it is not a visual nuisance.
- (2) For any outdoor storage, materials shall be stored only in the side or rear yards, except that materials shall not be stored on the street side of a corner lot or in any required yard.
- (3) One non-gated opening, no greater than 12 feet in width, shall be permitted in the visual screen for each 200 feet of frontage on a street.

(c) Mechanical equipment, whether mounted on a structure or on the ground, including heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks, telecommunications equipment, and service or

repair yards shall be visually screened from adjacent properties, public and private roadways, or other public areas. The method of screening shall be as approved by the planning commission or as otherwise required by the village zoning ordinance.

(d) Building design standards.

- (1) It is intended that industrial buildings be both attractive and functionally appropriate for industrial uses. Building color, materials, finishes, and forms shall be substantially compatible with the character of the surrounding industrial park or area. One or more of the following materials shall be used in the construction of buildings in this district:
 - a. Pre-cast concrete.
 - b. Fluted-concrete block.
 - c. Split-face concrete block.
 - d. Scored concrete block.
 - e. Metal siding (corrugated) provided that exposed fasteners shall match the color of the metal finish.
 - f. Glass/glass blocks.
 - g. Drivit, and/or
 - h. Face brick.
- (2) In recognition of developing technologies, the planning commission may permit the use of building materials other than those listed in subsection 82-314(d)(1) if, in the judgement of the planning commission, the materials are compatible with surrounding properties, and that such materials comply with architectural, safety, and other requirements of the village building code, fire code, and other applicable village ordinances.
- (3) A minimum of 25 percent of that portion of the building which faces a public or private street, or a residential zoning district or residential use, shall be finished with brick, architectural masonry block, cement board, glass stone or a combination of these materials.
- (4) In order to reduce wall massing, buildings with exterior walls greater than 50 feet in horizontal length shall be constructed with a combination of the following:
 - a. A combination of architectural features such as recesses, projections, and offsets.
 - b. A variety of building materials.
 - c. Landscaping near the walls as approved by the planning commission.

(Ord. No. 04-07, § 1(12.04), 7-12-2004; Ord. No. 15-04, § 1, 11-9-2015; Ord. No. 18-03, § 1, 5-14-2018)

Secs. 82-315—330. - Reserved.

DIVISION 11. - PUD PLANNED UNIT DEVELOPMENT DISTRICTS

Sec. 82-331. - Description and intent.

- (a) The intent of the planned unit development (PUD) districts are to permit the coordinated development on larger sites in order to achieve the following:
 - (1) Permit flexibility in the regulation of land development allowing for higher quality of design through

innovation in land use, variety in design, layout, and type of structures.

- (2) Provide the opportunity to mix compatible uses or residential types.
 - (3) Protect significant natural features which the property owner and village wish to preserve.
 - (4) Allow clustering of residential units to preserve common open space and natural features.
 - (5) Ensure compatibility of design and function between neighboring properties.
 - (6) Protect and preserve historical or significant architectural features.
 - (7) Promote efficient provision of public services, utilities and transportation facilities.
 - (8) Provide convenient vehicular access throughout the development and minimizing adverse traffic impacts.
 - (9) Provide complete non-motorized circulation to, from and within developments.
 - (10) Provide adequate housing and employment.
 - (11) Encourage development of convenient recreational facilities as an integral part of residential developments.
 - (12) Ensure various land uses and building bulk will relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
 - (13) Encourage development that is consistent with the goals stated within the Village of Sparta Master Plan.
 - (14) Eliminate or reduce the degree of nonconforming uses or structures.
- (b) These PUD regulations are not intended to be used for circumventing the more specific standards and requirements of this chapter, or the planning upon which they are based. Rather, these provisions are intended to result in development that is substantially consistent with the zoning requirements as generally applied to the proposed uses, but with specific modifications that, in the judgment of the village, assure superior quality. If this improved quality is not clearly apparent upon village review, a site shall not qualify for the modifications allowable under this division.

(Ord. No. 04-07, § 1(13.01), 7-12-2004)

Sec. 82-332. - Eligibility criteria.

To be eligible for planned unit development approval, the applicant must demonstrate that each of the following criteria will be met:

- (1) *Demonstrated benefit:* The PUD shall provide one or more of the following benefits not possible under the requirements of another zoning district:
 - a. Preservation of significant natural or historic features.
 - b. A complementary mixture of uses or a variety of housing types.
 - c. Common open space for passive or active recreational use.
 - d. Redevelopment of a nonconforming site where creative design can address unique site constraints.
- (2) *Unified control of property:* The proposed development shall be under single ownership or control such that there is a single entity having responsibility for completing the project in conformity with the planned unit development regulations.
- (3) *Minimum size:* The PUD site shall be a minimum of five acres, except as otherwise stated in this division for a particular PUD type. The village council, upon recommendation of the planning commission, may approve a development on fewer acres provided that the proposal substantially achieves the intent of the PUD, as

noted in section 82-333, and otherwise meets the eligibility criteria of this section.

(Ord. No. 04-07, § 1(13.02), 7-12-2004)

Sec. 82-333. - Types of puds.

- (a) A property meeting the eligibility criteria may be rezoned to a PUD district, based on the requirements shown in the following table and appropriate requirements contained elsewhere in this chapter. The rezoning shall be concurrent with the approval of a sketch PUD plan. The PUD designation shall be noted in the application and on the official zoning map upon approval of the sketch PUD plan.
- (b) The village council, after recommendation from the planning commission, shall establish a list of permitted uses as part of the PUD agreement, based upon the provisions of the following table and this division.

PUD DESCRIPTIONS			
PUD district	Locations Allowed	Permitted Uses	Requirements
Residential (RPUD)	Pre-PUD Residential district or master plan Residential designation	Residential uses permitted in the pre-PUD zoning district with additional uses as provided for herein	<u>Section 82-334</u>
Mixed Use (MPUD)	master plan Strategic Development areas	Residential, commercial, office, recreational, and open space uses	<u>Section 82-335</u>
Commercial (CPUD)	Pre-PUD NC or GC district or master plan Commercial designation	Office, commercial, recreational and open space uses	<u>Section 82-336</u>
Industrial (IPUD)	Where pre-PUD zoning is LI or where the master plan designates a site for Industrial	Permitted and Special Land Uses permitted in the LI district, except adult uses	<u>Section 82-337</u>

<p>Traditional Neighborhood Development (TND PUD)</p>	<p>As permitted by the village council, after recommendation from the planning commission</p>	<p>Uses permitted in the Mixed Use PUD, except for: any establishment with drive through facilities (with the exception of banks); automotive repair garages; automotive service centers; and open-air businesses.</p>	<p><u>Section 82-338</u></p>
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(Ord. No. 04-07, § 1(13.03), 7-12-2004)

Sec. 82-334. - Residential PUD (RPUD).

- (a) Where the prePUD zoning is R-4, multiple family dwelling units shall be permitted meeting the density and design standards of the R-4 district.
- (b) Where the prePUD zoning is R-1, R-2 or R-3, up to 30 percent of the dwelling units may be multiple-family housing, provided the remaining dwelling units (at least 70 percent shall be single-family detached units).
- (c) The PUD may also include the nonresidential uses provided for in the residential districts, provided that the special land uses provided for in those districts shall be required to follow the review process required for special land uses in article IV of this chapter.
- (d) To encourage flexibility and creativity consistent with the intent of the PUD, specific departures may be permitted from the requirements of the this chapter as a part of the approval process. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using standard zoning requirements.

(Ord. No. 04-07, § 1(13.04), 7-12-2004)

Sec. 82-335. - Mixed use PUD (MPUD).

- (a) *Uses:* A mixed use PUD shall include a mixture of uses that are considered to be consistent with the master plan. A minimum of 40 percent of the PUD land area shall be occupied by residential or recreational uses. The list of permitted uses shall be established in the PUD approval.
- (b) *Dimensional requirements:* Except as may otherwise be permitted by this division, all area and bulk dimensional standards shall comply with those of the respective zoning district. To encourage flexibility and creativity consistent with the intent of the PUD, specific departures may be permitted from the requirements of the this chapter as a part of the approval process. Any regulatory modification shall be approved through a finding that the deviation shall result in a higher quality of development than would be possible using standard zoning requirements.

- (c) *Parking:* To encourage a true integration of mixed uses and improved efficiency in land use, an overlap in parking requirements may be permitted between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multipurpose trips.
- (d) *Open space:* A minimum of 20 percent of the site shall be common open space. The open space shall be dispersed throughout the site and linked through greenway or pedestrian corridors or located along road frontages.
- (e) *Pedestrians:* Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protect pedestrians from vehicular circulation, and to improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.

(Ord. No. 04-07, § 1(13.05), 7-12-2004)

Sec. 82-336. - Commercial PUD (CPUD).

- (a) *Uses:* No more than 60 percent of the area of the site, exclusive of public rights-of-way, shall contain commercial retail uses, including areas required for setbacks, storm water facilities, and parking associated with those uses. The remainder of the site shall include open space, office, research, and development, lodging, restaurants or entertainment related uses. The list of permitted uses shall be established in the PUD agreement.
- (b) *Open space:* At least 20 percent of the site shall be open space. Required open space shall be dispersed throughout the site and linked through pedestrian corridors.
- (c) *Driveway access and circulation:*
 - (1) Access to the commercial uses shall be limited to one major entrance along any arterial road, excluding an entrance designed solely for truck traffic. Additional access points shall only be considered if spaced at least 500 feet apart and a traffic impact study demonstrates overall traffic operations and safety will be improved.
 - (2) Main access points shall be spaced from existing signalized intersections to ensure proper spacing and efficient flow of traffic if the main access point is signalized in the future.
 - (3) The site design shall direct traffic flow to use the main access points. Stacking or queuing depth at site access points shall be sufficient to accommodate expected peak hour volumes without conflict to inbound or internal circulation. Interior drives shall provide circulation between uses.
 - (4) Additional right-of-way shall be provided to accommodate improvements to the existing arterial roadway system that are planned or required to mitigate traffic associated with the PUD.
- (d) *Pedestrians.* Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protect pedestrians from vehicular circulation, and to improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.

(Ord. No. 04-07, § 1(13.06), 7-12-2004)

Sec. 82-337. - Industrial PUD (IPUD).

- (a) *Uses:* The LI district's permitted uses and special land uses shall be allowed in an industrial PUD.

- (b) *Dimensional standards:* All buildings, structures, accessory structures and parking areas shall meet the minimum standards of the LI district shall be met for the perimeter of the PUD. On interior lots, dimensional standards, setback building height shall be approved by the village council, upon recommendation by the planning commission, through PUD approval. There shall be a one hundred-foot deep open space greenbelt along the exterior public roads and an adjoining residential district, either landscaped or preserved in a natural wooded condition.
- (c) *Design standards.* Buildings shall utilize high quality architecture and landscaping that create a research and office-park environment with primary use of masonry material, such as brick, stone or split face block, and glass on buildings and landscaping along internal roadways and around the perimeter of the PUD. Metal paneling and plain concrete masonry units shall constitute no more than 25 percent of the facades of buildings visible from the internal roadway or any adjoining public roadway.

(Ord. No. 04-07, § 1(13.07), 7-12-2004)

Sec. 82-338. - Traditional neighborhood development PUD (TND PUD).

(a) *Description and intent.*

- (1) The traditional neighborhood planned unit development (TND PUD) is planned in order to permit for the development of fully integrated, mixed-use, pedestrian oriented neighborhoods. The intent is to create neighborhoods through design that foster increased interaction between residents; and to minimize traffic congestion, suburban sprawl, infrastructure costs, and environmental degradation within the village.
- (2) The TND provisions adapt urban conventions, normal in the United States from colonial times until the post-World War II era, that were historically based on the following design principles:
 - a. Neighborhoods have identifiable centers and edges.
 - b. Edge lots are readily accessible to retail and public spaces by nonvehicular means (a distance not greater than one-quarter mile).
 - c. Uses and housing types are mixed and in close proximity to one another.
 - d. Street networks are interconnected and blocks are small.
 - e. Public spaces are given prominent sites throughout the neighborhood.

(b) *Development provisions.* The following requirements apply to TND PUD projects:

- (1) The minimum development size shall be 15 acres. The council, upon recommendation of the planning commission, may permit an application for a development on fewer acres provided that the proposal substantially achieves the description and intent of the TND PUD.
- (2) Maximum permitted densities and total number of dwelling units shall be established during the site plan review process but shall be generally consistent with the master plan.
- (3) Other development provisions are intentionally left unspecified in order to encourage innovation and quality in the design and construction of these developments. Generally, the TND PUD should be consistent with the description and intent of this section.

(c) *General use and design standards and requirements.*

- (1) Mixed use arrangements:
 - a. The entire land area of the TND shall be divided into blocks, streets, and lots and optional natural or greenbelt areas.
 - b. Similar land use categories shall generally front across streets. Dissimilar categories shall abut at rear lot

lines. Corner lots which front on streets of dissimilar use with different setbacks shall be set back the same as the use with the lesser setback.

- c. Large-scale, single use (conference spaces, theaters, athletic facilities, etc.) buildings or areas shall occur behind or above habitable street front space.
- (2) Uses permitted within the TND PUD include those permitted in the mixed use PUD, except for the following specific uses:
- a. Any establishment with drive through facilities, with the exception of banks.
 - b. Vehicle repair garages.
 - c. Vehicle service centers.
- (3) All uses shall be conducted within completely enclosed buildings unless otherwise specified.
- (4) Lots and buildings.



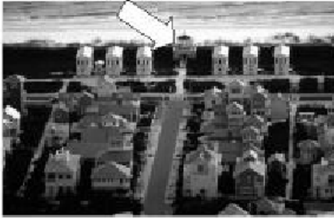
Lots and Buildings

- a. All lots shall have frontage on a street or square.
 - b. All buildings, except accessory structures, shall have their main entrance opening onto a street or square.
 - c. All lots shall be served by a sidewalk. The width and character (including materials), shall be determined by the village council.
 - d. Stoops, open colonnades, and open porches may extend into the front yard setback, provided that at least five feet of clear space is provided between the porch and the sidewalk. (See picture.)
- (5) Streets and alleys.
- a. Streets shall provide access to all tracts and lots.
 - b. All streets and alleys shall terminate at other streets within the development and connect to existing and projected through streets outside the development.
 - c. There shall generally be a continuous network of alleys to the rear of lots within the TND.
 - d. The average perimeter of all blocks within the TND shall not exceed 1,350 feet. No block face shall have a length greater than 500 feet without a dedicated alley or pathway providing through access.
 - e. Utilities shall run along alleys wherever possible.
 - f. Street lamps shall be installed on both sides of the street no less than 100 feet apart. The village council may approve a decorative street lamp design to enhance the overall character of the TND PUD.
 - g. Rights-of-way and streets are encouraged to differ in dimension and each street shall be separately detailed according to its function, number of lots served, length and other factors. The private street standards of the village (section 82-129 shall be used as a general guideline, but may be modified by the village council.
 - h. Build-to lines (a minimum and maximum setback) shall be established along all streets and public space

frontages, determining the width desired for each street or public space.

- i. The long axis of the street shall have appropriate termination with either a public monument, public square or park, a specifically designed building facade, or similar feature to provide a terminal vista.

**Example of
terminal vista**



Example of Terminal Vista

(6) Parking.

- a. Parking lots shall generally be located at the rear or at the side of buildings and shall be screened from the sidewalk by low walls, fences or hedges.
- b. Parking lots and commercial parking garages shall not abut street intersections or civic buildings, be adjacent to squares or parks, or occupy lots which terminate a vista.
- c. Adjacent parking lots shall have vehicular connections via an alley or internal drive.
- d. On street parking directly fronting the lot shall count toward fulfilling the parking requirement of that lot. One parking space credit shall be given for every space in front of the lot that is over 50 percent of the length of the parking space.

(7) Landscaping.

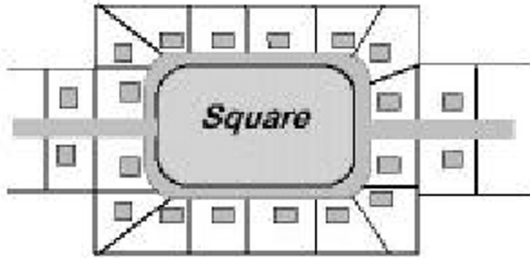
- a. Trees shall be planted within rights-of-way parallel to the street along all streets, but not in alleys.
- b. Tree spacing, plant materials, planting specifications, and maintenance provisions shall be submitted as part of the final site plan.
- c. Plantings in immediate proximity to buildings in front and side yards shall respect architectural lines (should be seen as extension of architectural walls).
- d. Plantings toward the street shall respect the integrity of the street by not obscuring important buildings and respecting views to and from streets, porches, walks, and public open spaces.
- e. Existing trees may be used towards all tree requirements.

(8) Architectural standards.

- a. With the exception of unique buildings with specific uses, such as religious institutions, the mixed-use nature of the TND PUD requires architectural compatibility in order to visually integrate development and allow for the close proximity of varied uses.
- b. All walls visible from public streets shall be clad in brick, cast concrete, stone, approved metal paneling (no more than 20 percent of a building wall), or material similar in appearance or texture.
- c. Two wall materials may be combined (horizontally) on one facade. The heavier material must be below (concrete below paneling, etc.).
- d. Maximum screening wall height shall be six feet.
- e. Screening walls shall be made of materials matching the main building (if a structure consists of more than one material, the heavier material shall be used).

f. Building materials that match or are visually compatible with the structure shall be used to screen all roofto

(d) *Public space design standards and requirements.*



Square

- (1) Land designated for public use within the TND PUD shall consist of squares, greenbelts, parks, recreational areas, streets and alleys.
 - (2) Squares and parks.
 - a. A minimum of ten percent of the gross area of the neighborhood, or not less than 1½ acres, whichever is greater, shall be permanently allocated to squares or parks.
 - b. The TND PUD shall contain as a central focus, at least one square or park no smaller than one acre. This square shall be within 500 feet of the geographic center of the neighborhood.
 - c. The remaining public use area shall be divided at least into thirds and distributed such that no portion of the TND is farther than 750 feet from a park or square.
 - d. Squares, parks, and other natural amenities and open spaces shall have at least 75 percent of their perimeter abutting street rights-of-way.
 - (3) Large scale recreational areas such as golf courses and multiple game fields shall be located on the perimeter of the PUD. Golf courses shall have at least 30 percent of their perimeter abutting street rights-of-way.
 - (4) Alleys shall not form the boundary of a park, square, or greenbelt unless a wall with a minimum height of six feet is used for separation.
 - (5) Parking: The applicant shall demonstrate the provision of adequate parking for public use areas. Shared parking shall be encouraged. Parking areas related only to public use areas shall be graded, compacted, and landscaped, but may be left unpaved.
 - (6) Landscaping: Streets fronting squares and parks shall at a minimum have trees planted on the developed side of the street. Landscaping plans for the square or park shall be included as part of the TND PUD application.
- (e) *Commercial/office use design standards and requirements.*
- (1) Use:
 - a. Lots and buildings designated as commercial/office uses shall have at least 50 percent of the building area dedicated to residential uses. The remainder shall be commercial/office uses.
 - b. Residential uses are not permitted on the ground floors of commercial/office buildings. All buildings shall have at least two stories.
 - c. A minimum of two percent and a maximum of 30 percent of the gross area of a TND PUD shall be designated for commercial/office use.
 - (2) Lots and buildings:

- a. Buildings on commercial/office lots shall have a build-to line of five feet with a sidewalk having a minimum width of five feet.
 - b. Buildings on commercial/office lots shall have the facade built directly on the build-to line along at least 70 percent of its length. The unbuilt portion of the build-to line shall have a street wall directly upon it, unless occupied by a pedestrian walkway to rear parking areas.
 - c. Buildings on commercial/office lots shall not require setbacks from front or side lot lines.
 - d. Buildings on commercial/office lots shall cover no more than 75 percent of the lot area.
 - e. The maximum height shall be the lesser of 35 feet or three stories. The minimum height shall be 26 feet, or two stories.
 - f. Lots containing commercial/office buildings shall be separated from any residential uses not within the TND PUD at the side and rear lot lines by a continuous masonry wall no less than six feet in height.
 - g. Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protect pedestrians from vehicular circulation, and to improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.
- (3) Streets and alleys.
- a. Commercial/office lots shall have their rear lot lines coinciding with an alley at least 24 feet containing a vehicular pavement width of at least ten feet.
 - b. Commercial/office lots shall front on streets with a maximum right-of-way of 66 feet consisting of at least two 12-foot travel lanes, eight-foot parallel parking on both sides, and seven-foot sidewalks.
 - c. Curb radius shall not exceed 15 feet.
- (4) Parking and loading.
- a. All streets fronting commercial/office uses shall have on-street parking.
 - b. There shall be one parking space per 500 square feet of building space for the commercial uses, one space per 300 square feet for office and service uses, and one space per residential unit.
 - c. Off-street parking places may be located to one side or to the rear of the building. Shared parking arrangements are encouraged. Where formal shared parking arrangements are made, the individual calculation of the required spaces may be reduced by up to 25 percent with the approval of the village council.
 - d. No less than 75 percent of the parking spaces shall be to the rear of the building. Access to rear or side parking areas may be through the frontage only if an alley entrance providing access is not within 200 feet of any part of the lot.
 - e. For commercial/office uses, on-street parking directly fronting a lot shall count toward fulfilling the parking requirement.
 - f. The parking requirements may be waived for retail uses of 2,000 square feet or less, that portion of restaurant seating which is outdoors and adjacent to the street, day care uses, and other uses generally considered as accessory to other principal uses.
 - g. Loading areas shall conform to article VI, Off-Street Parking and Loading.
- (f) *Residential design standards and requirements.*

(1) General.

- a. A minimum of 15 percent and a maximum of 30 percent of the gross land area of the PUD shall be designated for multiple-family dwellings and small lot (lot width of 50 feet or less) one-family detached dwellings.
- b. A maximum of 30 percent of the gross land area of the PUD shall be designated for large lot (50 feet or more in width) one-family detached homes.
- c. One accessory building is permitted on each lot.
- d. Lot coverage for all residential lots shall not exceed 50 percent.
- e. No residential building shall exceed a height of 35 feet.

(2) Multiple-family residential.

- a. The entire building area above the ground floor shall be used for residential purposes.
- b. Land designated for multiple-family residential use may contain limited commercial uses, such as a coffee house, home occupation, or bed and breakfast, small gift shops, and other less intensive commercial or services uses, as approved by the village council.
- c. Buildings on multiple-family lots shall be setback no more than 15 feet from the front lot line, and setbacks shall be constant for a street block.
- d. Buildings on contiguous multiple-family lots shall have no required setbacks from side lot lines. A 15-foot setback shall be maintained for side lot lines abutting nonresidential use lots.
- e. Buildings on multiple-family lots shall have a masonry wall, wood fence, or hedge between three and five feet high built along the unbuilt portion of the frontage line.

(3) One-family detached homes.

- a. One-family detached homes shall be set back not more than 25 feet from the front lot line and set back from the side lot lines a distance equivalent to not less than 20 percent of the width of the lot. The entire side yard setback may be allocated to one side of the lot.
- b. Main buildings on detached home lots shall be set back no less than 30 feet from the rear lot line.
- c. Main buildings on detached home lots shall have a masonry wall, wood fence, or hedge between three and five feet high along the unbuilt portion of the front lot line.

(4) Streets and alleys.

- a. All residential lots shall have their rear lot lines coincide with an alley 24 feet wide containing a vehicular pavement width of at least ten feet.
- b. All residential lots shall front on streets with a maximum right-of-way of 50 feet consisting of at least two twelve-foot travel lanes, eight-foot parallel parking on both sides and a five-foot wide sidewalk.
- c. Curb radius shall not exceed 25 feet.
- d. Garages and other accessory buildings shall be set back a minimum of ten feet from the travel lane of the alley. No parking shall be permitted in the travel lane of the alley.

(5) Parking.

- a. All off-street parking places shall be to the rear of the building. Access shall be by an alley only.
- b. Parking space requirements:
 1. One space per 300 square feet of UFA for nonresidential uses;

2. One space per room of lodging for permitted lodging uses;
 3. One space per two bedrooms of residential use.
- c. For multiple family uses all off-street parking places shall be to the side or the rear of the building. Where access is through the frontage, garages or carports shall be located a minimum of 20 feet behind the front facade of the building.

(Ord. No. 04-07, § 1(13.08), 7-12-2004)

Sec. 82-339. - PUD design requirements.

