



Suttons Bay Village Zoning Ordinance

Adopted- August 20, 2018
Effective- September 6, 2018
Amended through March 3, 2022

Suttons Bay



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User Guide

Introduction

This User Guide is intended to help citizens and developers understand the structure of the Suttons Bay Village Zoning Ordinance and how it is used to regulate the use of land within the Village boundaries.

What is regulated?

The regulations in the Zoning Ordinance cover many aspects of the use of land, including but not limited to:

- Types of structures and uses that are permitted (single-family, stores, offices etc.).
- Size, height and placement of buildings.
- The amount of parking required and standards for lot design.
- Design requirements and standards for landscape, lighting and signs.

Village Master Plan

The Michigan Planning Enabling Act (Act 33 of 2008) outlines the requirements for the Village Master Plan. The Master Plan is the guiding document for the development and update of the Zoning Ordinance. The Master Plan is intended to serve as a general statement of the community's goals and policies and provides a single, comprehensive view of the community's desire for the future. The Zoning Ordinance, which is based on the Master Plan, is the legal basis for land use regulation and is authorized by the Michigan Zoning Enabling Act (Act 110 of 2006).

Zoning Map

The Zoning Map is guided by the Master Plan Future Land Use Map and related goals and policies of the Master Plan. The Zoning Map classifies the Village into different zoning districts. The Zoning Ordinance describes permitted uses and the standards for building and site design for properties within each district.

Organization

The Zoning Ordinance is organized by major parts and articles (20 total).

Part I

The first part of the Zoning Ordinance begins with "General Provisions," which includes the Title and Purpose (Article 1) and the General Provisions for All Districts (Article 2). Part I sets the stage for the rest of the ordinance and outlines requirements that are applicable for situations that may occur in any location in the Village, regardless of zoning district designation.

Part II

The second part of the Zoning Ordinance is titled "Zoning Districts" and includes six (6) articles. Article 3, Zoning Districts and Map, addresses interpretation of Zoning Map boundaries, uses not listed, similar uses and zoning of vacated and annexed lands. The article also includes important and necessary guidance concerning district boundaries and land uses.

Articles 4-7 include all the existing zoning districts and groups them into classes: Residential, Mixed Use, Commercial/Industrial and Special Areas. Each article includes a combined table of allowed uses and spatial requirements, such as lot width, setbacks, building height and other lot and building dimensional requirements.

After the spatial requirements of each article are specific requirements that may only apply to an individual district, for instance “Hillside Residential Parcels” (Section 4-5) or “CB District Form Requirements- Commercial Buildings” (Section 5-5). Lastly, Part II includes a process and procedure for considering and adopting “Planned Unit Development Districts” (Article 8), which is a flexible zoning tool used to encourage innovative designs that may not be anticipated or allowed by traditional zoning provisions.

Part III

The third part of the Zoning Ordinance is “Development Provisions,” which includes Specific Use Requirements (Article 9), Off-Street Parking and Loading (Article 10), Landscaping and Lighting (Article 11) and Signs (Article 12). Part III also includes important guidance concerning review processes, such as Special Land Uses (Article 13) and General Review Procedures (Article 14).

Part IV

The final part of the Zoning Ordinance is titled “Administration.” This part covers Administration and Enforcement (Article 15), the Planning Commission and Village Council (Article 16), the Zoning Board of Appeals (Article 17), Amendments and Validity (Article 18), Nonconformities (Article 19), and Definitions (Article 20).

What is my property zoned?

The first step is to check the Zoning Map. This is important, as what is permitted in one district may not be permitted in another. The Zoning Map is posted on the Village website and is available at the Village offices. Because the published Zoning Map is periodically amended, such as when a landowner receives approval for rezoning their property, a zoning “confirmation” is always recommended prior relying on the map for decision-making.

What uses are allowed?

The Village Zoning Map classifies land into different zoning districts. Article 3 includes a list of the various zoning districts illustrated on the Village Zoning Map and the district descriptions. These districts include:

Residential Districts

1. Central Residential (CR).
2. Newer Village Residential (NVR).
3. Single-Family Waterfront Residential (SFWR).
4. Hillside Residential (HR).
5. Waterfront Condominium (WC).

Mixed Use Districts

1. Central Business (CB).
2. North Gateway (NG).

3. South Gateway (SG).
4. Bay View (BV).

Commercial and Industrial Districts

1. South Business (SB).
2. Warehouse Industrial (WI).

Special Areas

1. Public Lands (PL).

A list of uses allowed in each district can be found in Articles (4-7). Tables in each Article list uses in three classifications and includes references to specific conditions, if applicable:

- *Permitted Use (P)*. The use may be established by right on land and/or within buildings in the applicable zoning district, subject to all other applicable provisions of the Zoning Ordinance.
- *Special Land Use (SLU)*. Land and/or buildings in this district may be used if general standards and specific standards are met, as well as all other applicable provisions of the Zoning Ordinance. SLUs also require a public hearing and Planning Commission review and approval.
- *Not Permitted* (blank cell in table).
- *Specific Conditions*. The final column in each table will reference any specific conditions that apply to the land use.