In addition to the above requirements for specific types of PUDs, all PUDs shall meet the following requirements, unless other, more restrictive requirements are noted in the individual PUD district, in which case the more restrictive requirement shall apply:

(1) *Open space requirements.*

- a. Common open space. All land within a development that is not devoted to a residential unit or road right-of-way shall be set aside as common land for neighborhood use, recreation, conservation or agriculture.
- b. Areas not considered open space. The following land areas are not included as dedicated open space for the purposes of meeting minimum open space requirements:
 1. Area proposed as one-family residential or site condominium lots.
 2. Area proposed to be occupied by multiple family dwellings, including the minimum required setbacks around buildings.
 3. Any area proposed for an office, commercial or industrial land use.
 4. The area of any road right-of-way or private road easement.
 5. Any submerged land area of a pond, lake or stream, provided protected wetlands and storm water ponds designed to appear, and function similar to a natural wetland may be counted for up to 50 percent of the minimum required open space.
 6. Golf courses.
 7. Parking and loading areas, except those exclusively associated with a recreation facility or common open space area.
 8. Any other undeveloped areas not specifically addressed in this section, but determined by the village council to be inadequate to meet the intent and standards for open space.
- c. Open space location: Common open space shall be planned in locations visible and accessible to all in the development. The common open space may either be centrally located, located to preserve natural features, located to buffer adjacent farmland, or located to connect open spaces throughout the development, provided the following areas shall be included within the open space area:
 1. Open space shall be situated to maximize the preservation of any existing site woodlands.
 2. A minimum one hundred-foot wide undisturbed open space setback shall be maintained from the edge of any stream or wetland; provided that the village council may permit trails, boardwalks, observation platforms, or other similar structures that enhance passive enjoyment of the site's natural amenities within the setback.
 3. Where adjacent land includes open space, public land or existing or planned bike paths, open space

connections shall be provided between the site and adjacent open space. Trails between adjoining open space development shall be constructed to allow future interconnection between neighborhoods.

- d. Open space protection: The dedicated open space shall be set aside in perpetuity by the developer through a conservation easement or other legal instrument that is found acceptable to the village attorney. The conservation easement or other legal instrument shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use.
 - e. Allowable use(s) of the dedicated open space shall be indicated in the conservation easement or other legal instrument indicating that the dedicated open space shall be maintained by parties who have an ownership interest in the open space. The village council may require open space restrictions that prohibit the following:
 1. Dumping or storing of any material or refuse.
 2. Activity that may cause risk of soil erosion or threaten any living plant material.
 3. Cutting or removal of live plant material except for removal of dying or diseased vegetation.
 4. Use of motorized off road vehicles.
 5. Cutting, filling or removal of vegetation from wetland areas.
 6. Use of pesticides, herbicides, or fertilizers within or adjacent to wetlands.
 - f. The dedicated open space shall forever remain open space, subject only to uses on the approved site plan. Further subdivision of open space land or its use for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited. Any change in use of the open space from what is shown on the approved site plan shall require village council approval, and shall not diminish compliance with the requirements of this chapter.
 - g. Nothing herein shall prevent the conveyance of open space to a public agency or other nonprofit entity for recreational or conservation use.
 - h. Requirements for maintenance of the open space shall be provided. In the event that the open space is not adequately maintained, or is determined by the zoning administrator to be a public nuisance, the costs for maintenance shall be assessed upon the owners of the open space.
- (2) *Natural features.*
- a. Limits of tree clearing: The PUD shall be designed so as to preserve natural resources. The limits of tree clearing and grading shall be clearly shown on the preliminary site plan or plat.
 - b. Animal or plant habitats: If animal or plant habitats that are characteristic of pre-settlement habitat exist on the site, the village council, as a condition of approval, may require that the site plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
 - c. The requirements of section 82-127, Natural feature setback, shall be observed.
- (3) *Landscaping.* The following landscaping requirements shall be met in addition to other landscaping requirements contained in this chapter:
- a. Street trees. Both sides of all internal roads shall be landscaped with street trees. One canopy tree shall be provided on each side for every 40 feet of road. Existing trees preserved within ten feet of the road right-of-way or easement may be credited towards meeting this requirement.

- b. Stormwater detention ponds. All ponds and stormwater management facilities shall be designed in accordance with the following:
1. The design of the pond shall fit into the natural landscape and provide a natural appearance.
 2. Landscaping shall be provided around the perimeter of the pond to create the appearance of a natural pond or wetland.
 3. Landscaping shall include a combination of canopy trees, shrubs, and grasses that are adapted to saturated soil conditions.
 4. Canopy trees may be dispersed around the perimeter, but should provide greater clusters in locations that will provide shade and minimize the heating effect of the sun on the stormwater detention pond.
 5. Stormwater detention ponds shall be designed with shallow side slopes that do not require security fencing.
 6. The development agreement shall provide for long-term maintenance of the stormwater detention pond by the homeowners association.
- c. Parking lots: Site design and landscaping shall diminish the prominence of parking lots as viewed from public streets.
- (4) *General design standards.* Signs, lighting, landscaping, building architecture and materials, and other features of the project, shall be designed to achieve an integrated and controlled development, consistent with the character of the community, surrounding development or developments, and natural features of the area. The village council may require a consistent type of pedestrian scale ornamental lighting along all streets and sidewalks and within any off street parking lots.
- (5) Residential entrance signs and commercial signs shall be approved as part of the final plan.

(Ord. No. 04-07, § 1(13.09), 7-12-2004)

Sec. 82-340. - PUD approval process.

(a) *Preapplication meeting.*

- (1) An applicant desiring to submit an application for a PUD shall attend a pre-application meeting with, at a minimum, representatives of the departments of planning, building, engineering, and any other staff members the planning director deems advisory.
- (2) The purpose of the preapplication meeting is to determine general compliance with PUD eligibility and design requirements, or to identify issues of significance regarding the proposed application.
- (3) If the applicant proceeds with the PUD application, a report on the findings of the preapplication meeting shall be forwarded to the planning commission.

(b) *Application:* The applicant shall prepare and submit to the village a request for rezoning to the appropriate PUD designation, including 12 copies of a sketch PUD site plan meeting the requirements of subsection 82-423(d). Materials shall be submitted at least 45 days prior to the meeting at which the planning commission shall first review the request.

(c) *Workshop:* In addition to the preapplication meeting, a workshop may be required by the planning commission, or, if not required, the workshop may be requested by the applicant to discuss the appropriateness of a PUD concept, solicit feedback and receive requests for additional materials supporting the proposal.

- (d) *Planning commission public hearing:* The planning commission shall review the rezoning request, the sketch PUD site plan and PUD agreement, and conduct a public hearing in accordance with the requirements of the Zoning Act.
- (e) *Planning commission recommendation:* The planning commission shall review the sketch PUD site plan in consideration of public hearing comments, technical reviews from village staff, and other comments from consultants and applicable review agencies, and compliance with the standards and requirements of this division and other applicable standards and requirements of this chapter. The planning commission shall make a recommendation to the village council to approve, approve with conditions or deny the request. The recommendation to the village council shall be based on the following standards:
- (1) The PUD shall satisfy the description and intent of section 82-331 and the eligibility criteria of section 82-332.
 - (2) The PUD shall comply with the requirements of this division, other applicable sections of this chapter, and the village's subdivision control regulations or the site condominium provisions of section 82-125.
 - (3) The PUD shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area.
 - (4) The PUD shall be adequately served by essential public facilities and services, such as roads, pedestrian or bicycle facilities, police and fire protection, drainage systems, water supply and sewage facilities.
 - (5) The design of the PUD shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation, access location and design, circulation, roadway capacity, traffic operations at proposed access points and nearby intersections.
 - (6) The proposed PUD shall not have an unacceptable significant adverse effect on the quality of the natural environment in comparison to the impacts associated with a conventional development.
 - (7) Availability and capacity of public services: The proposed type and density of use shall not result in an unreasonable increase in the use of public services, public facilities, and utility capacities.
 - (8) Compatibility with the master plan: The proposed development shall not have an adverse impact on future development as proposed in the master plan of the village.
 - (9) Development impact: The proposed development shall not impede the continued use or development of surrounding properties for uses that are permitted in this chapter.
- (f) *Village council decision:* Following receipt of the planning commission's recommendation, the sketch PUD site plan shall be considered by the village council. The council may elect to have additional public hearings, noticed as required by the Zoning Act. The village council shall take one of the following actions on the request:
- (1) Table: If the application is determined to be insufficient, does not fully respond to planning commission issues or more information is required, then the request may be tabled. The village council shall direct the applicant to prepare additional information, revise the PUD plan or direct the village staff to conduct additional analysis. The application shall not be removed from the table until the conditions causing its tabling have been satisfied.
 - (2) Reconsideration: If the council believes there is new information that might modify the recommendation of the planning commission, the application may be returned to the commission with the new information for its reconsideration. The planning commission shall provide a recommendation within 30 days.
 - (3) Approval: Upon determination that a PUD site plan is in compliance with the standards and requirements of this chapter and other applicable chapters and laws, the village council shall approve the sketch PUD site plan. The village council may impose reasonable conditions with the approval of a PUD. Conditions of any

approval are attached to the land and will remain through subsequent owners. The applicant shall submit a revised PUD site plan that demonstrates compliance with the conditions.

- (4) Denial: Upon determination that a PUD site plan does not comply with standards and regulations set forth in this chapter, or requires extensive revision in order to comply with the standards and regulations, the village council shall deny the application. Resubmittal of a denied application shall be considered a new application.
- (g) *Special land uses*: Special land uses provided for in the PUD districts shall be required to follow the review process as required in article IV, Special Land Uses.

(Ord. No. 04-07, § 1(13.10), 7-12-2004)

Sec. 82-341. - Development agreement.

The applicant shall submit an agreement stating the conditions upon which approval is based, for review and approval by the village council. The agreement, after review by the planning commission and approval by the village council, shall be entered into between the village and the applicant and be recorded with the county register of deeds. Approval shall be effective upon recording. At a minimum, the agreement shall provide:

- (1) A certified boundary survey of the acreage comprising the proposed development.
- (2) The manner of ownership of the developed land and the manner of the ownership and of dedication or mechanism to protect any areas designated as common areas or open space.
- (3) Provision assuring that those open space areas shown on the plan for use by the public or residents of the development will be or have been irrevocably committed for that purpose. The village council may require conveyances or other documents to accomplish this.
- (4) Satisfactory provisions to provide for the future financing of any improvements shown on the plan for site improvements, open space areas and common areas which are to be included within the development and that maintenance of such improvements is assured by a means satisfactory to the village council. The council may require a performance guarantee to accomplish this in accordance with the provisions of section 82-590, Performance guarantees.
- (5) Provisions to ensure adequate protection of natural features.
- (6) A copy of the approved sketch PUD site plan signed by the applicant and the mayor.

(Ord. No. 04-07, § 1(13.11), 7-12-2004)

Sec. 82-342. - Final approval.

- (a) Final site plans shall be submitted for review and approval in accordance with the site plan review provisions of article V of this chapter. If final site plans for at least the first phase of the project are not submitted and approved within a two-year period for the approval of the development agreement, the right to develop under the approved PUD sketch site plan shall terminate and a new application must then be filed and processed.
- (b) In reviewing final site plans, the following standards and requirements shall apply in addition to those of article V:
- (1) Final site plans shall be in substantial conformance with the approved sketch PUD site plan;
 - (2) Each final site plan shall either individually or in combination with previously approved contiguous project areas, meet the standards of this division and the approved PUD sketch plan regarding layout, density, open space and land use;

- (3) Each final site plan submission shall include a map illustrating the site or phase in relation to previously approved and the overall PUD; and
- (4) Any amendment requested to the agreement approved by the village council shall be submitted for review by the village attorney and approved by the village council.

(Ord. No. 04-07, § 1(13.12), 7-12-2004)

Sec. 82-343. - Extensions.

The two-year period for preliminary PUD approval may be extended for one year, if applied for in writing by the petitioner prior to the expiration of the PUD sketch plan approval, and granted by the village council, provided that the reasons for the delay are beyond the general control of the applicant.

(Ord. No. 04-07, § 1(13.13), 7-12-2004)

Sec. 82-344. - Revisions to approved pud plans.

- (a) *Approval.* Approval of the final site plans confers upon the zoning administrator the authority to approve certain minor deviations when an applicant or land owner who was granted site plan approval notifies the zoning administrator of the proposed amendment to the approved site plan in writing, accompanied by a site plan illustrating the proposed change. The request shall be received prior to initiation of any construction in conflict with the approved plan.
- (b) *Procedure.* Within 14 days of receipt of a request to amend the site plan, the zoning administrator shall determine whether the change is major, warranting review by the planning commission, or minor, allowing administrative approval, as noted below.
- (c) *Minor changes.* The zoning administrator may approve the proposed revision upon finding the change would not alter the approved design or provisions of the agreement, would not reduce the area devoted to open space, and all applicable regulations of this chapter will be met. The zoning administrator shall inform the planning commission and village council of the approval in writing.
- (d) *Considerations.* The zoning administrator shall consider the following when determining a change to be minor:
 - (1) For residential buildings, the square footage of structures may be reduced or increased by three percent; provided the overall density of units does not increase, the minimum square footage and parking requirements are met, and the building(s) do not extend into any required open space or required setback;
 - (2) Gross floor area of nonresidential buildings may be decreased or increased by up to three percent or 2,000 square feet, whichever is smaller, provided parking requirements are met and the building does not extend into any required open space or required setback;
 - (3) Floor plans may be changed if consistent with the character of the use;
 - (4) Relocation of a building by up to five feet, if consistent with required setbacks, open space and other requirements;
 - (5) Maximum height of buildings may be lowered;
 - (6) Designated woodlands or areas not to be disturbed may be increased;
 - (7) Plantings on the approved landscape plan may be replaced by similar types of landscaping on an equal or greater basis; any regulated trees lost during construction shall be replaced on a caliper-per-caliper basis on

the site;

- (8) Improvements or slight relocation of site access or circulation, such as inclusion of deceleration lanes, boulevards, curbing or pedestrian/bicycle paths, where appropriate;
 - (9) Changes of building materials to another of higher quality, or a slight change in the color of the exterior material, as determined by the building official;
 - (10) Grade change of up to one foot, after review by the village engineer;
 - (11) Modification of entry design, sign placement or reduction in size of signs, which is consistent with the intent of the approved sketch PUD plan;
 - (12) Internal rearrangement of parking lots which does not affect the number of parking spaces or alter access locations or design;
 - (13) Changes to the location of accessory buildings and structures, when the new location will be consistent with the building envelope identified on the approved plan; and
 - (14) Changes required or requested by the village, county or state for safety reasons.
- (e) *Major changes.* Where the zoning administrator determines that a requested amendment to the approved site plan is major, resubmittal to the planning commission shall be required. Should the planning commission determine that the modifications are inconsistent with the approved sketch PUD site plan, a revised sketch PUD plan shall be submitted according to the procedures outlined in this chapter. In all cases, a change in use to a more intensive use than approved in the sketch PUD plan shall be considered major and require resubmission of a new sketch PUD plan.
- (f) *Limitations on variances from zoning board of appeals.* The decision to grant PUD approval or any regulatory modifications are not subject to variance approval of the zoning board of appeals. No part of a PUD may be appealed to the zoning board of appeals nor shall an application for variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan and otherwise meets the applicable review standards applicable to variances in this chapter.

(Ord. No. 04-07, § 1(13.14), 7-12-2004)

Secs. 82-345—82-380. - Reserved.

ARTICLE IV. - SPECIAL LAND USES

Sec. 82-381. - Intent and purpose.

- (a) This article is intended to respond to the functions and characteristics of an increasing number of new kinds of land uses, combined with conclusive experience regarding some older, familiar uses, which call for a more flexible and equitable procedure for properly accommodating these activities in the village. Rather than assigning all uses to special, individual, and limited zoning districts, it is important to provide control and reasonable flexibility in requirements for certain uses that will allow practical latitude for the applicant, but will maintain adequate provision for the security of the health, safety, convenience, and general welfare of the village's inhabitants.
- (b) In order to accomplish this dual objective, provisions are made in this chapter for a more detailed consideration

of each specified activity as it may relate to proposed conditions of location and design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors.

- (c) Uses possessing these particularly unique characteristics are designated as special land uses and may be authorized by the issuance of a special land use permit, which contains conditions and safeguards necessary for the protection of the public welfare.
- (d) The following sections, together with other references in other articles of this chapter, designate the procedures, standards and requirements for those uses requiring a special land use permit.

(Ord. No. 04-07, § 1(14.01), 7-12-2004)

Sec. 82-382. - Application procedures.

- (a) A complete application for a special land use shall be submitted at least 30 days prior to the next scheduled planning commission meeting through the zoning administrator, who will review the application materials to ensure that the application is complete, and then transmit it to the planning commission.
- (b) An application for a special land use shall not be considered complete until all of the following materials have been submitted and deemed complete by the zoning administrator:
 - (1) A completed application form, as provided by the village. An owner of, or person having an interest in, the property to be developed, or an authorized representative shall sign the application.
 - (2) Twenty copies of the preliminary or final site plan meeting the requirements of section 82-423.
 - (3) Payment of a fee, in accordance with a fee schedule, as determined by village council resolution.
 - (4) A legal description, including the permanent parcel number, of the subject property.
 - (5) A statement with supporting evidence regarding compliance with section 82-385 and the applicable specific requirements of sections 82-386 or 82-387.
 - (6) Other materials as may be required in this article, or by the zoning administrator, planning commission, or village council.
- (c) An application shall not be accepted until all required materials are provided. Incomplete applications shall be returned to the applicant with an indication of the items necessary to make up a complete application.

(Ord. No. 04-07, § 1(14.02), 7-12-2004)

Sec. 82-383. - Review and findings.

- (a) Public hearing.
 - (1) The planning commission shall schedule a public hearing after receipt of the application.
 - (2) The village clerk shall cause proper notice of a public hearing in accordance with the requirements of the Zoning Act.
 - (3) Any person may speak or present documents or evidence in support of a position regarding the application at the public hearing.
- (b) Upon conclusion of the hearing, and after time for deliberation, the planning commission shall make a recommendation to the village council for approval, approval with conditions, or denial. The commission shall state its reasons for the recommendation in its minutes for submission to the council, based on the applicant's

compliance with the general standards of section 82-385 and the applicable specific requirements of sections 82-386 or 82-387.

- (c) Upon receipt of a report and summary of hearing comments from the planning commission, the village council may hold an additional public hearing, if it considers necessary, using the same public notice requirements as the planning commission hearing.
- (d) After time for deliberation, the village council shall approve, approve with conditions, or deny the application. The council shall state its reasons for the action taken in its minutes, based on the applicant's compliance with the general standards of section 82-385 and the applicable specific requirements of sections 82-386 or 82-387.
- (e) The village council, upon approval of an application for special land use permit, shall authorize the zoning administrator to issue the permit subject to any conditions and requirements specified by the village council.

(Ord. No. 04-07, § 1(14.03), 7-12-2004)

Sec. 82-384. - Conditions and safeguards.

- (a) Before granting a special land use permit, the planning commission may recommend and the village council may impose reasonable conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use authorized by the special land use permit as may be necessary for the protection of the public interest.
- (b) Conditions may include those necessary to insure that the general standards of section 82-385 and the applicable specific requirements of sections 82-386 or 82-387 are achieved, and that public services and facilities affected will be capable of accommodating increased demand and facility loads; that the natural environment will be protected and natural resources and energy conserved; and to insure compatibility with adjacent uses of land; to promote the use of land in a socially and economically desirable manner are necessary to meet the intent and purpose of the regulations contained in this chapter.
- (c) The conditions imposed shall be recorded in the minutes of the village council and shall remain unchanged except upon mutual consent of the village council and the owner of the property affected. The village council shall record in its minutes any changes in conditions of approval of special land use permits.
- (d) Conditions and requirements stated as part of special land use permit authorization, including all plans, specifications and statements submitted with the application for a special land use permit, shall be a continuing obligation of its holder. The zoning administrator shall make periodic investigations of uses authorized by special land use permits to determine continued compliance with all requirements.
- (e) Certification of compliance: At final inspection or at other appropriate times the zoning administrator shall certify whether all conditions and other requirements of the village council in its approval of the special land use have been fulfilled.
- (f) An application for a special land use permit which had been denied wholly or in part by the village council shall not be resubmitted until the expiration of one year or more from the date of denial, except in the case of newly discovered evidence or changed conditions found by the zoning administrator to be sufficient to justify reconsideration by the village council.

(Ord. No. 04-07, § 1(14.04), 7-12-2004)

Sec. 82-385. - General standards.

- (a) The planning commission and village council shall review the particular facts, circumstances and evidence presented. The planning commission and village council decisions shall be based on the general standards of this section and the applicable specific requirements contained in sections 82-386 or 82-387.
- (b) It shall be incumbent upon the representatives of the applicant for a special land use permit to provide documentation and evidence in support of the proposal. It shall also be the obligation of the applicant to furnish evidence, or proof of compliance with the general standards and applicable specific requirements contained in this section and sections 82-386 or 82-387.
- (c) General standards: The general standards are basic to all special land uses; and the specific requirements of sections 82-386 and 82-387 are in addition to and shall be required in all applicable situations. The following general standards must be met before approval may be granted:
 - (1) The proposed use shall comply with the general objectives and land use policies contained in the Village of Sparta Master Plan.
 - (2) The proposed use shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing character of the general vicinity.
 - (3) The proposed use is served by necessary public facilities that are adequate or can be made adequate to serve the proposed use. Specifically, existing streets, storm water drainage, water supply, fire protection, police, emergency medical care, sanitary sewer disposal, solid waste disposal, and public recreation shall be adequate to serve the proposed project.
 - (4) The proposed use shall not be hazardous or disturbing to neighboring uses or cause any conflict to the existing use and quiet enjoyment of surrounding property.
 - (5) The proposed use shall not involve activities, processes, materials and equipment and conditions of operation that will be detrimental to any person, property, or the general welfare by reason of excessive traffic, noise, smoke, fumes, glare or odors.
 - (6) The proposed use shall be consistent with the intent and purpose of this chapter.

(Ord. No. 04-07, § 1(14.05), 7-12-2004)

Sec. 82-386. - Specific requirements—Residential districts.

The requirements set forth in this section relate to particular special land uses and specific requirements in the residential districts that must be met in addition to the general standards of section 82-385.

- (a) Bed and breakfast establishments.
- (b) Campgrounds.
- (c) Private cemeteries.
- (d) Commercial soil and mineral removal.
- (e) Private educational institutions.
- (f) Golf courses and country clubs, including related uses, such as snack bars, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.
- (g) Public utility structures.
- (h) Religious institutions.
- (i) State licensed residential care group facilities

- (j) State licensed group day care centers.
- (k) Manufactured home parks.
- (l) Multiple family dwellings.

Specific requirements for the above listed uses are as follows:

(a) *Bed and breakfast establishments.*

- (1) The establishment shall be serviced by approved water and sanitary sewer services.
- (2) The establishment shall be located on property with direct access to a paved public road.
- (3) The use shall be established only in a detached one-family dwelling.
- (4) Parking is required in accordance with article VI and shall be located to minimize negative impacts on adjacent properties.
- (5) The lot on which the establishment is located shall meet the minimum lot size requirements of the zone district.
- (6) The total number of guest rooms shall not exceed seven, plus one additional guest room for each 10,000 square feet or fraction thereof by which the lot area of the use exceeds one acre, not to exceed a total of ten guest rooms.
- (7) Exterior refuse storage facilities beyond what might normally be expected for a detached single family dwelling shall be screened from view on all sides by a six-foot solid, decorative fence or wall.
- (8) The establishment shall contain the principal residence of the operator.
- (9) Accessory retail or service uses shall be prohibited, including but not limited to, gift shops, antique shops, restaurants, bakeries, and other similar uses.
- (10) Meals may be served only to the operator's family, employees, and overnight guests.

(b) *Campgrounds.*

- (1) Minimum lot size shall be three acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean a campground or travel trailer park.
- (2) Public stations, housed in all-weather structures, containing adequate water outlet, waste container, toilet and shower facilities shall be provided.
- (3) No commercial enterprise shall be permitted except that a convenience store may be provided in a development containing more than 80 sites. The convenience store shall not exceed a maximum floor area of 1,000 square feet.
- (4) Each lot shall provide hard-surfaced, dust-free vehicle parking areas for site occupant and guest parking. The parking area shall be located within 400 feet of the site it is intended to serve (except in the case of sites specifically designated only for tent camping).
- (5) Each site shall contain a minimum of 1,500 square feet and set back at least 75 feet from any public or private right-of-way or property line.
- (6) Each travel trailer site shall have direct access to a hard-surfaced, dust-free roadway of at least 24 feet in width for two-way traffic and 12 feet in width for one-way traffic. Parking shall not be allowed on any roadway. Sites specifically designated for, and only used for, tent camping, need not have direct vehicular access to any street or road.
- (7) Any open drainage ways must have seeded banks sloped at least 3:1 and designed to properly drain all

surface waters into the county drain system, subject to approval by the Drain Commissioner of Kent County, where a city storm drainage system is unavailable.

(8) All sanitary facilities shall be designed and constructed in strict conformance to all applicable county health regulations.

(9) A minimum distance of 15 feet shall be provided between all travel trailers and tents.

(c) *Private cemeteries.*

(1) The minimum lot size for a cemetery shall be five acres.

(2) All gravesites, buildings and structures shall be set back at least 50 feet from any property line.

(d) *Commercial soil and mineral removal.*

(1) No soil, sand, gravel, or other earth material shall be removed from any land within the village without special land use approval, with the following exceptions:

- a. When the earth removal is incidental to an operation for which a building permit has been issued by the village;
- b. When the earth removal involves any normal landscaping, driveway installation and repairs, or other minor projects;
- c. The earth removal will not alter predominate drainage patterns or cause drainage impacts to adjoining properties;
- d. The earth removal involves less than 500 cubic yards;
- e. The earth removal is for the purpose of construction of a swimming pool.
- f. The soil removal will not be in violation of any other section of this chapter, other village chapter, Soil Erosion and Sedimentation Control Act of 1972, or any other applicable state or federal law.

(2) In addition to the materials required by this article, the application for special land use approval shall include the following:

- a. A written legal description of all of the lands proposed for the use.
- b. Eight copies of a plan for mineral removal, drawn and sealed by a registered civil engineer, and including the following:
 1. A north arrow, scale, and date;
 2. Shading indicating the extent of land area on which mineral removal operations and activities will take place;
 3. Location, width, and grade of all easements or rights-of-way on or abutting the lands;
 4. Location and nature of all structures on the lands;
 5. Location and direction of all water courses and flood control channels which may be affected by the mineral removal operations;
 6. Existing elevations of the lands at intervals of not more than five feet;
 7. Typical cross sections showing the estimated extent of overburden, estimated extent of mineral material location in or on the lands, and the water table;
 8. Mineral processing and storage areas;
 9. Proposed fencing, gates, parking areas, and signs;

10. Roads for ingress to and egress from the lands, including on-site roads, other areas to be used for move and a description of the proposed measures to limit dust generated by mineral removal activities and m vehicles;
 11. Map showing access routes between the subject lands and the nearest major road; and
 12. Areas to be used for ponding.
- c. A narrative description and explanation of the proposed mineral removal operations and activities; including the date of commencement, proposed hours and days of operation, estimated by type and quantity of mineral materials to be removed, description of extraction and processing methods, including proposed equipment and the noise rating of each type thereof, and a summary of the procedures and practices which will be used to ensure compliance with the conditions of this subsection.
 - d. A site rehabilitation plan including the following:
 1. A description of planned site rehabilitation and end-use(s), including methods of accomplishment, phasing, and timing;
 2. A plan showing final grades of the lands as rehabilitated, at contour intervals not exceeding five feet; water courses, ponds, or lakes, if any; landscaping and plantings; areas of cut and fill; and all of the components of the proposed end-use(s); and
 3. A description of the proposed methods or features which will ensure that the end-use(s) are feasible and will comply with the master plan and all applicable requirements of this chapter.
 - e. The planning commission or village council may require an environmental impact statement, engineering data, or other additional information concerning the need for and consequences of such extraction if it is believed that the extraction may have an adverse impact on natural topography, drainage, water bodies, floodplains, or other natural features.
- (3) Each site rehabilitation plan shall be approved by the village council and shall comply with all of the following standards and requirements:
- a. Topsoil shall be replaced on the site to a depth of not less than six inches, except where the end-use activities or features do not involve the planting of lawns or growing of vegetation. Slopes shall be graded and stabilized to such extent as will accommodate the proposed end-use. The plan shall indicate the phasing of site rehabilitation, if the same is to take place in phases, and if so, topsoil shall be replaced and slopes shall be graded and stabilized before mineral removal operations or activities are commenced in another area of the site.
 - b. Final slopes shall have a ratio of not more than one foot of elevation to three feet of horizontal distance.
 - c. Plantings of grass, shrubs, trees, and other vegetation shall be made so as to maximize erosion protection, screen less attractive areas of end-uses, and enhance the beauty of the site as rehabilitated.
- (4) No machinery shall be erected or maintained within 50 feet of any property or street line. No cut or excavation shall be made closer than 50 feet to any street right-of-way line or property line in order to ensure sublateral support to surrounding property. The village council may require greater distances for the location of machinery, storage or parking of equipment, or limits of excavation where the site is located in or within 200 feet of any residential district.
- (5) The village council shall approve routes for truck movement to and from the site in order to minimize the wear on public streets and to prevent hazards and damage to nearby properties. Access roads within the

area of operation shall be provided with a dustless surface and the entry road shall be hard surfaced for a distance established by the village council to minimize dust, mud, and debris being carried onto the public street.

- (6) Proper measures shall be taken to minimize the nuisance of noise and flying dust or rock. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated material upon the site.
- (7) During activities and operations for the removal of mineral material, no mineral material or other excavated materials shall be left during weekends or overnight in such condition or manner as to constitute a danger to children or others who may enter the removal areas. All banks of excavated material shall be graded to slopes having a vertical to horizontal ratio of not greater than one foot of elevation for each two feet of horizontal distance, after the cessation of daily operations, provided, however, that the village council may allow some lesser daily grading requirement if the applicant provides a substantially constructed and maintained welded wire fence, or fence of equally substantial material, of at least four feet in height, so located that any slopes steeper than one foot of elevation for each two feet of horizontal distance cannot inadvertently be approached by any persons who may enter the removal area.
- (8) The village council may require compliance with such other conditions as may be necessary to ensure compliance with the terms of this subsection. Such conditions may include, though need not be limited to, weed controls, erosion and sedimentation controls, fencing and visual screening, requirements for groundwater monitoring wells, preservation of trees and other vegetation, and fuel loading and storage requirements.
- (9) An applicant for a permit shall submit a performance bond in accordance with the requirements of section 82-590 of this chapter, naming the village as the insured party and conditioned upon the timely and faithful performance by the applicant of all of the terms and conditions of the permit. The bond shall have such other terms and shall be in such amount as is recommended by the planning commission as reasonably necessary to ensure compliance with all of the terms and conditions of this subsection and the permit.
 - a. The performance bond shall not be refunded, reduced, or transferred until the mineral removal operations and activities, land reclamation or restoration, and all other required activities have received final inspection by the zoning administrator he has determined that the applicant, or its successor, has fully complied with all of the terms, conditions, site rehabilitation and restoration requirements, and all other matters required of the applicant under the terms of the permit.
 - b. The timely and faithful compliance with all of the provisions of the performance bond shall be a condition of any mineral removal operations. In the absence of any such compliance with the terms of the performance bond, or if the same is revoked or it expires or is not renewed, the village council need not approve the renewal of any permit, even if the applicant has otherwise complied with all other terms and provisions of the current permit.
- (e) *Private educational institutions.*
 - (1) No building shall be closer than 40 feet to any property line or street right-of-way line.
 - (2) No more than 25 percent of the gross site area shall be covered by buildings.
- (f) *Golf courses and country clubs, including related uses, such as snack bars, small retail shops selling goods directly related to the primary use, and other similar uses integral to the main use.*
 - (1) The site area shall be at a minimum of 20 acres and shall be located on a major thoroughfare.

- (2) All buildings, parking areas, swimming pools, and tennis courts shall be set back a minimum of 75 feet from any line or street right-of-way lines.
 - (3) A landscaped buffer strip shall be provided between the parking area and main building area and any adjacent residential district.
- (g) *Public utility structures.*
- (1) Any buildings shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
 - (2) All buildings shall comply with the yard setback requirements of the district in which it is located.
- (h) *Religious institutions.*
- (1) The minimum lot area shall be at least 30,000 square feet.
 - (2) No building shall be closer than 40 feet to any property line or street right-of-way.
- (i) State licensed residential care group facilities.
- (1) The minimum lot area shall be at least one acre.
 - (2) The proposed site shall have direct access to a major thoroughfare.
 - (3) No building shall be closer than 40 feet to any property line or street right-of-way.
 - (4) Off-street parking shall be provided for family members and employees of the facility.
 - (5) Client pickup and drop off areas shall be located in a manner that vehicles do not stop in the travel lane of the adjacent roadway and vehicles are not required to back into the roadway.
 - (6) The property and residence exterior shall be maintained in a manner compatible with the surrounding neighborhood.
 - (7) The facility shall be in compliance with all applicable state licensing requirements.
- (j) State licensed group day care facilities.
- (1) There shall be provided, equipped and maintained, on the premises, a minimum of 150 square feet of usable outdoor recreation area for each client making up the licensed capacity of the facility.
 - (2) The outdoor recreation area shall be fenced and screened from any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
 - (3) Required off-street parking, as well as off-street pick-up and drop-off areas shall be provided.
 - (4) The applicant shall provide evidence of the ability to comply with all applicable State licensing requirements.
- (k) Manufactured home parks.
- (1) Review and approval of preliminary plan.
 - a. A preliminary plan, showing the location, layout and general design and a general description of the project shall be prepared in accordance with the applicable requirements of Public Act No. 96 of 1987 (MCL 125.2301 et seq.), rules of the state manufactured home commission and the following requirements:
 1. Ten copies of the preliminary plans meeting the requirements of subsection below shall be submitted to the zoning administrator.
 2. The preliminary plans shall exhibit all necessary information and details to determine compliance with the rules promulgated by the state manufactured home commission and applicable state departments and agencies for the development of manufactured home parks, as well as to determine

compliance with this chapter, with local fire chapters and building codes.

- b. The preliminary plan shall be at a scale of at least 100 feet to the inch and show:
 1. The scale and north arrow;
 2. The site location on a vicinity map which illustrates the site in relation to the surrounding area within one-half mile;
 3. The total acreage to the nearest tenth of an acre;
 4. The name and address of the owner, developer and engineer/site planner who prepared the plan;
 5. Property and lot lines with dimensions;
 6. Setback lines;
 7. Topography at two-foot contours, showing present and proposed contours (United States Geological Survey data shall be used);
 8. Existing and proposed utilities, including water, sewer, storm drains, electric and gas utilities;
 9. Building locations and dimensions;
 10. Manufactured home pads/sites;
 11. The recreation area plan, if the developer intends to provide such recreation area;
 12. The required open space area, with dimensions and total area;
 13. A landscape plan showing walks, fences and screening;
 14. Parking spaces and access drives with dimensions; and
 15. All public and private rights-of-way and easements bounding and intersecting the area and an indication of which are proposed to be continued, created, relocated and/or abandoned.
 - c. Preliminary plans submitted to the village shall be subject to review and approval by the village council after receiving recommendation by the planning commission. The council shall approve, modify or disapprove the preliminary plans within 60 days of the date of submission of such plans to the village. If the plans are not approved, modified or disapproved within the 60 days, the preliminary plans shall be deemed approved.
- (2) Site area and dimensions.
- a. A minimum of ten acres shall be required for the development of a manufactured home park.
 - b. The site shall comprise a single tract and be so dimensioned as to facilitate efficient design and management. A manufactured home park shall have at least 66 feet of frontage on an arterial road. However, minimum width of the site for portions used for general vehicle entrances and exits only shall be 66 feet. All ingress and egress to and from the development shall be onto that road. For portions containing lots for dwellings and buildings generally open to occupants, minimum dimensions shall be 200 feet.
 - c. These limitations shall not apply where expansion of an existing manufactured home development is concerned and where such expansion will not increase variation from requirements applying to manufactured home parks as set forth in this subdivision.
- (3) State requirements: All manufactured home park developments shall comply with the applicable requirements of Public Act No. 96 of 1987 (MCL 125.2301 et seq.) and the rules promulgated by the state manufactured home commission.

- (l) Multiple family dwellings.
 - (1) All structures shall be a minimum of 25 feet from the closest property lines.
 - (2) The minimum horizontal distance between the nearest points of buildings shall be 30 feet.
 - (3) No building with multiple family dwelling units shall have its principal access more than 100 feet from either an access drive, public street, or required off-street parking area.
 - (4) Parking areas shall have a minimum front yard setback of 20 feet and minimum side and rear yard setbacks of ten feet.
 - (5) Access driveways shall be located no less than 50 feet from the nearest part of the intersection of any street or any other driveway.

(Ord. No. 04-07, § 1(14.06), 7-12-2004; Ord. No. 18-05, § 3, 2-12-2018)

Sec. 82-387. - Same—Nonresidential districts.

The requirements set forth in this section relate to particular special land uses and specific requirements in the nonresidential districts that must be met in addition to the general standards of section 82-385.

- (a) Adult uses.
- (b) Building material suppliers.
- (c) Commercial communication towers, including commercial television, radio, and public utility transmitting and/or receiving towers and receiving microwave antennas, and their attendant facilities.
- (d) Commercial day care facilities.
- (e) Commercial recreation facilities.
- (f) Commercial storage warehouses.
- (g) Comparison retail stores selling commodities within an entirely enclosed building, with a usable floor area (UFA) exceeding 20,000 square feet.
- (h) Freight yards and terminals.
- (i) Hotels and motels.
- (j) Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.
- (k) Junkyards.
- (l) Lumber and planing mills.
- (m) Massage (licensed).
- (n) Metal plating, buffing and polishing, subject to appropriate measures to control the types of process to prevent noxious results and/or nuisances.
- (o) New and used vehicle, boat or farm implement sales including incidental servicing and minor repair.
- (p) Nonresidential uses located in converted residential buildings.
- (q) Nurseries and greenhouses.
- (r) Open air businesses.
- (s) Private educational institutions.
- (t) Religious institutions.
- (u) Rental space for storage of vehicles such as travel trailers, motor homes, recreational vehicles, campers,

snowmobiles, boats, etc.

- (v) Residential uses meeting the lot area requirements of the R-4 district.
- (w) Residential uses when combined with commercial businesses permitted in section 82-292.
- (x) Restaurants or other places serving food or beverage, except those with drive through services, provided all property lines abut an LI-light industrial district.
- (y) Restaurants, including drive through service. Outdoor seating may be permitted where patrons are served.
- (z) Shopping center or shopping mall.
- (aa) Tractor trailer and trucking facilities, including storage and repair.
- (bb) Utility trailer rental facilities.
- (cc) Vehicle service station and incidental repair and servicing.
- (dd) Vehicle repair facilities, major and minor.
- (ee) Vehicle wash establishments, either self-service or automatic.
- (ff) Veterinary hospital, clinic or indoor kennel.
- (gg) Waste lagoon ponds, industrially oriented and permanent in character.
- (hh) Wireless telecommunication facilities.

Specific requirements for the above listed uses are as follows:

(a) Adult uses:

- (1) The adult use shall not be located within a 1,000-foot radius of any other such use or be located on a lot or parcel within 500 feet of a public park, educational institution, child care facility, or religious institution.
- (2) Any sign or signs proposed for an adult use must comply with the requirements of article VII, and any applicable county, state, and federal laws.
- (3) No product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
- (4) No product for sale or gift, nor any picture or other representation of any product for sale or gift, shall be displayed so that it is visible by a person of normal visual acuity from the nearest adjoining roadway or adjoining property.
- (5) All off-street parking areas shall be illuminated from at least 90 minutes prior to sunset to at least 60 minutes after closing.
- (6) No adult use shall be open for business prior to 10:00 a.m., nor after 10:00 p.m. However, employees or other agents, or contractors of the business may be on the premises at others hours for legitimate business purposes such as maintenance, preparation, record keeping, and similar purposes.
- (7) All persons massaging any client or customer must be certified as a massage therapist by the American Massage Therapy Association or be a graduate of a school of massage therapy that is certified by the state, or have such other similar qualifications which must be submitted to and approved by the village council. All massage clinics are subject to inspection from time to time by the zoning administrator and shall be required to file reports as may be required by the village, at least annually, as to the names and qualifications of each person who administers massages under the authority or supervision of the massage establishment.
- (8) Establishments where uses subject to the control of this subsection are located shall not be expanded in any manner without first applying for and receiving the approval of the village council, as provided herein.

(b) *Building material suppliers.*

- (1) Minimum lot area shall be one acre.
- (2) Minimum lot width shall be 200 feet.
- (3) The planning commission may require a six-foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
- (4) The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.

(c) *Commercial communication towers, including commercial television, radio, and public utility transmitting and/or receiving towers and receiving microwave antennas, and their attendant facilities.*

- (1) The applicant shall submit documented proof of need for the tower in this location, and provide further documentation as to why co-location on another tower within the Village of Sparta or township is not available or will not provide the required coverage.
- (2) The placement, operation, and location shall meet all village, state, and federal requirements.
- (3) The location shall not exhibit any noise discernible from outside the property lines of the site.
- (4) A bond shall be submitted to the village equal to the cost of removal when use is discontinued. The bond will be returned to the applicant provided the unused tower/antenna is removed within six months of its discontinuance. After removal the site shall be returned to its natural state within one year after use is terminated, unless the site is otherwise developed for a use permitted by the chapter.
- (5) The tower must be designed and constructed so as to allow a minimum of three additional commercial antennas on the same structure.
- (6) The tower will be located in a manner that in the event of a structure failure, it will not fall on any surrounding property.
- (7) Landscaping shall be installed to screen the ground level structures on the site.
- (8) A safety and security fence shall be erected, with a minimum height of six feet with barbed wire on the top around the site structure, including associated equipment.

(d) *Commercial day care facilities.*

- (1) There shall be provided, equipped and maintained, on the premises, a minimum of 150 square feet of usable outdoor recreation area for each client making up the licensed capacity of the facility.
- (2) The outdoor recreation area shall be fenced and screened from any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
- (3) Required off-street parking areas shall be provided.
- (4) Off-street pick-up and drop-off areas shall be provided that are adequate to ensure that no vehicles shall block any street sidewalks or traffic lanes.
- (5) The applicant shall provide evidence of the ability to comply with all applicable state licensing requirements.

(e) *Commercial recreation facilities.*

- (1) Minimum lot size shall be one acre. The lot shall provide direct access to a major street.
- (2) Ingress and egress shall be provided as far as practicable from two intersecting streets and shall be at least 50 feet from an intersection.

- (3) Parking areas shall have a minimum front yard setback of 20 feet and side and rear yard setbacks of at least ten a greater setback is required by this chapter.
 - (4) Public rest rooms, housed in all-weather structures, containing adequate water outlets, waste containers, and toilets shall be provided.
 - (5) No commercial, for profit enterprise not related to the operator of the commercial recreation facility shall be permitted to operate on the lot.
 - (6) All main buildings or outdoor activity areas shall be set back at least 75 feet from any property line.
- (f) *Commercial storage warehouses.*
- (1) Minimum lot area shall be two acres.
 - (2) A residence may be permitted on the premises for security personnel or on-site operator. The residence shall conform to the minimum requirements for a one-family detached dwelling in the R-1 district.
 - (3) One parking space shall be provided for each ten storage cubicles, equally distributed throughout the storage area. The parking requirement may be met with the parking lanes required for the storage area.
 - (4) One parking space shall also be required for every 20 storage cubicles, up to a maximum required ten spaces, to be located adjacent the rental office, for the use of customers.
 - (5) Two parking spaces shall also be required for the residence of security personnel or on-site operator employed on the premises.
 - (6) Parking lanes and access aisles adjacent the individual storage facilities shall be required. The parking lanes may be eliminated when the access aisle does not serve storage cubicles.
 - (7) All driveways, parking, loading, storage, and vehicular circulation areas shall be paved.
- (g) *Comparison retail stores selling commodities within an entirely enclosed building, with a usable floor area (UFA) exceeding 20,000 square feet.*
- (1) Public access to the site shall be located at least 100 feet from any public or private street intersection and not less than 50 feet from the nearest part of any other driveway, as measured from the nearest right-of-way line to the nearest edge of that access.
 - (2) Any main building shall be generally compatible, with respect to materials and color, with the surrounding neighborhood.
 - (3) The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
 - (4) No mechanical rooms or loading areas shall be located nearer than 50 feet to any residential district or use property line.
- (h) *Freight yards and terminals.*
- (1) Minimum lot size shall be three acres.
 - (2) The lot location shall be such that at least one property line abuts a paved street and ingress and egress for all vehicles shall be directly from that street.
 - (3) The main and accessory buildings shall be set back at least 75 feet from all property lines.
 - (4) Truck parking and staging areas shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
 - (5) Access driveways shall be located no less than 50 feet from the nearest part of the intersection of any street

or any other driveway.

(i) *Hotels and motels.*

- (1) Minimum floor area of each guest unit shall contain not less than 250 square feet.
- (2) The minimum lot area shall be 25,000 square feet with a minimum width of 100 feet, provided that there shall be at least 500 square feet of lot for each lodging unit.
- (3) The maximum lot coverage of all buildings, including accessory buildings, shall not exceed more than 35 percent of the lot.
- (4) All parking areas shall have direct access to a major street.

(j) *Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.*

- (1) All uses shall be established and maintained in accordance with applicable State of Michigan statutes. To the extent that any of the requirements of this subsection are less stringent than those in applicable state statutes, the state requirements shall prevail.
- (2) The site shall be screened on all sides. As a minimum, the use shall be enclosed by a fence six feet or more in height for the entire periphery of the property. Fences shall be adequate to prevent trespassing and contain debris.
- (3) All areas within any single development shall be in a condition of being entirely lacking in hazards, inconspicuous and blended with the general surrounding ground form.
- (4) The village council shall establish routes for truck movement in and out of the development in order to minimize the wear on public streets, to minimize traffic hazards and to prevent encroachment of traffic, or the by-products of traffic (such as dust and noise), upon adjacent properties.
- (5) All permitted installations shall be maintained in a neat, orderly condition so as to prevent injury to property, individuals, or the community in general.

(k) *Junkyards.*

- (1) Requests for a special land use approval for establishment of a junkyard shall also require submission of a detailed proposal identifying the predominant type of salvage or junk to be received, the methods of separation and/or recycling, and ultimate destination of waste materials. The applicant shall be required to submit written materials outlining measures taken to comply with all necessary state, county, and local laws.
- (2) The property shall be a minimum size of at least six acres.
- (3) The site shall abut and have suitable access to a major street to ensure safe, direct transport of salvage to and from the site.
- (4) No portion of the storage area shall be located within 1,000 feet of any residential district.
- (5) Any outdoor storage area shall be completely enclosed by a fence or wall at least six feet in height constructed of a sturdy, durable material and sufficiently opaque to ensure that salvage is not visible from outside the storage area. The fence or wall shall have a minimum of two nontransparent gates not exceeding 48 feet in width providing access to the storage area for vehicles but shall not allow direct view of the storage area from adjacent properties or streets. Said fence or wall shall be continuously maintained in good condition and shall contain only approved signs.
- (6) Stored materials shall not be stacked higher than ten feet and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way. In no case shall salvage or junk be stored at a height exceeding the height of the storage area fence or wall.

- (7) The fence or wall enclosing the storage area shall meet the applicable building setback requirements.
 - (8) A management office shall be provided on site. A residence may be permitted for security personnel or on-site operator.
 - (9) Conditions within the storage area shall be controlled to minimize the hazards of fire and other threats to health and safety.
 - (10) All portions of the storage area shall be accessible to emergency vehicles.
 - (11) Vehicles or vehicle bodies shall be stored in rows with a minimum of twenty-foot wide continuous loop drives separating each row of vehicles.
 - (12) All batteries shall be removed from any vehicle, and all radiator and fuel tanks shall be drained prior to the vehicle being placed in the storage yard. Salvaged batteries, oil and other such substances shall be removed by a licensed disposal company or be stored in a manner which prevents leakage of battery fluid. No fluids removed from vehicles shall be applied as a dust control method.
 - (13) Vehicle parts shall not be stored, loaded, unloaded, or dismantled outside the fence enclosing the salvage yard.
 - (14) All fences shall be set back a minimum of 300 feet from any residential district.
 - (15) In order to protect surrounding areas, the crushing of vehicles or any part thereof shall be limited to daylight hours.
 - (16) The planning commission may impose other conditions which have a reasonable relationship to the health, safety and general welfare of the Village of Sparta. These conditions can include a provision for an annual inspection by the village to ensure continuing compliance with the above standards.
- (l) *Lumber and planing mills.*
- (1) Minimum lot size shall be two acres.
 - (2) All property lines must abut an LI-light industrial district and at least one property line shall abut a LI street from which all vehicle ingress and egress shall be made, or alternatively one property line may abut a railroad right-of-way.
 - (3) The main and accessory buildings shall be set back at least 75 feet from all property lines.
 - (4) Truck parking and staging areas shall be fenced and screened from the view of any abutting property and public right-of-way.
- (m) *Massage (licensed).* Individuals who are licensed through the state having a fixed place of business where massages are administered for pay must meet one or more of the following criteria:
- (1) Proof of graduation from a school of massage licensed by the state;
 - (2) Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this [sub]section;
 - (3) Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards; or
 - (4) A current occupational license from another state.