What if my desired land use is not allowed?

If your proposed use is not listed as a permitted use or SLU within the zoning district that applies to your property, you have several options, including:

- Find an alternative use for your property that is permitted or find a site in the Village that is properly zoned for your intended use.
- If your use is not listed anywhere in the Zoning Ordinance, you could request that the Administrator consider your intended use based on a review against “similar uses” as explained in Section 3-5. In some cases, the Administrator may take the request to the Zoning Board of Appeals for a final determination.
- Request the Village rezone the property, which requires a public hearing, Planning Commission recommendation, and Village Council approval.
- Request the Village amend the Zoning Ordinance to add your proposed use, either as a Permitted or Special Land Use.

Please note that the Village does not allow “use variances”, which are variances that allow land uses that are not allowed within a zoning district.

What are my building requirements?

Within Articles 4-7, spatial and dimensional requirements for each zoning district are outlined in table form. In addition to spatial requirements, special zoning district provisions may also be included within each Article that may affect your development planning. Spatial requirements include:

- Minimum lot depth.
- Minimum frontage.

- Setbacks.
- Maximum height and stories.
- Maximum building and impervious coverage.

What are the next steps once zoning is confirmed?

Depending on your proposed use of land, the permitting process may be a simple administrative review to a more complex development plan review. Article 14 outlines general review procedures requirements for all development levels.

- Application Submission, Contents, and Fees (Section 14-2).
- Zoning, Development, and Building Permits (Section 14-3).

Once a process is confirmed by the Administrator, an application and checklist must be obtained. Copies of the application forms are posted on the Village website and are available at the Village offices. In some cases, the Administrator will schedule a pre-application conference to review the procedures and requirements with you.

Once you feel you have a complete submittal package, you may turn in your materials and the Administrator will begin the review process.

Checklists

Over the following pages (6-14), checklists for Village development applications can be found. Unless waived by the Administrator or Planning Commission, the items within the checklists are required to be provided at the time an application is submitted. Checklists are also available at the Village Hall and on the Village's website.

How can I get additional assistance?

If you have questions on the use or interpretation of the Zoning Ordinance, procedures, submittal deadlines, or other information, please contact the Administrator at the Village offices.

- Phone 231.271.3051
- Fax 231.271.5904
- Email zoning@suttonsbayvillage.org
- Website <http://www.leelanau.cc/suttonsbayvill.asp>

Shared Driveway Submittal Checklist	Submitted
Plan	
A plan drawn and sealed by a surveyor and/or civil engineer licensed by the State of Michigan.	
All lots to be served, with dimensions and lot area.	
The location and width of the private road easement.	
Width of the proposed pavement.	
Materials to be used for pavement.	
Frontage and width of all lots served by the private road.	
Drainage or utility structures to be located in the easement.	
Supplemental Information	
The required private easement and maintenance agreement.	

Private Street Submittal Checklist	Submitted
Plan	
A survey of the right-of-way by a registered land surveyor, together with surveys for each parcel to be served by the private road.	
The location of all public utilities, including, but not limited to, water, sewer, telephone, gas, electricity, and television cable to be located within the private road right-of-way.	
The location of any lakes, streams, wetlands and drains within the proposed right-of-way or within 100 feet thereof.	
The location of any other buildings and structures located within 100 feet of the private road right-of-way.	
Street names.	
Supplemental Information	
The required private easement and maintenance agreement.	
A detailed written description of the development to be served by the private road, including a description of the private road association or other party to be responsible for the ownership, operation and maintenance of the private road.	
Copies of the instruments describing and granting easements.	
An approved Soil Erosion and Sedimentation Permit.	
Required outside approvals.	

PUD Concept Plan Checklist	Submitted
Plan	
Site plan, professionally prepared by a licensed engineer, architect or landscape architect.	
Name and firm address of the professional individual responsible for preparing site plan and professional seal.	
Name and address of the property owner or petitioner.	
Boundary survey lines and required setbacks.	
Name and address of the property owner or petitioner.	
Location sketch showing site, adjacent streets and properties within 200 feet.	
The property, identified by parcel lines and location and size.	
Scale, north arrow and date.	
Zoning of adjacent properties.	
Location, width and purpose of all existing easements.	
Abutting street right-of-way width.	
Current topographical map clearly showing existing topographic conditions, including contour intervals of no more than two (2) feet, based on field survey or photogrammetric methods.	
Natural features such as wooded areas, surface water feature, high risk erosion areas, slopes over 18% beach, sand dunes, drainage ways, and other significant site features.	
Existing buildings, structure, paved surfaces, installed landscaping and other significant physical infrastructure.	
Size and location of existing utilities.	
Proposed Development	
Conceptual layout and type of uses proposed within the PUD, including proposed principal and accessory structures, driveways, streets, parking lots, landscaped areas and other physical infrastructure, as applicable.	
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use.	
Layout and typical dimensions of proposed parcels and lots.	
Engineering	
Proposed method of handling sanitary sewage and providing potable water	
Utility concept plans.	
Stormwater concept plan.	
Building Details	
Building type concepts.	