- (n) *Metal plating, buffing and polishing, subject to appropriate measures to control the types of process to prevent*

noxious results and/or nuisances.

- (1) Minimum lot size shall be two acres.
 - (2) The main and accessory buildings shall be set back at least 100 feet from all property lines and a minimum of 200 feet from adjacent residential uses.
 - (3) Any outside storage area shall not exceed 2,000 square feet in area and shall be screened from view on all sides by a six-foot or greater solid, decorative fence or wall, or landscaped equivalent. The fence or wall shall be tall enough to screen the view of the contents of the storage area.
 - (4) Truck parking and staging areas shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
 - (5) Any portion of a building containing the use shall not have loading doors, windows, or other similar openings facing an abutting residential district or use. If openings are present, they shall remain closed at all times while any part of the business is in operation.
- (o) *New and used vehicle, boat or farm implement sales including incidental servicing and minor repair.*
- (1) Minimum lot area shall be one acre.
 - (2) Minimum lot width shall be 200 feet.
 - (3) The lot area used for parking shall be hard-surfaced and the display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
 - (4) Ingress and egress shall be provided as far as practicable from two intersecting streets and shall be at least 100 feet from an intersection.
 - (5) No display area shall be located within ten feet of a road right-of-way line.
- (p) *Nonresidential uses located in converted residential buildings.*
- (1) The residential use within each building shall be limited to the approved area for such use, unless modified by further site plan approval.
 - (2) No residential use shall be permitted below the second floor of any building within this district. Residential uses shall be incidental uses in office buildings and shall not be free standing structures except as may be permitted through the approval of a planned unit development, as approved through sections 82-331 et seq.
 - (3) The business office use of any building within this district shall be the primary use. Residential uses within a building may occupy greater floor area than the primary use in so far that all residential space is above the first floor.
 - (4) The minimum square footage for multiple residential units under section 82-234 shall apply to all residential units within the central business district.
 - (5) Each residential unit shall be a separate unit for water, sewer and electrical purposes and metering.
 - (6) Parking:
 - a. All parking shall either be in the rear yard or along the side of the main building but must remain behind the front building line of the structure. Note: Parking for any residential uses shall be provided in the rear of the building and marked.
 - b. Ingress and egress shall be at least 50 feet from an intersection.
 - c. Parking areas shall have a minimum front yard setback of 20 feet and side and rear yard setbacks of at

least ten feet.

- d. The parking plan layout, points of access, and screening shall require the approval of the village council. (Screening shall be provided in accordance with the requirements of section 82-468.)
- e. The number of spaces for each use on the site shall be in accordance with article VI of this chapter.
- f. If the nonresidential use is located adjacent to community parking facilities, that parking area may be counted as meeting all or part of the parking requirements for use, as determined by the village council.

(q) *Nurseries and greenhouses.*

- (1) The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
- (2) The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
- (3) All loading activities and parking areas shall be provided on the same premises (off-street).
- (4) The display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.

(r) *Open air businesses.*

- (1) Minimum lot area shall be one acre.
- (2) Minimum lot width shall be 200 feet.
- (3) The village council may require a six-foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.
- (4) All open air businesses shall comply with all applicable health department regulations regarding sanitation and general health conditions.
- (5) The village council may require the applicant to furnish a performance bond in accordance with the requirements of this chapter to insure strict compliance with any regulation contained herein and required as a condition of special land use approval.
- (6) The lot area used for display or storage areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained so as to dispose of all surface water.
- (7) Ingress and egress shall be provided as far as practicable from two intersecting streets and shall be at least 100 feet from an intersection.
- (8) In the case of a plant materials nursery:
 - a. Any storage or display areas shall meet all the yard setback requirements applicable to any main building in the district.
 - b. All loading activities and parking areas shall be provided on the same premises (off-street).
 - c. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties.
- (9) Except as noted above, no display area shall be located within ten feet of a road right-of-way line.

(s) *Private educational institutions.*

- (1) Minimum site size for elementary schools shall be 12 acres, middle schools shall be 20 acres, and high schools shall be 40 acres.
- (2) Minimum lot width of 200 feet abutting upon a paved public street.

- (3) Athletic fields shall not be located closer than 100 feet to any property line abutting a residential district.
 - (4) Suitable screening shall be provided if, in the opinion of the planning commission, such screening is needed to minimize noise, visual, or other impacts upon surrounding residential districts.
- (t) *Religious institutions.*
- (1) Minimum lot area shall be three acres, plus an additional 15,000 square feet for each 100 persons of seating capacity.
 - (2) Buildings of greater than the maximum height allowed in the district may be allowed provided front, side and rear yards are increased above the minimum required yards by one foot for each foot of building height that exceeds the maximum height allowed. All main and accessory buildings shall be set back a minimum of 100 feet from any one-family residential district. Parking shall be set back a minimum of 50 feet from any one-family residential district.
 - (3) Where adjoining residentially zoned or used property, the council may require a solid, decorative, masonry wall four feet in height along any common lot line. Such wall shall be continuously maintained in good condition. The council may approve a fence, landscaped berm, or landscaping as an alternative. At least one property line shall abut and have access to a major street.
 - (4) The planning commission or the village council may require an operations plan and/or parking generation studies to determine parking needs.
- (u) *Rental space for storage of vehicles such as travel trailers, motor homes, recreational vehicles, campers, snowmobiles, boats, etc.*
- (1) Minimum lot area shall be three acres.
 - (2) Vehicles stored on a site shall be set back a distance of at least one-half of the requirements of the zoning district applicable to main buildings.
 - (3) An obscuring screen consisting of a wall, fence and/or landscaping shall be required as determined by the planning commission.
 - (4) All loading and truck maneuvering shall be accommodated on-site or on a dedicated easement.
 - (5) Fencing and lighting for security purposes may be required as determined by the planning commission.
- (v) *Residential uses meeting the lot area requirements of the R-4 district.*
- (1) The residential use shall either:
 - a. Provide a direct service or convenience to or reduce adverse impacts to surrounding uses or neighborhood;
 - b. Provide a compatible transition between higher intensity and lower intensity uses;
 - c. Foster a specific policy, as expressed in the village master plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or
 - d. Is an existing non-conforming use or a change thereto that is permitted according to section 82-124, Nonconforming uses, structures, and lots.
 - (2) The location, size, design, and operating characteristics of the proposed development or change to an existing development for the residential use shall be reasonably compatible with and have minimal negative impact on the use of nearby properties.

- (3) The development will not significantly adversely affect the infrastructure of the surrounding area, including, with limitation, water, wastewater, and storm drainage utilities and streets.
 - (4) The development will not change the predominant character of the surrounding area.
- (w) *Residential uses when combined with commercial businesses permitted in section 82-292 (CBD district).*
- (1) The residential use within each building shall be limited to the approved area for such use, unless modified by further site plan approval.
 - (2) No residential use shall be permitted below the second story level of any building within the district.
 - (3) The business use of any building within the district shall be the primary use. Residential use within a building shall not occupy more floor area than business use.
 - (4) No more than three residential units shall be permitted in any building within the central business district.
 - (5) The minimum square footage for multiple residential units under section 82-234, R-4 Site development requirements, shall apply to all residential units within the central business district.
 - (6) Each residential unit shall be a separate unit for water and sewer purposes.
 - (7) Two parking spaces shall be required per residential unit, unless the requirement is waived or modified by the village council.
- (x) *Restaurants or other places serving food or beverage, except those with drive through services, provided all property lines abut an LI-light industrial district.*
- (1) The use is intended generally to serve the industrial area in which it is located.
 - (2) All portions of the outdoor service area shall be set back a minimum of 30 feet from the edge of the roadway pavement.
 - (3) The site shall directly abut an arterial roadway as indicated in the village master plan.
 - (4) On-site vehicle and pedestrian traffic circulation shall be provided in a manner that ensures safety and efficiency.
- (y) *Restaurants, including drive through service. Outdoor seating may be permitted where patrons are served.*
- (1) Sufficient stacking capacity for the drive-through portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of ten stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the drive-through portion of the facility.
 - (2) A minimum of three parking spaces shall be provided in close proximity to the exit of the drive-through portion of the operation, to allow for customers waiting for delivery of orders.
 - (3) Parking areas shall have side and rear yard setbacks of at least ten feet.
 - (4) Public access to the site shall be located at least 100 feet from any intersection or other driveway on the same side of the street, as measured from the nearest right-of-way line to the nearest edge of said access.
 - (5) Internal circulations and access to and egress from the site do not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.
 - (6) The parking and maneuvering areas of the site shall be fenced and screened from the view of any abutting residential district or use by a decorative fence or wall, or a landscaped equivalent.
 - (7) Environmental impacts, including, without limitation, noise, air emissions, and glare are not significant for employees of the facility or the surrounding area. Outdoor speakers for the drive through facility shall be

located in a way that minimizes sound transmission toward neighboring property and uses.

(8) Outdoor dining/seating must be in accordance with section 82-128, Outdoor dining/seating.

(z) *Shopping center or shopping mall.*

(1) The minimum lot area for a shopping center or mall shall be three acres.

(2) The site shall have a minimum of 300 feet of frontage on an arterial street, as shown in the village master plan.

(3) Shopping centers or malls shall be served by public sanitary sewer and water supply.

(4) Motor vehicle entrance and exit shall only be from an arterial or collector street identified in the village master plan.

(5) Pedestrian movement between buildings shall be designed without the need to cross drives or parking areas.

(6) No building within a shopping center or mall shall have a separate access to a street.

(7) Existing trees and other significant vegetation on the site shall be preserved whenever possible. Greenbelts, buffer strips, and berms may be required.

(aa) *Tractor trailer and trucking facilities, including storage and repair.*

(1) Minimum lot area shall be one acre.

(2) Minimum lot width shall be 200 feet.

(3) Overhead doors shall not face any roadway, except as approved by the planning commission for any of the following circumstances:

a. For through garages where doors are provided on the front and rear of the building; or

b. Garages located on corner or through lots; or,

c. Where it is determined that a rear garage door would have a negative impact on an abutting residential district.

(4) All repair work shall be done within the building.

(5) All outdoor storage of vehicles, material, equipment and other material incidental to the operation shall be enclosed by a six-foot high solid wall or solid fence.

(6) Materials stored outdoors shall not be stacked higher than the height of the storage area fence or wall and shall be stored in a manner so as not to be visible from adjoining properties or rights-of-way.

(7) Outdoor storage areas are not permitted in the front yard of the site and shall meet the side and rear yard setback requirements.

(8) No operator shall permit outdoor storage of trucks or trailers within the parking lot. Vehicles stored within the parking lot of the site for a period in excess of 72 hours shall be considered a violation of this requirement.

(bb) *Utility trailer rental facilities.*

(1) Minimum lot area shall be one acre and minimum lot width shall be 200 feet.

(2) Outdoor storage areas for trailers and other equipment are not permitted in the front yard of the site and shall meet the side and rear yard setback requirements of the district.

(3) Storage areas shall be paved in accordance with the requirements of article VI, Off-Street Parking and Loading.

(cc) *Vehicle service station and incidental repair and servicing.*

- (1) Parking or storage of inoperative vehicles shall be completely surrounded by an opaque fence of not less than six feet in height.
- (2) A minimum lot frontage of 100 feet shall be required.
- (3) No more than one curb opening shall be permitted for every 75 feet of frontage (or major fraction thereof) along any street, with a maximum of one per street when located on a corner lot, and two for any other street.
- (4) No drive or curb opening shall be located nearer than 75 feet to any intersection nor more than 25 feet to any adjacent residential district property line. No drive shall be located nearer than 50 feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the village council, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
- (5) A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
- (6) In addition to the minimum lot area required by the zoning district in which the use is located, the minimum lot area shall be increased 500 square feet for each fuel pump unit in excess of four and 1,000 square feet for each service bay in excess of two, and 300 square feet for each parking space intended for the storage of inoperative vehicles.
- (7) The lot shall be located such that it is at least 300 feet from an entrance or exit to any property on which is situated a public library, public or private educational institution, playground, play field, park, religious institution or hospital.
- (8) Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two vehicles.
- (9) Sufficient stacking capacity for the fuel pump portion of the operation shall be provided to ensure that traffic does not extend into the public right-of-way. A minimum of three stacking spaces for the service ordering station shall be provided. Stacking spaces shall be located so as not to interfere with vehicular circulation and egress from the property by vehicles not using the fuel pump portion of the facility.
- (10) All buildings and accessory structures including gasoline pumps shall be setback at least 50 feet from any lot line or street right-of-way, and not less than 50 feet from any side or rear lot line abutting a residential district.
- (11) The visual impact of the service station is minimized and screened from adjacent rights-of-way and properties through placement of the use, screening, landscaping, and other site design techniques.
- (12) The location, size, design and operating characteristics of the proposed facility are reasonably compatible with the use of nearby properties.
- (13) All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. There shall be no outdoor storage of merchandise such as tires, lubricants and other accessory equipment.
- (14) All activities, except those required to be performed at the fuel pump, shall be carried on within a building.
- (15) The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the village council. If the use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the village council.

- (16) There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other flammable gases. In-ground storage of flammable liquids shall be in non-metallic containers, pressure tested under the supervision of an official designated by the village manager, and annually approved thereafter by the applicable state agency.
- (dd) *Vehicle repair facilities, major and minor.*
- (1) All main and accessory structures shall be set back a minimum of 500 feet from a single-family residential district.
 - (2) There shall be a minimum lot frontage on a paved road of 200 feet.
 - (3) No more than one curb opening shall be permitted for every 75 feet of frontage (or major fraction thereof) along any street, with a maximum of one per street when located on a corner lot, and two for any other street.
 - (4) No drive or curb opening shall be located nearer than 75 feet to any intersection nor more than 25 feet to any adjacent residential district property line. No drive shall be located nearer than 50 feet, as measured along the property line, to any other driveway. A driveway shall not be permitted where, in the opinion of the village council, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
 - (5) A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
 - (6) The lot shall be located such that it is at least 300 feet from an entrance or exit to any property on which is situated a public library, public or educational institution, playground, play field, park, religious institution or hospital.
 - (7) Overhead doors shall not face a public street or residential district. The planning commission can modify this requirement upon a determination that there is no reasonable alternative and the poor visual impact will be diminished through use of building materials, architectural features and landscaping.
 - (8) Where applicable, vehicle queuing space shall be provided in front of each service bay for at least two vehicles.
 - (9) Where adjoining a residential district, a solid decorative masonry wall, six feet in height shall be erected along any common lot line. The wall shall be continuously maintained in good condition. The village council may approve a fence, landscaped berm, or landscaping as an alternative.
 - (10) Any building side facing a public street or residential district shall be constructed with brick, split-faced block, cut or cast stone, patterned precast concrete or any other materials as determined by the village council. E.I.F.S. and vinyl shall be used as accent materials only.
 - (11) All maintenance and repair work shall be conducted completely within an enclosed building.
 - (12) There shall be no outdoor storage or display of vehicle components and parts, materials, commodities for sale, supplies or equipment.
 - (13) The rental of trucks, trailers, and any other vehicles on the premises is expressly prohibited without specific approval by the village council. If such use is permitted, proper screening, landscaping, and additional parking area shall be provided in accordance with the requirements set forth by the village council.
 - (14) Storage of wrecked, partially dismantled, or other derelict vehicles, or overnight parking of any vehicle except a tow truck shall be permitted up to four weeks in a designated area. Such area shall be appropriately screened from public view as determined by the village council.
 - (15) The applicant shall submit a pollution incidence protection plan (PIPP). The PIPP shall describe measures to

prevent groundwater contamination caused by accidental gasoline spills or leakage, such as: special check valves, drain back catch basins and automatic shut off valves, as approved by the Sparta Fire Department.

(16) Any use with fuel sales shall also meet the standards for vehicle service station and incidental repair and servicing.

(ee) *Vehicle wash establishments, either self-service or automatic.*

(1) All washing activities must be conducted within a building.

(2) Vacuuming activities may not be conducted in any required yard.

(3) Main buildings shall be set back a sufficient distance to allow sufficient space to accommodate all vehicle queuing on the property, so no vehicles are required to wait on an adjoining street to enter the site.

(ff) *Veterinary hospital, clinic or indoor kennel.*

(1) Buildings wherein animals are kept, dog runs, and/or exercise areas shall not be located nearer than 100 feet to any adjacent occupied dwelling or any adjacent building used by the public.

(2) No dog runs and/or exercise areas shall be located in any required front, rear or side yard setback area.

(gg) *Waste lagoon ponds, industrially oriented and permanent in character.*

(1) The applicant shall submit an impact assessment describing the expected odors; aesthetics; environmental impacts; and vehicular and truck traffic impacts associated with the use, and any mitigation measures to be employed.

(2) The site plan shall clearly illustrate the layout of the overall operation in relation to the proposed waste lagoon.

(3) Waste lagoon ponds shall be at least 500 feet from any residential district.

(4) The applicant shall describe procedures for managing stormwater runoff and preventing pollution of groundwater.

(5) The applicant shall use acceptable methods for control of odors.

(6) All uses shall be enclosed by a fence six feet or more in height around the periphery of the property. Fences shall be adequate to prevent trespassing.

(7) All uses shall be established and maintained in accordance with all applicable county, State of Michigan and federal laws.

(8) A bond shall be submitted to the village equal to the cost of removal and rehabilitation when use is discontinued. The bond will be returned to the applicant provided the waste lagoon is appropriately removed and the site is appropriately rehabilitated within six months of completion of work.

(hh) *Wireless telecommunication facilities.*

(1) The applicant must provide sufficient information to demonstrate the following:

a. Collocation on or joint use of any existing tower or antenna is not possible.

b. The tower or antenna will not be injurious to the safety, aesthetics, or property values of nearby residences.

(2) It is the village's policy to minimize the proliferation of new wireless telecommunication facility support structures in favor of collocation of such facilities on existing structures. No new wireless telecommunication facility support structures shall be constructed unless the applicant for the new structure demonstrates, and

the village council finds, that collocation on an existing structure is not adequate or is not reasonably feasible.

- (3) All wireless telecommunication facility support structures, unless otherwise provided, shall have a monopole, unipole or similar nonlattice, single vertical structure design and shall be further designed to accommodate at least three wireless telecommunication arrays of antennas or panels. The applicant shall submit an affidavit by a design engineer registered in the state attesting that this requirement is met.
- (4) The site plan for any new support structure shall expressly state that the support structure shall be erected and available for collocation, and shall also show the proposed location of the applicant's and collocators' equipment shelters and related facilities.
- (5) Wireless telecommunication facilities shall not exceed 165 feet in height, as measured from the average grade at the base of the support structure to the top of the antenna or panel. Wireless telecommunication facilities which support three or more arrays of antennas or panels may be increased to 185 feet in height. In no case shall the height exceed any applicable height limitation established by county, state or federal regulations.
- (6) If located on the same lot as another permitted use, a wireless telecommunication facility shall not be located in a front yard or side yard abutting a street. The village council may approve a support structure utilizing camouflage or stealth design for location in a front or side yard abutting a street if the council determines that location will better facilitate a satisfactory and harmonious relationship with existing and prospective development of contiguous land and adjacent neighborhood.
- (7) Wireless telecommunication facilities shall be set back from the lot line a distance not less than one-half of its height or 65 feet, whichever is greater. However, when wireless telecommunication facilities are located on premises which abuts a residential district lot, the minimum setback from the lot line abutting that lot shall be equal to the height of the facility. All setbacks shall be measured from the edge of the facility.
- (8) Wireless telecommunication facilities shall be installed and maintained in accordance with manufacturers' specifications and the building code.
- (9) Removal:
 - a. Upon discontinuance or cessation of use, the facility shall be removed by the owner thereof.
 - b. A performance guarantee shall be posted at the time of receiving a permit for the facility to ensure its removal when it is abandoned or no longer needed. The applicant shall demonstrate that funds will be available to the village for removal of any structure used for wireless communication in an amount which reasonably reflects the cost of its removal and restoration of the property or structure upon which the facility is placed.
 - c. Adequate funds shall also be provided to cover the village's administrative costs in the event that the applicant or its successor does not remove the wireless telecommunication facility in a timely manner.
 - d. The security shall, at the election of the village council, be in the form of cash; security bond; letter of credit; or an agreement in a form approved by the village attorney and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property, or their successors, to remove the facility in a timely manner as required by this subsection.
 - e. The applicant, owner or successor, shall be responsible for payment of any costs or attorney fees incurred by the village in securing removal.
- (10) No sign shall be attached to or displayed on a wireless telecommunication facility. No signals or lights or

other means of illumination shall be permitted on a facility unless required by state or federal law or regulation. The facility shall have a neutral color intended to blend with the surroundings.

- (11) If the wireless telecommunication facility is planned on a site upon which is located another main building or structure, and an equipment shelter is proposed, the equipment shelter shall be constructed with exterior facade materials similar to the main building or structure on the site.
- (12) Wireless telecommunication antennas or panels may be installed on existing buildings or structures provided such antennas or panels, and their supporting structure, do not exceed the height limitation set forth in subsection (5) above.
- (13) Any wireless telecommunication antenna or panel mounted on an existing building or structure which does not increase the height of the building or structure shall be exempt from the setback requirements of subsection (7) above.
- (14) Wireless telecommunication facilities located in one-family residential district shall meet one of the following requirements:
 - a. The wireless telecommunication facility shall be mounted directly onto an existing, nonresidential building in a manner that does not increase the height of the building. The facility shall consist of material or color which is compatible with the exterior treatment of the building;
 - b. The wireless telecommunication facility shall be located on an existing non-residential support structure, pole or tower such as a public or private utility tower, pole or structure, but not on a building. The facility shall consist of a material or color which is compatible with the tower, pole or structure. Antennas or panels may extend above the top of the tower, pole or structure not more than 30 feet; however, the height to the top of the antenna or panel may not exceed 165 feet; or
 - c. The wireless telecommunication facility shall be located on a new support structure situated on public property. Any facility located on public property which is used for passive recreation shall be designed to minimize the conspicuousness of the facility (e.g., utilizing camouflaged or stealth designed poles or existing environmental features as screening). All such facilities located on public property shall meet the setback requirements of subsection (7) above.

(Ord. No. 04-07, § 1(14.07), 7-12-2004; Ord. No. 05-09, § 1, 7-11-2005; Ord. No. 18-05, § 3, 2-12-2018)

Sec. 82-388. - Specific requirements—Height exceptions exceeding 80 feet.

- (a) Heights of buildings or structures that exceed 80 feet, except as specifically regulated by this chapter, shall be reviewed by the planning commission and approved by the village council only upon meeting the general standards of [section 82-385](#) and the specific requirements of this section:
 - (1) The proposed height shall only be approved if the proposed building or structure is located a minimum of the same distance as its height from any adjoining property line. In its review of the application, the planning commission may recommend and the village council may require a setback that is greater than the proposed height of the building or structure, in order to mitigate any negative impacts of the proposed building or structure height on nearby properties.
 - (2) The structural integrity of the proposed building or structure is approved the village building inspector, and the building or structure complies with all applicable state, federal, and local construction codes.
 - (3) The proposed building or structure has been approved by the village fire department fire chief.

- (4) The proposed building must be of a size, scale and appearance which is substantially compatible with nearby buildings and structures, and which does not negatively impact the character of the nearby neighborhood or the skyline of the town.

(Ord. No. 16-02, § 3, 7-11-2016)

Secs. 82-389—82-420. - Reserved.

ARTICLE V. - SITE PLAN REVIEW

Sec. 82-421. - Intent and purpose.

It is the purpose of this article to require site plan review approval for certain buildings, structures, and uses that can be expected to have a significant impact on natural resources, environmental quality, traffic patterns and the character of future development in the vicinity. The requirements contained in this chapter are intended to reduce hazards to life and property due to fire, flooding, soil erosion, inadequate surface water drainage, inadequate sewage disposal systems, pollution, dust, fumes, noise, vibration, noxious odors, and other hazards; and to facilitate the provision of a system of roads, streets, parking, municipal sewage disposal, storm sewers, municipal water supply, and other public needs. These requirements are further intended to promote orderly development and harmonious design in order to conserve the value of existing development and property.

(Ord. No. 04-07, § 1(15.01), 7-12-2004)

Sec. 82-422. - Uses subject to site plan review.

- (a) A building permit for any proposed use or building requiring a site plan shall not be issued until a final site plan has been reviewed and approved in accordance with the requirements of this article.
- (b) A final site plan approval shall be required under the following conditions unless excepted by subsection (c) of this section:
- (1) All special land uses (village council approval required);
 - (2) All permitted uses in the NC, O, GC, CBD, and LI districts;
 - (3) Site condominium developments (section 82-125 requires village council approval);
 - (4) The zoning administrator may request the planning commission to review any use that is deemed to have such intensity and potential effect on properties in the general vicinity.
- (c) Final site plans for the following uses shall be reviewed and approval by the zoning administrator.
- (1) Single- and two-family dwellings (unless submitted as a site condominium under the provisions of subsection (b)(3) above);
 - (2) State licensed family day care facilities;
 - (3) State licensed residential care family facilities;
 - (4) Accessory uses or structures; and
 - (5) All other uses not provided for in subsection (b) of this section.

(Ord. No. 04-07, § 1(15.02), 7-12-2004; Ord. No. 12-02, § 2, 2-13-2012)

Sec. 82-423. - Procedure for site plan review.

(a) *Application procedures.*

- (1) An application for site plan review shall be submitted at least 30 days prior to the next scheduled planning commission meeting through the zoning administrator, who will review the application materials to ensure that the requirements of this section are met, and then transmit it to the planning commission.
- (2) An application for either a preliminary or final site plan review shall consist of the following:
 - a. A completed application form, as provided by the village. The application shall be signed by an owner of, or person having an interest in the property to be developed, or an authorized representative.
 - b. Twenty copies of the preliminary or final site plan meeting the requirements of subsection (d) of this section.
 - c. Payment of a fee, in accordance with a fee schedule, as determined by village council resolution.
 - d. A legal description, including the permanent parcel number, of the subject property.
 - e. Other materials as may be required in this chapter, the zoning administrator or planning commission.
- (3) An application shall not be accepted until all required materials are provided. Incomplete applications shall be returned to the applicant with an indication of the items necessary to make up a complete application. An application shall be accepted once all requirements and submissions of subsection (a)(2) of this section are met.

(b) *Preliminary site plan review procedures.*

- (1) If desired by the applicant, a preliminary site plan may be submitted to the planning commission for review prior to final site plan review. The purpose of the preliminary site plan review is to allow discussion between the applicant and the commission to inform the applicant of the general acceptability of the proposed plans prior to incurring extensive engineering and other costs that may be necessary for the review of the final site plan.
- (2) The commission shall review the preliminary site plan and make recommendations to the applicant that will cause the plan to be in conformance with the requirements and review standards required by this article and this chapter.
- (3) The planning commission may request from the applicant any additional graphics or written materials, prepared by a qualified person, to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other pertinent information.

(c) *Final site plan review procedures.*

- (1) A final site plan, unless reviewed in conjunction with a special land use or site condominiums request, shall be reviewed by the planning commission, who shall approve, approve with conditions, or deny the site plan. Final site plans for special land use requests and site condominiums shall be reviewed by the village council, after receipt of a recommendation from the planning commission. The commission or council shall state its reasons for the decision in its minutes.
- (2) The planning commission may request from the applicant any additional graphics or written materials, prepared by a qualified person, to assist in determining the appropriateness of the site plan. This material may include, but need not be limited to, aerial photography, photographs; traffic impacts; impact on significant natural features and drainage; soil tests; and other information.

(3) The planning commission, or village council, as appropriate, shall approve, deny, or approve with conditions the plan based on the requirements of this chapter, and specifically, the standards of section 82-424.

(d) *Site plan requirements*. The following shall be required for a preliminary or final site plan unless deemed unnecessary by the zoning administrator:

Site Plan Requirement	Preliminary	Final
Date of preparation/revision.	X	X
Name, address, and professional seal of the preparer.	X	X
North arrow and map scale (not less than 1 inch = 40 feet for parcels less than 3 acres and 1 inch = 100 feet for parcels 3 acres or more)	X	X
Small scale sketch of an area within ¼ mile of the subject property showing the property location	X	X
Existing man-made features.	X	X
Existing adjacent streets and proposed streets and existing curb cuts within 100 feet of the property.	X	
Street rights-of-ways, indicating proposed access routes, internal circulation, and relationship to existing rights-of-ways, and curb cuts within 100 feet of the property.		X
Any public and private easements.	X	X
Dimensions of setbacks, locations, heights and size of buildings and structures, including the locations of existing buildings or structures within 100 feet of the boundaries of the property.		X
All lot lines with dimensions.	X	X
Parking lots (including required parking calculations) and access points	X	
Proposed parking areas and drives (including required parking calculations) designating individual spaces conforming to the provisions of <u>chapter 1(6)</u>		X
Proposed buffer strips or screening	X	

Location, sizes, and type of fences, landscaping, buffer strips, and screening.		X
Location, sizes, and type of on-site lighting, including information regarding lighting levels at the edges of the site.		X
Significant natural features; and other natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and other significant natural features.	X	X
Location of any signs not attached to the building.		X
Existing and proposed buildings, including existing buildings or structures within 100 feet of the boundaries of the property.	X	
General topographical features including contour intervals no greater than 10 feet.	X	
The topography of the site at a minimum of 5-foot intervals and its relationship to adjoining land.		X
Proposed grading.		X
Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space	X	X
Dwelling unit densities by type, if applicable.	X	X
Proposed method of providing sewer and water service, as well as other public and private utilities (may be in narrative form)	X	
Proposed method of providing storm drainage (may be in narrative form)	X	
Location, sizes, and type of drainage, sanitary sewers, water services, storm sewers, and fire hydrants		X

Sec. 82-424. - Standards for site plan approval.

- (a) The planning commission and council in making any determination concerning the final site plan shall find that the site plan is in compliance with the requirements of this chapter and other applicable village ordinances and the review standards of this section.
- (b) Site design characteristics.
 - (1) All elements of the site design shall be harmoniously and efficiently organized in relation to topography, the size and type of lot, the character of adjoining property, and the type and size of buildings.
 - (2) The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted by this chapter.
 - (3) Redevelopment of existing sites shall be brought into conformance with all site improvement provisions of this chapter relative to and proportionate to the extent of redevelopment, as determined by the planning commission or council.
 - (4) All buildings or groups of buildings shall be arranged so as to permit emergency vehicle access by some practicable means to all vehicles.
 - (5) Every structure or dwelling unit shall be provided with adequate means of ingress and egress via public streets and walkways.
 - (6) Exterior lighting shall be designed so that it is deflected away from adjacent properties and so that it does not impede the vision of drivers on public streets, adversely impact abutting properties or adversely impact the natural evening sky.
- (c) Environmental standards.
 - (1) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, alteration to the natural drainage courses, and the amount of cutting, filling and grading.
 - (2) Natural features and the site topography shall be incorporated into the proposed site design to the maximum extent practical.
 - (3) Removal or alteration of significant natural features shall be restricted to those areas that are reasonably necessary to develop the site in accordance with the requirements of this chapter.
 - (4) Buildings and structures will be placed to preserve environmentally sensitive areas.
 - (5) The planning commission or village council may require that landscaping buffers and/or greenbelts be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
 - (6) State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without permits and approvals. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals shall be designed to prevent spills and discharges of polluting materials to the surface of the ground, groundwater or nearby surface water bodies.
 - (7) Secondary containment for aboveground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substances.
 - (8) General purpose floor drains shall only be allowed if they are approved by the village's department of public

works for a connection to a public sewer system, an on-site closed holding tank (not a septic system), or regulated through a State of Michigan groundwater discharge permit.

(d) Vehicular and pedestrian circulation.

- (1) The expected volume of traffic to be generated by the proposed use shall not adversely impact existing roads and the circulation thereon.
- (2) Driveways shall be located to minimize conflict with traffic operations on the adjoining road. The number of driveways shall be the minimum needed to provide reasonable access to the site.
- (3) The width of streets and drives shall be appropriate for the existing and anticipated volume of traffic.
- (4) The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area.
- (5) Off-street parking and loading areas shall be provided where required with particular attention to noise, glare, and odor effects of each use in the plan on adjoining properties and properties in the proposed development.
- (6) Safe, convenient, uncongested and well-defined vehicular and pedestrian circulation within and to the site shall be provided. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points.
- (7) The arrangement of public or common ways for vehicular and pedestrian circulation and their connection to existing or planned streets in the area shall be planned to operate in the safest and most efficient means possible.

(e) Stormwater and erosion controls.

- (1) Stormwater management system and facilities shall preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent possible, and shall not substantially reduce or increase the natural retention or storage capacity of any wetland, water body, or water course, or cause alterations which could increase flooding or water pollution on or off the site.
- (2) Stormwater management facilities shall be designed, constructed and maintained to prevent flooding and protect water resources and may be incorporated into the open space portions of a development site.
- (3) Areas of natural drainage such as swales, wetlands or ponds shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
- (4) Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or nearby bodies of water.
- (5) Provisions shall be made to prevent erosion and the formation of dust during and after construction. Efforts should be made to reduce/minimize the amount of impervious surfaces, such as using infiltration basins trenches or dry wells grassed (vegetated) waterways or swales, or rain gardens in yards or parking lots.
- (6) Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water.
- (7) Proof of stormwater management and detention system approval is required by the Kent County Drainage Commission.

(f) Public services. The scale and design of the proposed development shall facilitate the adequate provision of services furnished or required of the village or other public agency including, but not limited to, fire and police

protection, stormwater management, sanitary sewage removal and treatment, traffic control, and administrative services.

(g) The general purposes and spirit of this article and the master plan of the village shall be maintained.

(Ord. No. 04-07, § 1(15.04), 7-12-2004)

Sec. 82-425. - Approved plans and amendments.

- (a) Upon approval of the final site plan, the planning commission chair, or the village president (or their designees), as applicable, shall sign three copies thereof. One signed copy shall be made a part of the village's files; one copy of the final site plan shall be forwarded to the building official for issuance of a building permit; and one copy returned to the applicant.
- (b) Each development shall be under construction within one year after the date of approval of the final site plan, except as noted in this section.
 - (1) An applicant may request from the planning commission one six-month extension of the final site plan approval. Any request for extension must be applied for in writing prior to the date of expiration of the final site plan. The request may only be granted provided that:
 - a. The applicant presents reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the applicant; and
 - b. The site plan requirements and standards, including those of this chapter and master plan, that are reasonably related to the development have not changed.
 - (2) Should neither of the provisions of subsection (b) be fulfilled, or a six-month extension has expired without construction having been started and proceeding meaningfully, the final site plan approval shall be null and void.
- (d) Amendments to an approved final site plan may occur only under the following circumstances:
 - (1) The holder of a valid final site plan approval shall notify the zoning administrator of any proposed change to an approved site plan.
 - (2) Minor changes may be approved by the zoning administrator. The zoning administrator shall consider the following to be a minor change:
 - a. Reduction of the size of any building and/or sign.
 - b. Movement of buildings and/or signs by no more than ten feet provided that that movement complies with this chapter.
 - c. Landscaping approved in the site plan that is replaced by similar landscaping to an equal or greater extent.
 - d. Changes in floor plans that do not alter the character of the use or increase the amount of required parking.
 - e. Internal rearrangement of a parking lot that does not affect the number of parking spaces or alter access locations or design.
 - f. Changes required or requested by the village or other agency having proper jurisdiction for safety reasons.
 - (3) Should the zoning administrator determine that the requested modification to the approved final site plan is

not minor, a new site plan shall be submitted and reviewed as required by this chapter.

- (d) Certification of compliance. At final inspection or at other appropriate times the zoning administrator shall certify whether all conditions and other requirements of the planning commission or village council in its approval of the final site plan have been fulfilled.

(Ord. No. 04-07, § 1(15.05), 7-12-2004)

Sec. 82-426. - Appeal of decisions.

A person aggrieved by the decision of the planning commission or village council with respect to an action regarding the final site plan may have that decision reviewed by the zoning board of appeals, in accordance with the provisions of section 82-544(b)(2).

(Ord. No. 04-07, § 1(15.06), 7-12-2004)

Sec. 82-427. - Expansion of existing use, structure, or building.

It is recognized that land uses, buildings, and structures exist which do not conform to the current regulations of this chapter and as such do not achieve the intended purposes of this chapter. When these uses, buildings, and structures are proposed to be expanded, enlarged, or increased in intensity so that a site plan review is required per section 15.02 herein, then the existing conditions on the site shall be brought into compliance with the applicable requirements of this chapter, in particular the standards for site plan approval in section 82-422, to the extent proportional to the expansion if it is determined that any of the following situations exist:

- (1) Existing stormwater drainage provisions on site are inadequate to protect nearby lakes, streams or creeks from runoff contaminants or to prevent drainage onto adjoining properties and do not substantially comply with the Village of Sparta stormwater management regulations.
- (2) Additional on-site parking is needed to satisfy current chapter requirements and/or a hard surface parking area is needed to reduce dust, and to reduce gravel and soil runoff into the public stormwater drainage system.
- (3) Existing driveways result in hazardous vehicle movements and should be closed or relocated.
- (4) Additional plantings are needed in order to comply with the intent of the landscape regulations of this chapter or to replace trees and shrubs previously removed, or screening is needed in the form of fencing or landscaping to provide a buffer between uses, particularly to screen materials stored outside.
- (5) Access to adjoining properties is inadequate and can be improved by way of parking lot connections or installation of service drives to improve traffic circulation and reduce the number of turning movements onto the public street system.
- (6) Safety for pedestrians can be improved and better emergency vehicle access can be provided.
- (7) Better lighting conditions are needed to reduce or eliminate nuisance lighting situations for drivers and nearby properties.
- (8) Screening of dumpsters is needed to improve the appearance of a site and reduce the likelihood of windblown trash.
- (9) Sidewalks are needed to improve pedestrian safety.
- (10) In determining to what extent to apply the applicable chapter requirements and the site plan approval

standards to address the above deficiencies found on a site, the planning commission shall be guided by the following criteria:

- a. Whether or not compliance would ensure safer on site conditions, protect the natural environment, improve traffic circulation, achieve compatibility with adjacent land uses, promote the use of the land in a socially and economically desirable manner and generally accomplish the purposes of site plan review as described in this chapter.
- b. The practicality of requiring complete compliance with the applicable regulations of this chapter based on the existing design, layout, and operation of the existing use and size of the site or if only partial compliance would be more practical.
- c. Whether or not requiring compliance would have a negative impact on the character, safety, and welfare of the neighborhood or surrounding area.

(Ord. No. 10-05, § 15.07, 9-13-2010)

Secs. 82-428—82-460. - Reserved.

ARTICLE VI. - OFF-STREET PARKING AND LOADING

Sec. 82-461. - Intent and purpose.

- (a) It is the intent of this article that off-street parking and loading spaces be provided and adequately maintained by each property owner in every district for the parking of motor vehicles for the use of occupants, employees, vendors, and patrons of each building and premise constructed, altered, or enlarged under the provisions of this chapter.
- (b) At the time any building or structure is erected, enlarged, or increased in capacity, or new uses established, off-street parking spaces shall be provided in all districts according to the requirements specified in this article.

(Ord. No. 04-07, § 1(16.0), 7-12-2004)

Sec. 82-462. - Reserved.

Sec. 82-463. - Parking and loading plan review.

- (a) Whenever five or more vehicle parking spaces are required for a given use of land, plans and specifications for the construction or alteration of an off-street parking area shall be submitted for approval by the building inspector and zoning administrator before an occupancy permit is issued.
- (b) Parking lot plans and specifications shall indicate the location, precise use of buildings by square footage, size, site, design, surfacing, marking, lighting, drainage, curb cuts, entrances, exits, landscaping, and any other detailed features essential to the complete design and construction of the parking area.
- (c) Parking lots with a capacity of 15 or more vehicle parking spaces shall have plans and specifications for the construction or alteration of off-street parking areas submitted by a registered professional engineer.

(Ord. No. 04-07, § 1(16.03), 7-12-2004)

Sec. 82-464. - Location of parking areas.

- (a) For residential uses all off-street parking and loading areas shall be located on the same lot as the buildings they are intended to serve.
- (b) For nonresidential uses all off-street parking and zoning district, the nearest part which is located a maximum 300 linear feet from the main entrance to the buildings intended to be served.
- (c) In the central business district, on-street public parking may be considered available to meet all or any portion of the needs of a nonresidential use, provided that the zoning administrator finds parking spaces are reasonably available at the time of day needed and provided that off-street parking meeting the requirements of this section is not feasible.
- (d) Residential off-street parking spaces for single-family and two-family dwellings shall consist of a parking strip, driveway, garage or combination thereof and be located on the premises they are intended to serve. No parking shall be permitted on lawn areas nor shall the parking area cover more than 25 percent of the front yard.

(Ord. No. 04-07, § 1(16.04), 7-12-2004)

Sec. 82-465. - Nonconforming parking areas.

- (a) A parking area, parking space, or loading area which exists at the time this chapter becomes effective, or which subsequent thereto is provided for the purpose of complying with the provisions of this chapter shall not thereafter be relinquished or reduced in any manner below the requirements established by this chapter.
- (b) If the intensity of use of any building, structure, or lot is increased through the addition of dwelling units, increase in floor area, increase in seating capacity, or through other means, additional off-street parking shall be provided for the increase in intensity of use.

(Ord. No. 04-07, § 1(16.05), 7-12-2004)

Sec. 82-466. - Uses of parking areas.

- (a) Parking spaces and loading areas shall be used exclusively for the parking of vehicles associated with a building, structure or land use for which whose employees and patrons it is designed to serve. No commercial activity, special events, repair work, advertising, servicing, or selling of any kind shall be conducted within required parking areas without permission being granted by the zoning administrator. No portable structures, buildings, or equipment shall be permitted within required parking areas, except as may otherwise be permitted by this chapter.
- (b) No signs shall be erected in parking areas except the following: vehicle and pedestrian safety signs as defined herein, essential to the safe movement of vehicles and pedestrians and Americans With Disabilities Act accessibility compliance parking space signs, as provided by the Michigan Construction Code Act, Public Act 230 of 1977, as amended, MCL 125.1501 et seq. These signs shall not project beyond the property line of the premises.
- (c) The storage or parking in parking lots of vehicles for sale, travel trailers, motor homes, mobile homes, camper trailers, or parking other trailers or recreational vehicles or any combination of any such vehicles in required parking spaces must comply with the provisions set forth in section 82-130, Storage of Recreational Vehicles and Equipment.

(Ord. No. 04-07, § 1(16.06), 7-12-2004; Ord. No. 18-05, § 2, 2-12-2018)

Sec. 82-467. - Parking requirements.

(a) *Deferred parking area.*

- (1) Where an applicant demonstrates that the parking requirements for a particular proposed use would be excessive, an approved site plan may include designated portions of the site for future required parking spaces. A parking deferment may also be imposed upon a finding that the standard parking requirements would be initially excessive.
- (2) Areas reserved for future parking shall be maintained in a landscaped appearance and not used for building area, storage, or other accessory use.
- (3) Alterations to the deferred parking area to add parking spaces may be initiated by the owner or required by the building inspector or zoning administrator, based on parking needs or observation.

(b) *Maximum parking requirement.*

- (1) To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of storm water runoff, no surface parking lot shall have parking spaces totaling more than an amount equal to ten percent greater than the minimum parking space requirements, as determined by the Table of Off-Street Parking Requirements of this section, except as may be approved by the planning commission.
- (2) In granting any additional space, the planning commission shall determine that the parking is necessary, based on documented evidence of actual use and demand provided by the applicant. The commission shall also consider potential effects on the site and on surrounding properties, including, but not limited to, surface water drainage, natural features, lighting, or other effects.
- (3) This subsection shall apply only to those parking lots that require a minimum of 50 parking spaces as required in the Table of Off-Street Parking Requirements.

(c) *Common parking area.*

- (1) The zoning administrator may approve a shared parking arrangement for two or more uses to utilize the same off-street parking facility where the operating hours of the uses do not significantly overlap.
- (2) Required parking shall be calculated from the use that requires the greatest number of spaces.
- (3) A common parking area shall be located within 300 feet of the buildings it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.
- (4) Should any use involved in the shared parking arrangement change to another use, the zoning administrator may revoke this approval and require separate parking facilities as required by this chapter.
- (5) A copy of an agreement between the joint users of a parking area shall be recorded with the Kent County Register of Deeds. Such agreement shall guarantee the long-term use and maintenance of the parking facility by each party.

(d) *Measurement and interpretation.*

- (1) In the case of a use not specifically mentioned, the zoning administrator shall determine the requirements for off-street parking using the requirements for a use that is mentioned and is most similar to the use not listed.
- (2) When benches, pews, or other similar seating is used, each 18 inches of seating shall be counted as one seat.
- (3) Requirements for parking stated in terms of employees shall be based upon the maximum number of employees likely to be on the premises during the largest shift.

- (4) Floor area, unless otherwise noted, shall include gross floor area (GFA).
- (5) Where usable floor area (UFA) is used for measurement, and the use is not specified, a 15 percent reduction in GFA shall be used to calculate UFA. The zoning administrator, with documentation, may use other percent reductions where the 15 percent figure appears unreasonable.
- (6) Where units or measurement determining the number of required parking spaces result in a fraction equal to or greater than one-half an additional space shall be required.
- (e) *[Requirements for specific uses and activities.]* The following table contains the parking requirements for individual uses and activities within the Village of Sparta:

Table of Off-Street Parking Requirements

Use	Number of Spaces Required Per Unit of Measure
<i>Residential/Institutional/Recreational</i>	
Religious Insitutions	1 for each 4 seats in the main room for worship
Community building, clubhouse, meeting facility, or any similar type of use.	1 space for each 100 sq. ft. or 1 space for each 3 persons permitted to occupy the building by building code, whichever is greater
Dance halls, civic clubs, fraternal orders, union halls, or any similar type of use	1 space for each 100 sq. ft. of or 1 space for each 3 persons permitted to occupy the building by building code, whichever is greater
Day Care Centers	2 spaces, plus 1 for every 8 children licensed capacity
Private educational institutions (Elementary / Middle)	5 spaces plus 1 space for each classroom in addition to the requirements of the auditorium
Golf courses, except miniature or par three golf courses	5 spaces plus 6 spaces for each 1 golf hole
Home for the aged and Nursing Home	1 for each 2 beds
Hospitals	2 for each patient bed
Housing for the Elderly	1 for every 2 dwelling units, plus 1 space for each 5 dwelling units

Lodging and boarding house, fraternity, or similar use, including bed and breakfasts	1 for each room
Manufactured home parks	2 per dwelling unit, plus 5 for the park office, plus 2 visitor spaces for each 10 dwelling units
Miniature or par three golf courses	5 spaces plus 3 for each hole
Multiple family dwellings	2 for each dwelling unit, 1 of which shall be within a covered parking structure; plus 1 visitor space for each 5 dwelling units
Private education - Senior High Schools	5 spaces plus 1 space for each classroom plus 1 space for each 10 students, OR space required for the auditorium or stadium, whichever is greater
Single family or duplex dwellings	3 for each dwelling unit, one of which shall be within a covered parking structure
Swimming clubs, tennis clubs or similar type of use	1 space for each 3 persons permitted to occupy the building by building code
Stadium, sports arenas or similar places of outdoor assembly	
Theaters & Auditoriums	1 for each 4 seats
Commercial	
Vehicle service stations	2 for each service bay and 1 for each washing bay
Bowling Alleys	5 for each alley, in addition to any requirement for other uses such as bar, restaurant or billiard room
Drive in vehicle washes, automatic	10 standing spaces for each washing bay
Drive in vehicle washes, self-serve	3 standing spaces for each washing bay
Funeral Homes and Mortuary Establishments	1 for each 30 sq. ft. of floor space

Motels, hotels, or other commercial lodging establishments	1 for each occupancy unit plus extra spaces for dining rooms, ballrooms, or meeting rooms as required by this chapter
Personal service establishments	1 space for each 50 sq. ft. UFA
Restaurants - without drive-through facilities	1 space for each 100 sq. ft. UFA or 1 space for each 2 persons allowed within the maximum occupancy load established by any applicable codes or chapters, whichever is greater
Restaurants with drive-through facilities	1 space for each 100 sq. ft. of UFA or 1 space for each 1½ persons allowed within the maximum occupancy load established by any applicable codes or chapters, whichever is greater
Retail stores not otherwise specified	1 space for each 200 sq. ft. UFA
Video rental stores	1 space for each 100 sq. ft. UFA
Office	
Business or professional offices and banks not including medical office	1 for every 200 sq. ft. of UFA
Medical Offices and Clinics	1 for every 150 sq. ft. of UFA
Industrial	
Industrial or Research establishments	1 space for each 1,000 sq. ft. GFA plus those spaces required for offices located on the premises
Warehousing or wholesale establishments	1 for every 1,700 sq. ft. of GFA

(Ord. No. 04-07, § 1(16.07), 7-12-2004)

Sec. 82-468. - Construction and layout of off-street parking areas.

(a) *Construction requirements.*

- (1) The village engineer shall determine compliance with the requirements of this section.
- (2) With the exception of one-family dwellings, the entire parking area, including parking spaces and

maneuvering lanes required under this article, shall be provided with asphalt or concrete surfacing in accordance with approved specifications. The village engineer may permit gravel or other similar surface for one-family dwellings.

- (3) In order to reduce the amount of impervious surface and the corresponding storm water runoff and heat given off by paved surfaces, the planning commission may approve alternate parking lot surfaces for storage of materials or equipment including service vehicles related to the business or use, but in no case shall alternate parking lot surfaces be permitted for customer, attendee, resident or employee parking. Such surface may include but not be limited to porous paving (asphalt, concrete, brick), cold-placed asphalt millings, and open graded crushed aggregate. This section is not intended to allow for required parking areas to be constructed in violation of section 82-468(a)(2).
 - (4) Surfacing of the parking area shall be completed within one year of the date the permit for the parking area is issued.
 - (5) Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
 - (6) All parking spaces shall be striped with paint, which shall be at least four inches in width. The striping shall be maintained and clearly visible at all times.
 - (7) A raised curb of six inches in height shall be constructed along the perimeter of all paved and landscaped areas.
 - (8) Bumper stops, sufficient to keep vehicles from encroaching on property lines or sidewalks shall be provided at least four feet from the edge of the property line. Bumper stops shall be secured to prevent their movement.
 - (9) Fire hydrants accessed from parking areas shall not be located closer than five feet from the back of the curb adjacent to any parking space, loading area, fire lane or maneuvering aisle.
- (b) *Snow storage.*
- (1) For parking lots having more than 100 spaces, where snow removal and storage may pose a problem to traffic circulation or reduce the amount of required parking, the site plan shall designate snow storage areas.
 - (2) Storage areas may be provided within any yard, except a front yard, and shall not be permitted to hinder the vision of drivers or pedestrians within the parking area.
 - (3) The snow storage area shall be equal to at least 20 percent of the size of the planned parking lot. The area used for calculation of snow storage shall not include deferred parking areas, until such time as the deferred parking area is converted to parking.
 - (4) Snow shall be removed as necessary to maintain the required number of parking spaces.
- (c) *Each parking space shall be clearly identifiable.* Parking spaces and maneuvering lanes shall be sufficient in width to allow ease in turning movements in and out of parking spaces. The minimum required dimensions of parking spaces and maneuvering lanes shall be as indicated on the accompanying table.

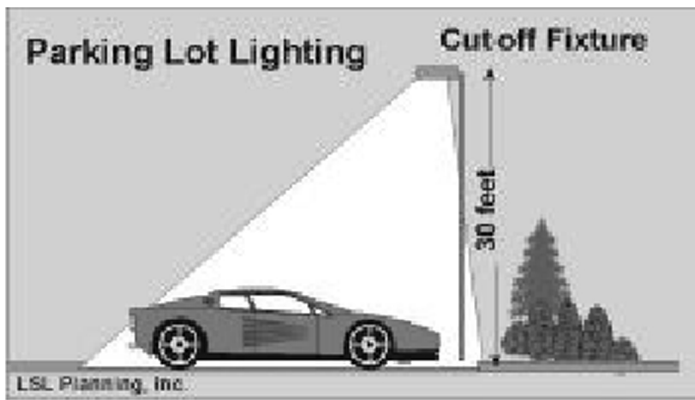
Parking Pattern (degrees)	Maneuvering Lane Width (ft.)	Parking Space (ft.)		Total Width - Tier of Spaces + Maneuvering Lane (ft.)	
		Width	Length	One Tier	Two Tiers

0 (Parallel Parking)	12	8	23	20	28
30 to 53	12	8 ½	20	32	52
<u>54 to 74</u>	15	8 ½	20	36 ½	58
75 to 90	<u>22</u>	9	18	40	58

(d) *Ingress and egress to parking areas shall be provided by means of clearly limited and defined drives as provided for below:*

- (1) All parking areas providing more than five parking spaces shall be provided with a drive for ingress and egress of not less than 24 feet in width. When one-way drives or boulevards are utilized, the minimum width of a lane shall be 12 feet.
- (2) All parking areas providing five or more parking spaces shall be designed so as to not permit vehicles to back directly onto a street.
- (3) Off-street parking facilities for trucks, buses, and recreational vehicles at restaurants, motels, hotels, vehicular service stations, commercial garages, and similar establishments shall be sufficient in size to adequately serve large vehicles and trucks without interfering with other vehicles and must be in accordance with section 82-130, Storage of recreational vehicles and equipment.
- (4) Spaces for these vehicles shall not be less than 12 feet in width and 40 feet in length.
- (5) Access drives for these vehicles shall be designed with adequate turning radius and designs accommodating slow entry onto public streets and highways.
- (6) Commercial vehicles:
 - a. The owner, tenant, or lessee of any lot, parcel, or tract of land in a residential district or on a lot used for residential purposes shall not permit or allow the storage or parking, at any time thereon, of trucks, semi-trucks and tractor trailers, manufactured homes, tractors, bulldozers, earth carriers, drag lines, cranes, steam shovels and/or any other heavy equipment or machinery.
 - b. It is provided, however, that the owner, tenant, or lessee of a farm may openly store the machinery and equipment used on the farm; and it is further provided that equipment necessary to be parked on a lot or parcel during the construction work thereon shall be accepted from this restriction.
 - c. This restriction shall not apply to pickup or panel trucks.

(e) *Parking lots shall be adequately lit to ensure security and safety and shall meet the following requirements:*



Parking Lot Lighting

- (1) Light fixtures shall be no higher than 30 feet and shall be provided with light cut-off fixtures that direct light downward.
- (2) For parking lots serving a single building or groups of related commercial, industrial, or office buildings in excess of 500 spaces, the village council, as part of the site plan approval, may permit a higher light fixture in selected locations within the parking lot where existing or planned residential areas will not be affected.
- (3) Lighting shall not be attached to buildings or other structures that permit light to be directed horizontally.
- (f) *Parking lot landscaping.* This subsection is applicable to parking lots serving any nonresidential or multiple family use in any district. A parking lot landscape plan shall be submitted with any application for a building permit or when otherwise required by this chapter.
 - (1) Existing parking areas:
 - a. The requirements of subsection (f) shall be met for any existing parking lot that is expanded by more than 25 percent of its original existing area, or when any parking area is substantially altered (e.g., removal and replacement of more than 25 percent of existing pavement).
 - b. Any landscaping existing within or bordering any existing parking area shall not be removed unless replaced with landscaping meeting the requirements of this subsection.
 - (2) Landscaping shall be planned and installed so that at planting or maturity it does not obscure traffic signs, fire hydrants, or lighting, or alter drainage patterns on the site or on adjacent properties; obstruct vision for reasons of safety, ingress or egress; or cause damage to utility lines (above and below ground) and public roadways.
 - (3) Any landscaped area required by this section shall be constructed outside any public street right-of-way.
 - (4) All landscaped areas, including perimeter areas, shall be protected by a raised or rolled concrete curb.
 - (5) Frontage landscaping:
 - a. Parking areas directly abutting or facing a public street shall be required to provide screening between the parking area and the road right-of-way. Screening shall consist of, at a minimum, one of the following:
 1. A strip of land at least five feet in width and a solid screen comprised of a hedge or decorative wall, or any combination thereof, which measures at least three feet in height; or
 2. A strip of land at least ten feet in width containing landscaping except that the obscuring screen need not be provided.
 - b. The required strip of land shall also be covered with grass or other approved ground cover.

(6) Interior landscaping:

- a. Interior landscaping shall be provided for any parking area containing 12 or more parking spaces.
- b. The interior of the parking lot shall begin at the outside boundary of the parking area.
- c. The interior area of any parking lot shall incorporate one planting island per each 12 parking spaces, or part thereof.
- d. Each planting island shall be at least 90 square feet in area with a minimum single dimension of nine feet.
- e. Landscaped islands shall be dispersed evenly throughout the parking lot and may be used to separate pedestrian areas, maneuvering areas, and drives.

(Ord. No. 04-07, § 1(16.08), 7-12-2004; Ord. No. 18-04, § 1, 2-12-2018)

Sec. 82-469. - Loading and unloading space requirements.

- (a) In order to prevent undue interference with the public use of streets, every manufacturing, storage, warehouse, department store, wholesale store, retail store, hotel, hospital, laundry, dairy, mortuary, and other uses similarly and customarily receiving or distributing goods by motor vehicle shall provide loading and unloading space on the premises for the number of vehicles that will be at the premises at a particular time on an average day of full use.
- (b) Plans and specifications showing required loading and unloading spaces including the means of ingress and egress and interior circulation shall be submitted pursuant to article V, Site Plan Review.
- (c) Loading spaces required under this section shall be provided as area additional to off-street parking spaces required in this chapter, and shall not be considered as supplying off-street parking space.
- (d) All off-street loading and unloading facilities that make it necessary to back directly into a public road shall be prohibited. All maneuvering of trucks and other vehicles shall take place on the site and not within a public right-of-way.
- (e) There shall be provided adequate space for standing, loading, and unloading services not less than 12 feet in width, 40 feet in length, and 15 feet in height, open or enclosed, for uses listed in the following table:

Use	Floor Area (Sq. Ft.)	Required Spaces
Commercial uses, retail stores, personal services, amusement, auto service	First 2,000	none
	>Next 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Hotels, Offices	First 2,000	none
	Next 50,000 or fraction thereof	1
	Each additional 100,000 or fraction thereof	1

Wholesale and storage uses; building/contractor's yards	First 20,000	1
	Each additional 20,000 or fraction thereof	1
Manufacturing uses	First 20,000 or fraction thereof	1
	Each additional 20,000 or fraction thereof	1
Funeral Homes and Mortuaries	First 5,000 or fraction thereof	1
	Each additional 10,000 or fraction thereof	1
Hospitals	First 10,000	none
	Next 100,000 or fraction thereof	1
	Each additional 200,000 or fraction thereof	1
For similar use not listed	For each building 5,000 or over	1

(f) Design requirements.

- (1) Off-street loading spaces and access drives shall be drained, and shall have appropriate bumper or wheel guards where needed.
- (2) Any light used for illumination shall be arranged to reflect light away from adjoining premises and streets.
- (3) Where any off-street loading space adjoins or abuts a lot or premises used for residential or educational purposes, or abuts the residential district, a masonry wall or solid fence not less than four feet in height shall be provided between the off-street loading and unloading space and said uses or district.

(Ord. No. 04-07, § 1(16.09), 7-12-2004)

Sec. 82-470. - Disabled parking requirements.

Off-street parking areas shall include spaces for the disabled in accordance with the provisions of Act 230 of the Public Acts of the State of Michigan, 1972, as amended and shall be included in the count of required spaces.

(Ord. No. 04-07, § 1(16.10), 7-12-2004)

Secs. 82-471—82-500. - Reserved.

ARTICLE VII. - SIGNS

Footnotes:

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Editor's note— Ord. No. 07-03 § 1, adopted May 14, 2007, amended art. VII in its entirety and enacted similar provisions as set out herein. The former art. VII derived from Ord. No. 04-11 § 3(Att. C), adopted Oct 11, 2004.

Sec. 82-501. - Purpose and intent.

- (a) The purpose of this article is to promote traffic safety, public safety, and the conservation of property values through the application of reasonable controls over the use, size, placement, and general appearance of signs.
- (b) The regulations contained in this article involve recognition that the individual user's right to convey a message must be balanced against the public's right to be free of signs which unreasonably compete, distract drivers and pedestrians, and produce confusion. In balancing the individual user's desire to attract attention with the citizens' right to be free of unreasonable distractions, it is recognized that sign regulations provide business with equal opportunity to attract the public. However, oversized, projecting or crowded signs can lead to pedestrian and driver confusion and distraction, and endanger the public health, safety and welfare.
- (c) It is further recognized that:
 - (1) Signs should be able to reasonably convey their message;
 - (2) Users of property should have reasonable freedom to determine the placement, construction, size, and design of signs as well as the location of buildings; and
 - (3) Sign needs may vary based on particular circumstances.
- (d) It is further recognized that regulations for signs, especially number, size and placement, are desirable in order to:
 - (1) Prevent or limit traffic or pedestrian accidents, injuries, deaths, and property damages resulting from obstructed vision, distraction or confusion to the public or to emergency safety personnel;
 - (2) Minimize the risk of damage and injuries from signs that are dilapidated, windblown, electric shock hazards, etc.;
 - (3) Achieve some uniformity in the size, number and placement of signs;
 - (4) Enhance the aesthetics of the village;
 - (5) Prevent blight;
 - (6) Encourage equality among business and property, and;
 - (7) Otherwise protect the public health, safety, peace and general welfare.
 - (8) The purpose of this ordinance does not include the regulation of the content or any information included on the sign, except that information such as a street address which may be required for the purposes of public safety.

(Ord. No. 07-03, § 1, 5-14-2007; Ord. No. 18-05, § 1, 2-12-2018)

Sec. 82-502. - Definitions.

The following definitions refer to this article and are placed here for convenience. Section 82-42 shall be used for the purpose of interpreting the following definitions.

- (1) *Sign*. Every individual announcement, declaration, demonstration, display, illustration, insignia, surface or space erected or maintained in view of the general public for identification, advertisement or promotion of the interest of any person or group of persons.
- (2) *Sign types*.
 - a. *Freestanding*. A sign which is supported by a structure, poles, or braces which are less than 50 percent of the width of the sign, with all parts of the display surface of the sign eight feet or more above the grade at the base of the sign.
 - b. *Ground*. A sign supported by a base which rests directly on the ground. The width of the base shall be at least 50 percent of the width of the sign in order to be a ground sign.
 - c. *Marquee*. A sign attached to or hung from the underside of a marquee, awning, canopy, or other covered structure projecting from and supported by a building and does not project horizontally beyond or vertically above said marquee, awning, canopy, or covered structure.
 - d. *Portable*. A type of temporary sign that is not permanent, and not affixed to a building, structure or the ground, including signs supported on mobile chassis other than motor vehicles.
 - e. *Projecting*. A sign attached directly to the building wall, extending more than 15 inches but not more than five feet from the face of the wall.
 - f. *Roof*. A sign erected, constructed and maintained upon or above the roof of a building, or parapet wall and which is wholly or partially supported by the building.
 - g. *Wall*. A sign that is attached directly to a wall, mansard roof, roof overhang, parapet wall, or above a marquee of a building with the exposed face of the sign in a place parallel to the building wall or to the surface on which it is mounted, and which projects not more than 12 inches from the building or structure wall, and which does not have any part of such sign or sign supports extending above the roof lines.
 - h. *Vehicle and pedestrian safety*. Signs that do not exceed four square feet in area of three feet in height, essential to the safe movement of vehicles and pedestrians.
 - i. *Awning*. Letters, numerals or other drawings painted on, printed on, or attached flat against the surface of an awning or canopy.
 - j. *Balloon and inflatable*. Any three-dimensional object, including a tethered balloon, capable of being filled with air or gas depicting a container, figure, product or product trademark, whether or not such object contains a message or lettering.
 - k. *Banner, flag, flutter flag, and feather flag*. A portable sign of fabric, nylon, plastic, or other non-rigid material without an enclosing structural framework, attached to or hung from a pole or rope, or to a building or structure.
 - l. *Pennant*. A flag or cloth that tapers to a point.
 - m. *Festoons*. A string of ribbons, tinsel, flags, pennants, or pinwheels.
 - n. *Streamer*. A long, narrow strip of material used as a decoration or symbol.
 - o. *Permanent*. A sign installed on a support structure which is not intended or designed to be moved or removed, but to remain for an indefinite period of time.
 - p. *Wire frame*. A temporary sign made of corrugated plastic, vinyl, cardboard, poster board or similar material which is supported by or attached to a metal frame.

- q. *Reader board.* A portion of a sign on which copy is changed manually.
 - r. *Electronic message display.* A sign that uses changing lights or other electronic media to form a sign message wherein the sequence of messages and the rate of change is electronically programmed and can be modified by an electronic process.
 - s. *Government.* A sign erected or required to be erected by the Village of Sparta, Kent County, the State of Michigan, or the federal government.
 - t. *Temporary sign.* A display, informational sign, or other message device with or without a structural frame and intended for a limited period of display, as specified herein.
 - u. *Sidewalk and A-frame.* A portable sign designed to be placed on the sidewalk in front of the use to which it relates. This sign is also called a sandwich board sign.
 - v. *Window.* A sign installed on the interior or exterior of a window and intended to be viewed from the outside.
- (23) *Vehicle.* A sign painted on, incorporated in, or attached directly to any mode of transportation, including but not limited to automobiles, trucks, boats, trailers, semi-trailers, or airplanes.
- w. *Video display.* A sign which changes its message or background in a manner characterized by moving images of a television quality, and may include a progression of frames which give the illusion of motion, including the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes. Video display signs include projected images or messages with these characteristics onto buildings or other objects.
- (3) *Display area.* The entire area enclosing the extreme limits of writing, lighting, representation, emblem or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed (see subsection [82-503\(b\)](#)).
- (4) *Roof line.* The uppermost line of the roof of a building or, in the case of an extended facade, the uppermost height of that facade.
- (5) *Sign setback.* The minimum linear distance measured from the street right-of-way line to the nearest part of the sign or message structure.
- (6) *Nit* means a unit of luminance (brightness) equal to one candela (12.5 lumens or 1.16 foot candles) per square meter, measured perpendicular to the rays of the source.

(Ord. No. 07-03, § 1, 5-14-2007; Ord. No. 18-05, § 1, 2-12-2018)

Sec. 82-503. - General provisions related to signs.

(a) *Permits.*

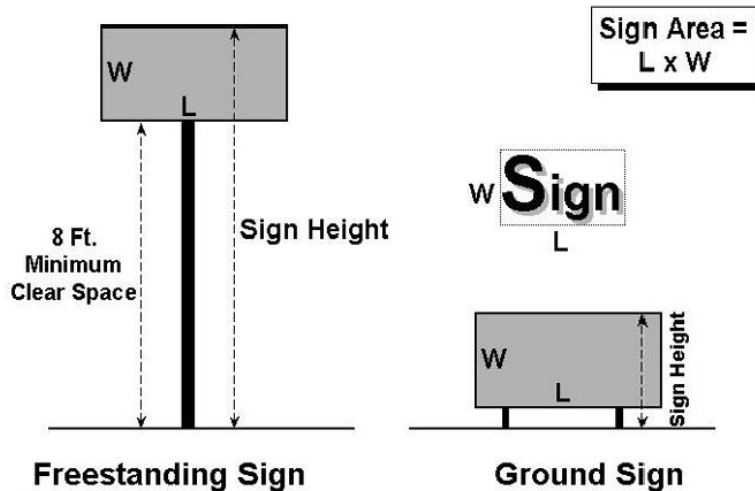
- (1) No sign shall be erected, replaced, structurally altered, enlarged, illuminated, changed in purpose, or relocated without first obtaining a sign permit pursuant to this article, except those signs specifically exempted by subsection (d).
- (2) An application for a sign permit shall be made to the village clerk, by the owner of the property on which the sign is proposed to be located or by his or her agent, or lessee.
- (3) The zoning administrator shall review all properly filled out applications for sign permits and issue permits on for those applicants fully meeting the criteria established in this article and the village building code. The

zoning administrator shall approve or reject the application within a reasonable time after receipt of a completed application submittal.

- (4) A schedule of permit fees shall be established and may be amended from time to time by resolution of the village council.

(b) *Determination of display area and height.*

- (1) Except as noted in subsections (3) and (4) below, the display area permitted for any sign shall be determined as the entire area within a square, rectangle, circle, triangle or parallelogram enclosing the extreme limits or writing, lighting, representation, emblem or any figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed.



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- (2) Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign; except that where two such faces are placed back to back and are at no point more than three feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or as the area of the larger face if the two faces are of unequal area.
- (3) The display area of signs painted directly on building wall surfaces shall be limited to that area within a circle, square, rectangle, triangle, or parallelogram enclosing the extreme limits of writing, letters or numbers.
- (4) The height of a sign shall be measured to the maximum vertical distance from the uppermost extremity of a sign or sign support to the average ground level at the base of the sign. Berms or other supporting measures for any sign shall be included in the computation for height.
- (5) Buildings with multiple tenants.
- The sign areas for wall signs, marquee signs, projecting signs, and awning signs shall be determined by taking that portion of the front wall of the building, applicable to each tenant space, and computing sign requirements for that portion of the total wall.
 - For a building located on a corner lot, the wall area of the tenant space along the side portion of the building shall be used to calculate the sign area for a second wall sign, awning sign, or projecting sign.
 - Each sign shall be attached to the same wall which is used to determine its size.

(c) *Prohibited signs.*

- (1) Any sign not expressly permitted is prohibited, including all signs noted in this subsection.
 - (2) Roof signs. For the purpose of this article, a sign that is mounted on a mansard roof, roof overhang, parapet wall, above a marquee, or on a wall with a roof below shall not be considered as a roof sign, but shall instead be considered as a wall sign for that side of the building, provided that no part of such sign extends above the uppermost building line not including chimneys, flag poles, electrical, mechanical equipment, TV antennas and other similar equipment and extensions.
 - (3) Flashing, moving, oscillating, blinking, or variable-intensity light or intermittent lights resembling the flashing lights customarily used in traffic signals, or police, fire, ambulance, or rescue vehicles, or lights so bright as to be blinding or distracting to a vehicle driver.
 - (4) A sign having any moving or animated parts or that have the appearance of moving or animated parts. This shall not be construed to prohibit signs with manually changed letters, such as those used for reader boards or other similar signs. Video signs as defined herein are prohibited.
 - (5) A sign using words, phrases, symbols, or characters, in such a manner as to interfere with, mislead, or confuse a vehicle driver.
 - (6) Any sign which obstructs the ingress or egress from a required door, window, or other required exit.
 - (7) Signs located in the right-of-way of public streets or highways, except as may otherwise be permitted by this chapter.
 - (8) Any sign displaying obscene material.
- (d) *Signs exempt from the requirements of this chapter.* The following signs are permitted with permission of the landowner without a written sign permit and, are not subject to the requirements of this chapter:
- (1) Government signs five square feet or less erected on government property or in the public right-of-way.
 - (2) Any sign two square feet or less in size and no more than four feet in height, except electronic message displays. No more than three such signs shall be permitted on one parcel, and shall not be erected in the public or private right-of-way.
 - (3) Flags of any nation, state, city, township, government, or government authorized agency. Such flags shall only be displayed on a flag pole and shall not be erected in the public or private road right-of-way. If any flag shares the same pole as the United States flag, the United States flag shall be the largest flag, and any other flag shall be placed below the United States flag.
 - (4) Balloon and inflatable signs which are 12 inches or less in diameter.
 - (5) In no case shall a sign exempt under this section be permitted on public property without permission from the appropriate government agency.
- (e) *Signs exempt from sign permits.* The following signs and activities are permitted with permission of the landowner without a written sign permit, subject to the applicable requirements of section 82-506.
- (1) Temporary signs of six square feet or less.
 - (2) Ordinary maintenance of signs such as painting and cleaning.
 - (3) Changing of sign message. Any non-commercial speech may be substituted for commercial speech on a sign, and any commercial speech may be substituted for non-commercial speech on a sign, subject to the regulations for signs contained herein.
 - (4) Traffic-control, directional, warning, or informational signs when authorized by a public agency having appropriate jurisdiction that conforms to the requirements of the Michigan Manual of Uniform Traffic Control

Devices.

(f) *Responsibility and removal.*

- (1) All signs located in the village shall be erected, altered, and maintained at the risk of the owner thereof, who shall assume full responsibility for consequences of damage caused thereby.
- (2) Any sign erected, altered or maintained shall, upon a determination by the building inspector that such sign is unsafe or not properly maintained, be removed by the owner of the building, structure, or property upon which such sign is located, within 30 days of receipt of written notice by the zoning administrator.

(Ord. No. 07-03, § 1, 5-14-2007; Ord. No. 18-05, § 1, 2-12-2018)

Sec. 82-504. - Signs permitted in any zoning district.

(a) Temporary signs subject to the following:

- (1) A temporary sign may be installed concurrent with the event to which the sign relates, and shall be removed upon the conclusion of the event. The zoning administrator shall have the discretion to determine the beginning and the conclusion of the event.
- (2) The zoning administrator shall have the discretion to determine when a temporary sign is a permanent sign, subject to the regulations for permanent signs in each zoning district.
- (3) Signs held by a person, and the person holding the sign, shall be located outside the public or private road right-of-way, and shall not hamper the visibility of a driver on or off the parcel.
- (4) Temporary banner, flag, feather and flutter flags not to exceed one such sign per parcel are allowed in the R-4 single-, two-family, and multiple family districts, O-office district, GC-general commercial, CBD-central business district, LI-light industrial district, and in mixed use, commercial, and industrial-PUD zoning districts, subject to the following:
 - a. Each banner, flag, feather or flutter flag sign shall not exceed 20 square feet in size and eight feet in height. The sign may be displayed in conjunction with other temporary and permanent signs as allowed within each zoning district. A permit shall be required for the display of a temporary banner, flag, feather or flutter flag.
 - b. A temporary banner, flag, feather or flutter flag sign shall be displayed for a maximum of ten days per calendar month for a maximum of 120 days in a calendar year. An application provided by the village and signed by the applicant shall list the specific days, or the span of consecutive days, during which the sign will be displayed, and also the date or dates on which the sign shall be removed during the calendar year. An application shall be effective within one calendar year only, regardless of when the first application for sign display is approved.
 - c. If a banner, flag, feather or flutter flag sign is displayed on days outside of the approved permit the zoning administrator shall reduce the number of days the sign is permitted to be displayed during the next requested period of display by the same number of days by which the sign exceeded the number of days listed on the approved application. Example: If a sign is displayed three days longer than the number of days listed on the approved application the zoning administrator shall reduce the next requested period of display by three days. The zoning administrator shall provide notice of such reduction in writing to the holder of the temporary sign permit.
 - d. All temporary banner, flag, feather or flutter flag signs shall be properly maintained but shall be removed

if they become torn, faded, unreadable, or otherwise unsightly at the discretion of the zoning administrator.

- (5) Portable temporary signs supported on mobile chassis other than motor vehicles.
 - a. One portable sign without illumination not larger than 32 square feet in size, upon obtaining a permit, is permitted on a parcel within the O-office district, GC-general commercial, CBD-central business district, LI-light industrial district, and in mixed use, commercial, and industrial-PUD zoning districts, provided that, the sign is located on the parcel that it serves for not more than 30 consecutive days and not more than four times in any calendar year.
 - b. The setbacks required for portable signs supported on mobile chassis other than motor vehicles shall be as required for temporary signs as required by section 82-506.
 - c. A permit shall be required for the display of a portable sign supported on mobile chassis other than motor vehicles.
 - (6) Pennants, festoons and streamers are allowed in the R-4 single-, two-family, and multiple family districts, O-office district, GC-general commercial, CBD-central business district, LI-light industrial district, and in mixed use, commercial, and industrial-PUD zoning districts provided they are properly maintained but shall be removed if they become torn, faded, unreadable, or otherwise unsightly at the discretion of the zoning administrator. They may be displayed in conjunction with other temporary and permanent signs. A permit shall be required for the display of these items.
 - (7) A sidewalk or A-frame sign is permitted only on property zoned GC-general commercial and the CBD-central business district, subject to the following:
 - a. The sign shall not obstruct sidewalks, driveways, rights-of-way, or site visibility areas. The sign may be placed in the right-of-way of streets in the CBD-central business district at the discretion of the zoning administrator.
 - b. One sign is permitted for each public entrance to an establishment, not to exceed the number or temporary signs permitted by this chapter.
 - c. Signs shall be placed directly in front of the business using the sign, and no closer than one foot and no further than three feet from the street curb. A minimum of five feet of sidewalk width shall remain to permit the free flow of pedestrian traffic.
 - d. The sign shall be a maximum of four feet in height, and shall be no wider than two feet between each sign face. The sign shall be a maximum of eight square feet per side.
 - e. Operation of the temporary sign is limited to normal hours of operation for the use.
 - (7) Only two temporary signs shall be permitted on a lot or parcel or as otherwise permitted by this chapter.
 - (8) No temporary sign shall be closer than five feet from the right-of-way of any public or private street, except for sidewalk or A-frame signs as regulated by section 82-504(a)(7) and temporary signs as regulated by section 82-506.
 - (9) All temporary signs requiring a sign permit shall be designed and constructed to withstand a wind pressure of not less than 30 pounds per square foot of area.
- (b) *Vehicle and pedestrian safety.* Signs essential to the safe movement of vehicles and pedestrians are permitted for each parcel provided the size of each sign does not exceed four square feet and three feet in height, and provided each sign is located at least five feet from any lot line.

(Ord. No. 07-03, § 1, 5-14-2007; Ord. No. 18-05, § 1, 2-12-2018)

Sec. 82-505. - Nonconforming signs.

- (a) Every permanent sign that does not conform to the height, size, area, or location requirements of this article as of the date of the adoption of this article is hereby deemed to be nonconforming.
- (b) Excepted as noted in subsection (c), below, nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.
- (c) For purposes of this article, a sign that is nonconforming by area or height may alter its structure by diminishing its size or height, provided the alteration reduces the nonconforming size or height by a minimum of 50 percent without jeopardizing the privilege of nonconforming size. This section shall not apply to signs with nonconforming setbacks.
- (d) Any nonconforming sign destroyed by fire or other casualty loss shall not be restored or rebuilt if the cost of reconstruction will constitute more than 50 percent of the value of the sign on the date of loss.
- (e) Any nonconforming sign, upon a determination by the building inspector that such sign is unsafe or not properly maintained, shall be removed by the owner of the building, structure, or property upon which such sign is located, within 30 days of receipt of written notice by the zoning administrator.
- (f) A sign accessory to a nonconforming use may be erected in the village in accordance with the sign regulations for the applicable zoning district.

(Ord. No. 07-03, § 1, 5-14-2007; Ord. No. 18-05, § 1, 2-12-2018)

Sec. 82-506. - Sign requirements for individual zoning districts.

RESIDENTIAL ZONING DISTRICTS—PERMITTED SIGNS IN THE R-1, R-2, R-3, R-4 AND RESIDENTIAL PUD DISTRICTS	
<i>Ground Signs</i>	
Number	1 per major entrance to a subdivision, condominium, or one ground sign per parcel as part of an application for and approval of a special land use
Size	No greater than 25 sq. ft.
Location	Minimum of ½ of the front setback required for main buildings and a minimum of 15 ft. from any side or rear property line
Height	No higher than 8 ft.
<i>Wall Signs</i>	
Number	1 per street frontage as part of an application for and approval of a special land use

Size	No greater than 5% of the wall area to which the sign is affixed
Location	On 1 wall of building facing either the street or the main parking area
<i>Temporary signs as regulated by <u>Section 82-504 (a)</u> and the following</i>	
Number	2 per parcel
Size	No greater than 6 sq. ft. each
Location	Minimum of 10 ft. from any side or rear property line
Height	No higher than 6 ft.

PERMITTED SIGNS IN THE GC DISTRICT AND THE COMMERCIAL PUD DISTRICT

Ground Signs

Number	1 per street frontage (provided the frontage meets the required lot width for the district in which it is located), except that only 1 ground sign or 1 freestanding sign shall be permitted per street frontage
Size	1 sq. ft. for each 1½ feet of lot frontage, not to exceed 75 sq. ft.
Location	Minimum of 10 ft. from any side or rear property line
Height	No higher than 8 ft.

Freestanding Signs

Number	1 per street frontage (provided the frontage meets the required lot width for the district in which it is located), except that only 1 ground sign or 1 freestanding sign shall be permitted per street frontage
Size	1 sq. ft. for each 1½ of lot frontage, not to exceed 50 sq. ft.
Location	Minimum of 10 ft. from any side or rear property line

Height	No higher than 20 ft., except when the front setback of the sign exceeds 10 ft., 1 additional foot in height allowed for each additional foot in setback beyond 10 ft.
<i>Wall Signs</i>	
Number	1 per street frontage and 1 per main parking area without street frontage.
Size	No greater than 15% of the wall area to which the sign is affixed.
Location	On wall of building facing street and/or facing the main parking area
<i>Temporary signs as regulated by <u>Section 82-504 (a)</u> and the following</i>	
Number	2 per parcel
Size	No greater than 32 sq. ft. total
Location	Minimum of 10 ft. from any side or rear property line
Height	No higher than 6 ft.

CBD CENTRAL BUSINESS COMMERCIAL DISTRICT—PERMITTED SIGNS

<i>Wall Signs</i>	
Number	1 wall sign per street frontage and parking lot frontage plus 1 projecting sign for each public entrance to a business establishment.
Size	Street frontage no greater than 10% percent of the wall area to which the sign is affixed
	Parking lot frontage no greater than 5% percent of the wall to which the sign is affixed
<i>Projecting Signs</i>	
Number	1 projecting sign for each public entrance to a business establishment
Size	Shall extend no more than five feet from the building. No greater than 20 square feet
Location	On wall of building facing street and wall facing public or private parking area

Height	Signs shall be mounted minimum eight feet from bottom of sign and not higher than the roof line of the building or the bottom of the window of the second story
<i>Ground sign or freestanding sign, when no projecting signs are used</i>	
Number	1 per street frontage (provided the frontage meets the required lot width for the district in which it is located), except that only 1 ground sign or 1 freestanding sign shall be permitted per street frontage
Size	No greater than 50 sq. ft. per sign
Location	Minimum of 5 ft. from any property line or adjacent building
Height	Ground sign: No higher than 8 ft.
	Freestanding sign: No higher than 20 ft.
<i>Temporary signs as regulated by <u>Section 82-504 (a)</u> and the following</i>	
Number	2 per parcel
Size	No greater than 32 sq. ft. total
Location	Minimum of 5 ft. from any property line or adjacent building
Height	No higher than 6 ft.
<i>Marquee Signs</i>	
Number	1 per street frontage
Size	No greater than 50 sq. ft.
Location	On face of marquee
Height	Minimum clear space of 8 ft. from bottom of marquee
<i>Awning Signs</i>	
Number	1 per awning face
Size	No greater than 50% of any awning face to which the sign is affixed

Location	On face of awning
Height	Minimum clear space of 8 ft. from bottom of awning

O-OFFICE DISTRICT—PERMITTED SIGNS

Signs are permitted in accordance with the requirements for signs in the GC General Commercial District, with the requirements of [section 82-254](#) (3) and in accordance with the following

Ground Signs

Size	No greater than 32 sq. ft.
Height	No greater than 6 ft.
Location	Minimum of five ft. from any side or rear property line
Note	No freestanding signs are permitted in the O-Office District

LI LIGHT INDUSTRIAL DISTRICT AND INDUSTRIAL PUD DISTRICT—PERMITTED SIGNS

Ground Signs

Number	1 per lot or parcel
Size	No greater than 50 sq. ft.
Location	Minimum of 10 ft. from the front property line, 15 ft. from side and rear lot lines
Height	No higher than 6 ft.
<i>Wall Signs</i>	
Number	1 per street frontage
Size	No greater than 10% of the wall area to which the sign is affixed

Temporary signs as regulated by Section 82-504 and the following

Number	2 per parcel
Size	No greater than 32 sq. ft.
Location	Minimum of 5 ft. from the front property line, 15 ft. from side and rear lot lines
Height	No higher than 6 ft.

MIXED USE PUD AND TRADITIONAL NEIGHBORHOOD DEVELOPMENT PUD DISTRICT PERMITTED SIGNS

Signs permitted in the Mixed Use PUD district and the Traditional Neighborhood Development PUD district shall be as approved by the Village Council upon recommendation by the Planning Commission.

(Ord. No. 07-03, § 1, 5-14-2007; Ord. No. 12-03, § 2, 2-13-2012; Ord. No. 18-05, § 1, 2-12-2018)

Sec. 82-507. - Electronic message display signs.

Electronic message display signs are subject to the following:

- (1) All sites and uses of EMDs within 150 feet of and facing or visible to a residential use or residential district. Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement of any illumination or the flashing, scintillating, or varying of light intensity. Each message on the sign must be displayed for a minimum of 30 seconds. Background graphics are also subject to this restriction.
- (2) All other sites and use of EMDs. The displays shall be limited to static display messages that appear or disappear from the display through dissolve, fade, travel or scroll modes, or similar transitions and frame effects that have text, graphics, or images that are revealed or appear sequentially rather than all at once. Unless further restricted under the sign provisions applicable to a specific zoning district, each message on the sign must be displayed for a minimum of 30 seconds.
- (3) An electronic message display shall not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 150 nits between dusk to dawn as measured at the sign's face at maximum brightness.

However, if such signs comply with the illumination requirements required herein, such signs shall not, in the opinion of the zoning administrator, be of such intensity or brilliance as to impair the vision of or be distraction to a motor vehicle driver with average eye sight, or to otherwise interfere with the driver's operation of a motor vehicle, or be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

- (4) Prior to the issuance of a sign permit for an electronic message display, the applicant shall provide to the zoning administrator certification from the manufacturer of the sign that the illumination settings for the sign comply with maximum illumination requirements of this section.
- (5) An electronic message display shall be equipped with a brightness control sensor that allows for the brightness to be adjusted either manually or automatically.
- (6) An electronic message display shall not consist of more than 50 percent of the allowable sign area for that sign.
- (7) Electronic message displays which are used for drive-through restaurants, gas stations, and similar establishments serving motorists are exempt from the requirements of section 82-507 herein provided the electronic message display area is eight inches or less in height, and the sign is not visible to adjacent residential uses.
- (8) Video display signs are prohibited.
- (9) Electronic message display signs are only permitted in the general commercial (GC), central business district (CBD), O-office district, mixed use PUD district, traditional neighborhood development PUD district, commercial PUD district, industrial PUD district, and light industrial (LI) zoning districts. Electronic message display signs are only permitted in the R-1, R-2, R-3, R-4 and residential PUD district when such sign is approved as part of an application for an approval of special land use.

(Ord. No. 18-05, § 1, 2-12-2018)

Sec. 82-508. - Window signs.

Permitted window signs are subject to the following:

- (1) Message shall be affixed to the internal portions of the window and may only include decals or paintings. No direct illumination is permitted.
- (2) Window signs shall not obscure more than 50 percent of the window area. If the building has more than one window on a wall, and no wall sign on the same wall, the calculation shall be done based on the window area of the cumulative total area of the windows on the entire wall, not the individual window. If the business has a wall sign located on the same wall with multiple windows, this multiple window calculation shall not be allowed, and each individual window sign shall not obscure more than 50 percent of the window area.
- (3) Window signage located in the CBD shall be subject to the requirements of section 82-508(b), but in no case shall any individual window be obscured by more than 25 percent of the window area. Only windows located on the ground floor of the structure will be used for CBD calculations. Windows located in the CBD are also subject to section 82-295, general building design accent standards subsection (c), Windows.
- (4) In addition to the window signs and sign area permitted in section 85-508 (b) and (c), one electronic message display sign is permitted for each windowed building front facing a street or alley. The sign may be positioned within any window located on the ground floor of a building. Electronic window signs may not exceed 2.5 square feet in area. Neon lights and light emitting diodes (LED) are permitted. The regulations of section 82-507 shall apply.
- (5) Window signs are only permitted in the general commercial (GC), central business district (CBD), O-office district, mixed use PUD district, traditional neighborhood development PUD district, commercial PUD district, industrial PUD district, and light industrial (LI) zoning districts. Window signs are only permitted in the R-1, R-

2, R-3, R-4, and residential PUD district when such sign is approved as part of an application for an approval of a special land use.

(Ord. No. 18-05, § 1, 2-12-2018)

Secs. 82-509—82-540. - Reserved.

ARTICLE VIII. - ZONING BOARD OF APPEALS

Sec. 82-541. - Intent and purpose.

It is the intent of this article to insure that the objectives of this chapter are fully and equitably achieved, that a means be provided for competent interpretation of this chapter, that flexibility be accomplished in the strict application of its provisions, and that the spirit of this chapter be observed, public safety secured, and substantial justice done.

(Ord. No. 04-07, § 1(18.01), 7-12-2004)

Sec. 82-542. - Creation and membership.

- (a) *[Established.]* There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided in the Zoning Act.
- (b) *[Membership.]* The board shall consist of five members appointed by the village council. Each member shall hold office for a three-year term. One member may be a member of the planning commission, serving the same term as on the commission. One member may be a member of the village council, serving the same term as on the council.
- (c) *Alternates.*
 - (1) The council may appoint not more than two alternate members for the same term as regular member of the board.
 - (2) An alternate member may be called to sit as a regular member of the board in the absence of a regular member if the regular member will be unable to attend one (1) or more meetings or to serve in place of a regular member for the purpose of reaching a decision in a case where the regular member has abstained for reasons of conflict of interest.
 - (3) Once called, the alternate member shall act in place of the regular member on the board until a final decision is made on the application for which the alternate member was called.
 - (4) When serving as a member, an alternate member shall have the same voting rights as a regular member of the board.

(Ord. No. 04-07, § 1(18.02), 7-12-2004; Ord. No. 06-02, § 2, 8-14-2006)

Sec. 82-543. - Organization.

- (a) The zoning board of appeals shall adopt rules and/or procedures for the conduct of its meetings and the performance of its powers and duties. The procedures shall be in accord with the provisions of this chapter and applicable state law. The board shall annually elect a chairperson, a vice chairperson, and a secretary.
- (b) Meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as

the board may specify in its rules of procedure. The applicable provisions of Public Act 267 of 1976, as amended, MCL 15.261 et seq. (Open Meetings Act) shall apply.

- (c) A majority of the total membership of the board, three members, shall comprise a quorum.
- (d) Minutes shall be kept of each meeting and the zoning board of appeals shall record into the minutes all findings, conditions, facts, and other relevant factors, including the vote of each member upon each case. All meetings and records shall be open to the public. All minutes shall be filed in the office of the village clerk. The village clerk, or the clerk's agent, shall act as recording secretary to the zoning board of appeals, including recording the minutes, publishing legal notices, and providing notices to property owners and others required by law.
- (e) Applications shall not be accepted by the zoning administrator unless all of the following information is submitted:
 - (1) A completed application form (provided by the village);
 - (2) An accurate, scaled site plan with enough information to clearly indicate the nature of the issue being considered. The zoning administrator shall determine the completeness and adequacy of submitted plans.
 - (3) An application fee, as determined by the village council from time to time.
 - (4) A written explanation from the applicant indicating compliance with the applicable review standards of section 82-544, or other applicable provisions of this chapter.
- (f) The village clerk shall fix a reasonable time and date for a public hearing after receipt of an application as required by this chapter.
 - (1) Notice shall be given in accordance with the Zoning Act.
 - (2) The board may adjourn any meeting held in order to allow the obtaining of additional information, or other reasons it deems necessary.

(Ord. No. 04-07, § 1(18.03), 7-12-2004; Ord. No. 06-02, § 3, 8-14-2006)

Sec. 82-544. - Powers and duties.

- (a) The zoning board of appeals shall hear only those matters that it is authorized to hear by the Zoning Act and this chapter and shall render its decision based upon the criteria contained in this chapter. The zoning board of appeals shall hear the following applications in accordance with the indicated procedures and standards.
- (b) Administrative appeals.
 - (1) The zoning board of appeals shall hear and decide appeals where it is alleged that there is an error in fact, procedure, or interpretation in any order, requirement, permit, or decision made by the zoning administrator or other body enforcing the provisions of this chapter.
 - (2) Reserved.
 - (3) All appeals of administrative decisions must be taken within 21 days of the date when the action being appealed was completed. Upon filing of an appeal, the zoning administrator shall transmit all applicable documents and records to the board.
 - (4) The hearing procedures for appeals shall be the same as those of subsection 82-543(f).
- (c) Interpretations: The zoning board of appeals shall have the power to make an interpretation of the provisions of this chapter when it is alleged that certain provisions are not clear or that they could have more than one meaning. In deciding upon the request, the board shall insure that its interpretation is consistent with the intent

and purpose of this chapter and the article in which the language in question is contained.

(d) Variances.

- (1) The zoning board of appeals, after public hearing, shall have the power to grant requests for variances from the provisions of this chapter where it is proved by the applicant that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the chapter relating to the construction, equipment, or alteration of buildings or structures.
- (2) Nonuse variance. A nonuse variance may be allowed by the zoning board of appeals only in cases where there is reasonable evidence of practical difficulty related to the property in question in the official record of the hearing and that all of the following conditions are met:
 - a. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district. Exceptional or extraordinary circumstances or conditions include:
 1. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter; or
 2. Exceptional topographic conditions or other extraordinary situation on the land, building or structure; or
 3. The use or development of the property immediately adjoining the property in question; whereby the literal enforcement of the requirements of this chapter would involve practical difficulties; or
 4. There is a physical handicap affecting the owners of the property or any member of the family of an owner who resides on the property which impairs the ability of the disabled person to utilize or access the property.
 5. Any other physical situation on the land, building or structure deemed by the zoning board of appeals to be extraordinary.
 - b. The condition or situation of the specific parcel of property for which the variance is sought is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situations.
 - c. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
 - d. The variance will not be significantly detrimental to adjacent property and the surrounding neighborhood.
 - e. The immediate practical difficulty causing the need for the variance request was not created by any affirmative action of the applicant.
 - f. The variance will not impair the intent and purpose of this chapter.
 - g. The variance, if granted, would be the minimum variance to afford relief and would be the least modification of the applicable provisions of this chapter.
- (3) Use variances: A use variance may be allowed by the zoning board of appeals only in cases where there is reasonable evidence of unnecessary hardship related to the property in question in the official record of the hearing that all of the following conditions are met:
 - a. The building, structure, or land cannot be reasonably used for a use allowed in the zone district in which

it is located.

- b. The condition or situation of the specific parcel of property or the intended use of such property for which the variance is sought is unique to that property and not commonly present in the general vicinity or in the zone district. Unique conditions or situations include:
 1. Exceptional narrowness, shallowness or shape of a specific property on the effective date of this chapter;
 2. Exceptional topographic conditions or other extraordinary situation on the land, building or structure;
 3. The use or development of the property immediately adjoining the property in question; or
 4. Any other physical situation on the land, building or structure deemed by the zoning board of appeals to be extraordinary.
 - c. The proposed use will not alter the essential character of the neighborhood or the intent of the master plan.
 - d. The immediate unnecessary hardship causing the need for the request was not created by any affirmative action of the applicant.
 - e. The variance, if granted, would be the minimum variance to afford relief and would be the least modification of the applicable provisions of this chapter.
- (4) Prior to the decision of the zoning board of appeals on a request for a use variance, the board may request that the planning commission, upon presentation by the applicant, consider the application and forward a report to the zoning board of appeals. The report shall be limited to the planning commission's review of the effect of the proposal on the existing or intended character of the neighborhood (subsection (d)(3)c of this section) and the ability of the property owner to use the property for a use already permitted under the existing zoning classification (subsection (d)(3)a of this section).

(Ord. No. 04-07, § 1(18.04), 7-12-2004; Ord. No. 11-05, § 1, 7-11-2011)

Sec. 82-545. - Voting requirements, effect of variances, resubmission.

- (a) Except for use variances, the concurring vote of a majority of the entire membership of the zoning board of appeals, (at least three members,) shall be necessary to decide in favor of the applicant for a nonuse variance or other matter upon which the board is required to pass.
- (b) For use variances, a two-thirds vote of the entire membership of the zoning board of appeals, (at least four votes,) shall be required in order to decide in favor of the applicant.
- (c) All decisions of the zoning board of appeals shall become final upon approval of the minutes for the meeting at which the decision was made, unless the board finds, and certifies on the record, that it is necessary for the decision to have immediate effect in order to prevent a hazard, or preserve property or personal rights.
- (d) Every variance granted under the provisions of this chapter shall become null and void unless the construction authorized by such variance has been commenced within six months after the date of the final decision.
 - (1) An applicant may, at no cost, request up to one six-month extension of said variance from the zoning board of appeals, if applied for in writing prior to the expiration of the variance approval.
 - (2) The zoning board of appeals may grant an extension provided that the original circumstances authorizing the variance have not changed and that the circumstances creating the need for the extension were beyond the reasonable control of the applicant.

- (e) No application for a variance which has been denied wholly or in part by the zoning board of appeals shall be resubmitted for a period of one year from the date of the denial, except on the grounds of newly discovered evidence or proof of changed conditions found, upon inspection by the zoning administrator, to be valid.

(Ord. No. 04-07, § 1(18.05), 7-12-2004)

Sec. 82-546. - Conditions of approval.

- (a) The zoning board of appeals may impose, in writing, specific conditions with an affirmative decision pursuant to the Zoning Act. The breach of any condition shall be a violation of this chapter.
- (b) Performance guarantee: The zoning board of appeals may require submission of a performance guarantee in accordance with the provisions of section 82-590 to insure compliance with any conditions or requirements imposed with any decision of the board.
- (c) Certification of compliance: The zoning administrator shall certify whether all conditions and other requirements of a decision reached by the board have been fulfilled, as a precondition to the issuance of any permit required for development, construction, occupancy or use within the area governed by the decision.

(Ord. No. 04-07, § 1(18.06), 7-12-2004)

Secs. 82-547—82-580. - Reserved.

ARTICLE IX. - ADMINISTRATION AND ENFORCEMENT

Sec. 82-581. - Responsibility.

The mayor shall supervise the administration of this chapter. The planning commission shall monitor the administration of this chapter through reports from the zoning administrator. The planning commission may recommend to the village council policies and procedures to assist the zoning administrator in the administration and enforcement of this chapter. Upon adoption by the village council, the zoning administrator shall carry out the policies and procedures of this chapter.

(Ord. No. 04-07, § 1(19.01), 7-12-2004)

Sec. 82-582. - Zoning administrator.

The mayor shall appoint a zoning administrator to act as the officer to properly and consistently administer and enforce this chapter. The village council shall establish the terms and conditions of employment. The zoning administrator shall have all power and authority granted by law and necessary to enforce this chapter, and shall, among other responsibilities, be empowered to issue appearance summons, seek legal action against alleged violations through the village attorney, and bring civil action in the name of the village against the violations of the provisions of this chapter.

(Ord. No. 04-07, § 1(19.02), 7-12-2004)

Sec. 82-583. - Duties of the zoning administrator.

The zoning administrator shall enforce the provisions of this chapter and shall perform the following duties:

- (1) All applications for permits required by this chapter shall be submitted to the zoning administrator who shall

issue permits when all applicable provisions of this chapter have been met. Permits shall be issued after due regard has been given to land restrictions and reservations of record.

- (2) The zoning administrator shall maintain files of all applications for permits and shall keep records of all permits issued. These files and records shall be open to public inspection, and copies shall be furnished, at cost, upon request.
- (3) The zoning administrator shall be empowered to make inspections of buildings or premises in order to properly carry out the enforcement of this chapter.
- (4) The zoning administrator shall keep a record of filed complaints of violations of the provisions of this chapter and of the action taken in response to each complaint.

(Ord. No. 04-07, § 1(19.03), 7-12-2004)

Sec. 82-584. - Duties of the planning commission.

The planning commission shall perform the following duties:

- (1) Recommend policies and procedures to the village council for the proper administration and enforcement of this chapter.
- (2) Act on policy matters that may arise and are not covered by adopted policies or guidelines.
- (3) Conduct public hearings as required by this chapter and the Zoning Act, making specific findings and determinations on each matter upon which it is called upon to act.

(Ord. No. 04-07, § 1(19.04), 7-12-2004)

Sec. 82-585. - Development permits.

- (a) The zoning administrator is hereby authorized and directed to issue development permits in accordance with the following provisions, in addition to any other requirements contained in this chapter:
 - (1) Excavation for buildings or structures shall not be commenced, the erection, addition to, structural alteration of, or moving of any building or structure shall not be undertaken, nor shall any use of land regulated by this chapter be changed to a use of a different use group or land use classification until a development permit has been obtained from the zoning administrator.
 - (2) A development permit shall not be issued for those uses requiring a special land use permit as provided in this chapter, until a special land use permit and site plan review have been approved in compliance with the provisions of this chapter.
 - (3) A development permit shall not be issued for those uses requiring site plan review until site plan approval is granted in accordance with the requirements of this chapter.
 - (4) A sign permit granted in accordance with section 82-503(a) shall be considered a development permit.
 - (5) Except upon written order of the zoning board of appeals or court order, no development permit shall be issued that would otherwise be a violation of any provision of this chapter.
 - (6) An application for development permit shall be considered for approval by the zoning administrator when the application contains the following information:
 - a. In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, one of the following shall be required:

1. Report from Kent County Health Department certifying, in writing, the approval of a private sanitary sew system.
 2. A written notice of acceptance or hook-up receipt for public sanitary sewer service.
- b. When a municipal, public or private water supply system is required by law or proposed by the applicant, one of the following shall be required:
1. A report from the Kent County Health Department certifying approval of private water supply systems.
 2. A written notice of acceptance or hook-up fee receipt for public water supply.

(Ord. No. 04-07, § 1(19.05), 7-12-2004)

Sec. 82-586. - Fees and charges.

The village council shall by resolution establish such fees and charges as it may require for applications, permits, reviews, and for other procedures and services related to the provisions of this chapter.

(Ord. No. 04-07, § 1(19.06), 7-12-2004)

Sec. 82-587. - Enforcement and violations.

- (a) The zoning administrator shall enforce the provisions of this chapter in cooperation with the village attorney. The village attorney shall take legal action against alleged violators of this chapter when presented sufficient evidence of violation by the zoning administrator. The police department is hereby authorized to enforce any provisions of this chapter as may be delegated to the police department by resolution of the village council.
- (b) All violations of this chapter noted by the zoning administrator and all complaints received by the village shall be recorded on a form designed for that purpose and filed in accordance with the requirements of this article. The name of the person who files a complaint with the village shall not be released without the prior consent of the complaining person.
- (c) Upon receipt of a complaint, or upon other determination of probable cause to believe that a violation may exist, the zoning administrator shall classify the violation as an active or passive violation, and shall proceed as follows:
 - (1) Active violations.
 - a. An active violation is a violation which involves ongoing construction, excavation, or other activities which increase the extent of the violation as time passes.
 - b. All active violations shall be issued a written stop-work order which shall be posted on the site and either delivered in person or mailed to the property owner by certified mail.
 - c. A stop-work order shall state the nature of the violation, the date the violation was observed, the corrective action necessary, and the penalty for continued violation.
 - d. If the person responsible fails to stop all work in furtherance of the violation receipt of a stop-work order, the zoning administrator, through the village attorney, shall seek an immediate temporary restraining order from the circuit court.
 - (2) Passive violations.
 - a. A passive violation is a violation which does not involve ongoing construction, excavation, or other activities which increase the extent of violation as time passes.

- b. The property owner maintaining a passive violation shall be contacted in person or by mail by the zoning administrator. The zoning administrator shall explain the applicable provisions of this chapter, the nature of the violation, and the corrective action necessary to comply with this chapter.
 - c. When it becomes apparent that a property owner or other party who has violated this chapter does not intend to correct the violation or intends to further violate this chapter, the zoning administrator may proceed through the village attorney with the appropriate legal action.
 - d. When a property owner or other party who has violated this chapter expresses intent to correct the violation, the zoning administrator may allow a reasonable time period, not to exceed 30 days, for correction of the violation.
 - e. At the end of the correction period, the zoning administrator shall make an inspection of the property to determine if the noted violations have been corrected. A record of this inspection shall be made and shall contain photographs, instrument readings, and other information necessary to establish the nature and extent of any remaining violation.
 - f. If corrective action has been taken by the property owner or other person responsible for the violation, the zoning administrator shall indicate that the property is in compliance with this chapter in a letter to the property owner.
 - g. If the noted violations remain and are evident in the record of formal inspection, the zoning administrator shall issue a notice of violation. The notice shall be delivered in person or by certified mail to the property owner or other person responsible for the violation and shall contain the date of the inspection, the provisions of this chapter violated, the penalties which may be imposed, and the amount of time allowed for corrective action, not to exceed 15 calendar days.
 - h. At the end of this correction period, the zoning administrator shall again make and document an inspection of the property to determine whether or not the indicated corrective actions have been taken.
 - i. If the violation remains, the zoning administrator shall seek appropriate legal action against the property owner or other person responsible for the violation by presenting all evidence to the village attorney.
- (d) Appearance summons. The use of an appearance summons in connection with a specific enforcement program is hereby authorized.
- (e) A person receiving a notice of violation or who is aggrieved by action taken by the zoning administrator pursuant to this chapter, may appeal the decision of the zoning administrator to the zoning board of appeals in accordance with the procedures noted in article VIII of this chapter, provided a written notice of appeal is filed within 21 working days of receipt of notice of violation.
- (f) The zoning administrator shall refuse to issue development permits to any person who has failed to take corrective action upon receipt of a notice of violation, stop-work order, or who is currently maintaining a violation of this chapter, or the Michigan Construction Code, Public Act 230 of 1977, as amended, MCLA 12.1501 et seq.

(Ord. No. 04-07, § 1(19.07), 7-12-2004)

Sec. 82-588. - Amendments to the zoning chapter.

- (a) *[Initiation of amendments.]* An amendment to this chapter may be initiated by motion of the village council, by motion of the planning commission, or by application for amendment of one or more persons having interest in property located within the jurisdiction of this chapter.

- (b) *[Application fee.]* The village council shall establish by resolution a fee to be paid in full at the time of receipt of any application to amend this chapter. Said fee shall be collected by the village clerk and no part shall be refundable to applicant. No fee shall be charged when that applicant is a governmental body.
- (c) *[Application form.]* The planning commission shall adopt an application form for the purpose of amending this chapter. An application shall be completed and filed with the village clerk by the person or persons petitioning for the change for each parcel of land which is not contiguous to any adjacent parcel of land being proposed for the same amendment.
- (d) *[Application review.]* The zoning administrator shall review the application for completeness. Any application not properly filed or completed shall be returned to the applicant. Completed applications shall be transmitted to the planning commission.
- (e) *[Request for comment.]* The zoning administrator shall notify the following agencies within five days of receipt of a proper application from a petitioner or the adoption of a resolution from the village council or planning commission to amend this chapter, requesting their comments and recommendations:
- (1) Fire chief;
 - (2) Police chief;
 - (3) Parks and recreation director;
 - (4) Public works department;
 - (5) Other village officers and agencies deemed appropriate by the planning commission.
- (f) *[Comment period.]* The above-mentioned agencies may submit comments and recommendations on the proposed amendment within 21 calendar days of receipt of notice. If no written response is received from an agency by the zoning administrator within 35 calendar days, the planning commission shall presume that the agency has no objections to the proposed rezoning.
- (g) *Public hearing.*
- (1) The planning commission shall hold a public hearing on the proposed amendment within a reasonable time following receipt of a completed application to amend this chapter or after the resolution initiating the change is adopted by the village council or planning commission, as the case may be.
 - (2) The village clerk shall give notice of the time and place of the public hearing pursuant to the Zoning Act. An affidavit of delivery or mailing shall be maintained.
- (h) *Planning commission recommendation.*
- (1) In reviewing any application for an amendment to this chapter the planning commission shall identify and evaluate all factors in its view that are relevant to the application.
 - (2) The matters to be considered by the planning commission shall include, but need not be limited to, the following:
 - a. What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment?
 - b. What, if any, error was made in the Ordinance which justifies the proposed amendment?
 - c. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition?
 - d. What is the impact of the amendment on the ability of the village and other governmental agencies to provide adequate public services and facilities, and/or program, that might reasonably be required in the

future if the proposed amendment is adopted?

- e. Does the proposed amendment adversely affect environmental conditions, or the value of the surrounding property?
- f. Does the proposed amendment generally comply with the adopted village master plan?
- g. The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located.

(3) All findings of fact shall be made a part of the public records of the meetings of the planning commission. The planning commission shall transmit its findings of fact, a summary of comments received at the public hearing and its recommended action to the village council.

(i) *Consideration by the village council.*

- (1) Upon receipt of a report and summary of hearing comments from the planning commission, the village may hold an additional public hearing, if it considers it necessary, or may proceed to adopt the proposed amendment.
- (2) If the village council considers further changes desirable, which are in addition to, or departures from the proposed amendment, it may first refer the matter back to the planning commission for a further report.
- (3) Approval of amendments shall require a majority vote of the village council.

(j) *Notice of adoption.*

- (1) Following the adoption of the amendment by the village council one notice of adoption shall be published in a newspaper of general circulation in the village within 15 days after adoption, a copy of which shall also be mailed to the airport manager entitled to notice under the Zoning Act.
- (2) The notice shall include the following information:
 - a. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
 - b. The effective date of the ordinance.
 - c. The place and time where a copy of the ordinance may be purchased or inspected.

(Ord. No. 04-07, § 1(19.08), 7-12-2004; Ord. No. 06-02, § 4, 8-14-2006)

Sec. 82-589. - Violations, penalties, remedies and enforcement.

- (a) Buildings or structures erected, altered, raised or converted, or uses carried on in violation of this chapter or any other violation of this chapter is declared to be a nuisance per se. Upon proper petition or complaint by the village, the county circuit court shall order the nuisance abated, and the owner, occupant or agent in charge of the building, structure or property, or the owner occupant and agent, shall be adjudged guilty of maintaining a nuisance per se. In case of any action brought to abate such a nuisance, the owner, occupant and agent in charge of the parcel shall be liable to pay the village the amounts incurred by the village to bring and maintain that action including, without limitation, actual, reasonable attorneys' fees and other legal costs.
- (b) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount provided by this Code, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.), and other applicable laws. The village manager, any village police officer, zoning administrator, and all other individuals or agencies authorized by the village council are hereby

designated as authorized village officials to issue municipal civil infraction citations as provided by this Code. The term "civil infraction" when used in this Code shall mean a municipal civil infraction, unless the context clearly indicates otherwise.

- (1) Unless otherwise specifically provided for a particular municipal civil infraction violation by this Code, the civil fine for a municipal civil infraction violation shall be \$100.00, plus costs and other sanctions, for each infraction.
- (2) Increased civil fines shall be imposed for repeated violations by a person of any requirement or provision of this Code. As used in this section, the term "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provisions committed by a person within any 24-month period (unless some other period is specifically provided by this Code) and for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code, the increased fine for a repeat offense shall be as follows:
 - a. The fine for any offense which is a first repeat offense shall be \$250.00, plus costs.
 - b. The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500.00, plus costs.
- (c) Each day on which any violation of this Code continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (d) Violations of this Code which are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty under this section shall be in addition to the abatement of the violating condition, any injunctive relief, or suspension or revocation of any permit, franchise or license.

(Ord. No. 04-07, § 1(19.09), 7-12-2004; Ord. No. 16-06, § 1, 10-10-2016)

Sec. 82-590. - Performance guarantees.

- (a) As a condition of approval of a site plan review, special land use, or variance the village council, zoning administrator, or the zoning board of appeals, shall require a financial guarantee of sufficient sum to assure the installation of those features or components of the approved activity or construction which are considered necessary to protect the health, safety, and welfare of the public and of users or inhabitants of the proposed development.
- (b) Such features or components, hereafter referred to as improvements, may include, but shall not be limited to, survey monuments and irons, streets, curbing, landscaping, fencing, walls, screening, lighting, drainage facilities, sidewalks, driveways, utilities, and similar items.
- (c) Performance guarantees shall be processed in the following manner:
 - (1) Prior to the issuance of a certificate of occupancy, the applicant shall submit an itemized estimate of the cost of the required improvements which are subject to the performance guarantee, which shall then be reviewed by the zoning administrator. The amount of the performance guarantee shall be 100 percent of the cost of purchasing of materials and installation of the required improvements, plus the cost of necessary engineering and inspection costs and a reasonable amount for contingencies.
 - (2) The required performance guarantee shall be payable to the Village of Sparta and may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the village.

- (3) Upon receipt of the required performance guarantee, the zoning administrator shall issue a building permit for development or activity, provided it is in compliance with all other applicable provisions of this chapter and other applicable chapters of the village.
- (4) The zoning administrator, upon the written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvements.
- (5) When all of the required improvements have been completed, the obligor shall send written notice to the zoning administrator of completion of said improvements. Thereupon, the zoning administrator shall inspect all of the improvements and approve, partially approve, or reject the improvements with a statement of the reasons for any rejections.
- (6) If partial approval is granted, the cost of the improvement rejected shall be set forth. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- (7) A record of required performance guarantees shall be maintained by the zoning administrator.

(Ord. No. 04-07, § 1(19.10), 7-12-2004)

Sec. 82-591. - Severability clause.

This chapter and the various articles, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, clause or word is adjudged unconstitutional or invalid for any reason, by any court of competent jurisdiction, such invalidity shall not affect the remaining portions or applications of this chapter which can be given effect without the invalid portion or application, provided such remaining portions are not determined by the court to be inoperable.

(Ord. No. 04-07, § 1(19.11), 7-12-2004)

Sec. 82-592. - Conflicting provisions.

Where a provision of this chapter conflicts with a provision of another ordinance, the strictest provision shall prevail.

(Ord. No. 04-07, § 1(19.12), 7-12-2004)

Sec. 82-593. - Savings clause.

- (a) This chapter shall not impair or affect any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to the time this chapter takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been adopted.
- (b) Such proceedings may be consummated under and according to the chapter in force at the time such proceedings are or were commenced. All prosecution, or other actions, pending at the effective date of this chapter, or offenses or acts committed prior to the effective date of this chapter, may be continued or instituted under and in accordance with provisions of the chapter in force at the time of such offense.

(Ord. No. 04-07, § 1(19.13), 7-12-2004)

Sec. 82-594. - Repeal of previous zoning chapter.

This chapter, when effective, repeals Ordinance No. 93-2 of the Code of Ordinances, Village of Sparta, and ordinances and parts of ordinances inconsistent with the provisions of this chapter are hereby repealed, as of the effective date of this chapter.

(Ord. No. 04-07, § 1(19.14), 7-12-2004)

Sec. 82-595. - Effective date.

This chapter is hereby approved at a regular meeting of the village council held on July 27, 2004, and shall be effective seven days after the publication of a notice of adoption.

(Ord. No. 04-07, § 1(19.15), 7-12-2004)

Secs. 82-596—82-604. - Reserved.

ARTICLE X. - WIND ENERGY TURBINES

Sec. 82-605. - Purpose.

The purpose of this article is to:

- (1) promote the safe, effective and efficient use of wind energy turbines;
- (2) preserve and protect the public health, safety and welfare by minimizing the potential adverse effects of wind energy turbines; and
- (3) establish standards and procedures by which the siting, installation, operation and decommissioning of wind energy turbines shall be governed.

(Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-606. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Anemometer: A temporary wind speed indicator constructed for the purpose of analyzing the potential for utilizing a wind energy turbine at a given site. This includes the tower, base plate, anchors, cables and hardware, and wind direction vanes.

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

Tower: A freestanding monopole that supports a wind energy turbine.

Wind energy turbine: A tower or structure-mounted wind energy conservation system that converts wind energy into electricity, including any base, blade, foundation, generator, motor, transformer, rotor, wiring, cable, tower or related appurtenance.

(Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-607. - Temporary use; anemometers.

- (a) Anemometers are permitted in all zoning districts as a temporary use, subject to the following requirements:
- (1) The construction, installation, or modification of an anemometer shall require a development permit in accordance with section 82-585 of this chapter.
 - (2) An anemometer shall conform to all applicable local, state and federal safety, construction, environmental, electrical, communications, and FAA requirements.
 - (3) An anemometer shall be subject to all height, setback, separation, location, safety and decommissioning requirements applicable to a wind energy turbine under this article.
 - (4) An anemometer shall be permitted as a temporary use for a period not to exceed one year.

(Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-608. - Permitted use; wind energy turbines.

- (a) Wind energy turbines located on the same lot as the main building or structure, designed to supplement the energy needs of a residence or business, are a permitted accessory use in all zoning districts, subject to the requirements of this article.
- (b) The construction, installation, or modification of a wind energy turbine shall require a development permit in accordance with section 82-585 of this chapter.

(Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-609. - Siting requirements.

- (a) Wind energy turbines attached to any building, structure, roof or other elevated surface are subject to the following requirements:
- (1) Total height shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.
 - (2) Setback shall be a minimum of 15 feet from any property line, public right-of-way, public easement, or overhead utility lines. The setback shall be measured from the furthest outward extension of all moving parts.
 - (3) A wind energy turbine shall not be affixed to the side of a building or structure facing any street or roadway.
 - (4) No more than one wind energy turbine shall be installed on any lot.
- (b) Tower-mounted wind energy turbines are subject to the following requirements:
- (1) Total height shall not exceed 100 feet as measured from the ground level at the base of the tower to the uppermost vertical extension of any blade, or the maximum height reached by any part of the wind energy turbine.
 - (2) A wind energy turbine shall be located in the rear yard.
 - (3) A wind energy turbine shall be setback from all property lines, public rights-of-way, public easements and utility lines a distance of five feet greater than the total height of such wind energy turbine, as measured in accordance with subsection (b)(1).
 - (4) All occupied buildings or structures shall be located a minimum of 20 feet from the base of the tower.

- (5) No more than one wind energy turbine shall be installed on any lot.
- (6) All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of the lot on which the wind energy turbine is located.

(Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-610. - Installation requirements.

- (a) Wind energy turbines shall be non-reflective and non-obtrusive in color (e.g., white or gray).
- (b) Wind energy turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
- (c) Wind energy turbines shall not be used for displaying any advertising (including flags, streamers, or decorative items).
- (d) The lowest extension of any blade or other exposed moving component of a wind energy turbine shall be at least 15 feet above the ground and at least 15 feet above any outdoor surfaces intended for human use, such as balconies or roof gardens, that are located directly below a wind energy turbine.
- (e) Guy wires shall not be permitted as part of any wind energy turbine.

(Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-611. - Operation requirements.

- (a) Audible sound or noise from a wind energy turbines shall not exceed 55 decibels, as measured from the boundary line of the lot on which it is located.
- (b) Wind energy turbines shall be equipped with an automatic braking or governing system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower, rotor, blades and other wind energy components.
- (c) Wind energy turbines shall be equipped with lightning protection.
- (d) Wind energy turbines shall have a maximum power generation of 30 KW.
- (e) Wind energy turbines shall conform to all applicable local, state and federal safety, construction, environmental, electrical, communications, and FAA requirements.
- (f) Wind energy turbines shall not cause electromagnetic interference with any broadcast or communication system including, but not limited to, radio, telephone, television, satellite, wireless phone, personal communication systems or emergency communication systems. Wind energy turbines shall not be installed in any location within the line of sight of an existing microwave communication link.

(Ord. No. 12-07, § 1, 4-9-2012)

Sec. 82-612. - Decommissioning.

- (a) Wind energy turbines shall be decommissioned within 12 months after the end of their useful life. A wind energy turbine will be presumed to be at the end of its useful life if no electricity is generated by it for a continuous period of 12 months. All decommissioning expenses are the responsibility of the owner(s) of the lot upon which the wind energy turbine to be decommissioned is located and the village may require financial guarantees to assure compliance.
- (b) Decommissioning shall include the removal of a wind energy turbine, its electrical components, and any other

associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade.

- (c) If the owner(s) of the lot fails to complete decommissioning in compliance with this section, the village may perform the required decommissioning. The actual cost, plus accrued interest at the rate of one percent per month from the date of completion, incurred by the village in its performance of any decommissioning pursuant to this section shall be charged by invoice to the owner(s) of the lot on which such work was performed. Where the full amount due the village is not paid by the owner(s) within 60 days after the completion of decommissioning, the village treasurer may cause to be recorded a sworn statement showing the cost and expense incurred and the date and premises on which said work was done. The recordation of such sworn statement shall constitute a lien on the premises, and shall remain in full force and effect for the amount due in principal and interest, plus costs of court, if any, for collection until final payment has been made. Sworn statements recorded in accordance with this section shall be prima facie evidence that all legal formalities have been complied with and that the work has been properly and satisfactorily done, and shall be full notice that the amount of the statement, plus interest, constitutes a charge against the premises designated or described in the statement and is due and collectible as provided by law.

(Ord. No. 12-07, § 1, 4-9-2012)