Supplemental Information	
Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.	
Project description and detailed narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces.	
Zoning Designation.	
Legal description.	
Size of property in acres (square feet, if less than one acres).	
Any other information required by the Administrator or Planning Commission to demonstrate compliance with other applicable provisions of this ordinance.	

Level “A” Site Plan Submittal Checklist	Submitted
Plan	
Site plan, drawn to scale, or superimposed on an air photo, or superimposed on a survey, should include the following.	
The property, identified by parcel lines and location and size.	
Scale, north arrow and date.	
Natural features such as wooded areas, surface water feature, high risk erosion areas, slopes over 18% beach, sand dunes, drainage ways, and other significant site features.	
Existing buildings, structure, paved surfaces, installed landscaping and other significant physical infrastructure.	
Proposed principal and accessory structures, fences, pole-mounted light fixtures, driveways, parking lots, landscaped areas and other physical infrastructure, as applicable.	
Property lines and required setbacks.	
Building Details	
A façade plan showing a sketch or architect’s rendition of the exterior appearance of the building, if applicable.	
Height, gross floor area, usable floor area, for all proposed buildings or additions.	
Description of building materials.	
Supplemental Information	
Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.	
Project description and detailed narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces.	
Zoning Designation.	
Legal description.	
Size of property in acres (square feet, if less than one acres).	
Any other information required by the Administrator or Planning Commission to demonstrate compliance with other applicable provisions of this ordinance.	

Level “B” Site Plan Submittal Checklist	Submitted
Plan	
Site plan, professionally prepared by a licensed engineer, architect or landscape architect.	
Name and firm address of the professional individual responsible for preparing site plan and professional seal.	
Name and address of the property owner or petitioner.	
Boundary survey lines and required setbacks.	
Name and address of the property owner or petitioner	
Location sketch showing site, adjacent streets and properties within 200 feet	
The property, identified by parcel lines and location and size.	
Scale, north arrow and date.	
Zoning of adjacent properties.	
Location, width and purpose of all existing easements.	
Abutting street right-of-way width.	
Current topographical map clearly showing existing topographic conditions, including contour intervals of no more than two (2) feet, based on field survey or photogrammetric methods.	
Natural features such as wooded areas, surface water feature, high risk erosion areas, slopes over 18% beach, sand dunes, drainage ways, and other significant site features.	
Existing buildings, structure, paved surfaces, installed landscaping and other significant physical infrastructure.	
Size and location of existing utilities.	
Proposed Development	
Proposed principal and accessory structures, fences, pole-mounted light fixtures, driveways, parking lots, landscaped areas and other physical infrastructure, as applicable.	
Recreation areas, common use areas, dedicated open space and areas to be conveyed for public use.	
Landscape plan (showing location of proposed materials, size and type).	
Layout and typical dimensions of proposed parcels and lots.	
Engineering	
Proposed method of handling sanitary sewage and providing potable water	
Location and size of proposed utilities, including connections to public sewer and water supply systems.	
Location and spacing of fire hydrants.	
Location and type of all proposed surface water drainage and stormwater facilities.	

Grading plan at no more than two (2) foot contour intervals.	
Proposed streets (including pavement width, materials, and easement or right-of-way dimensions).	
Building Details	
A façade plan showing a sketch or architect’s rendition of the exterior appearance of the building, if applicable.	
Height, gross floor area, usable floor area, for all proposed buildings or additions.	
Description of building materials.	
Supplemental Information	
Name and address of the property owner(s), developer(s), and designer(s), and their interest in said properties.	
Project description and detailed narrative description of the project including proposed use, existing floor area (square feet), size of proposed expansion (square feet), and any change in the number of parking spaces.	
Zoning Designation.	
Legal description.	
Size of property in acres (square feet, if less than one acres)	
Any other information required by the Administrator or Planning Commission to demonstrate compliance with other applicable provisions of this ordinance.	
Drawings and information prepared for a site condominium development, as required by Section 66 of the Condominium Act (if applicable).	

Groundwater Protection Plan Submittal Checklist	Submitted
Location and size of interior and exterior areas and structures to be used for storage, use, loading/unloading, recycling, or disposal of hazardous substances.	
Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and all similar uses.	
Location of exterior and interior drains, on-site sewage systems, dry wells; catch basins; retention/detention areas; sumps and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.	
Location of all water wells on the site and within 150 feet surrounding the property boundaries.	
Delineation of areas on the parcel which are known or suspected to be contaminated, together with a report on the status of site cleanup.	
Submission of the "Hazardous Substances Reporting Form for Site Plan Review."	
Submission of the "State/County Environmental Permits Checklist."	

Sign Permit Submittal Checklist	Submitted
The property owner's name, address and signature.	
The applicant's name, address and signature.	
The address and permanent parcel number of the property on which the sign is or will be located.	
The identification of the type of sign (ground, temporary, portable, wall) and method of illumination, if any.	
The name of business or name of premises to which the sign belongs or relates.	
Plans drawn to an accurate, common scale, depicting the following: <ul style="list-style-type: none"> ▪ A scaled drawing of the proposed sign showing the dimensions and display area. ▪ For ground signs and pole signs, a site plan drawn to scale, accurately identifying the location of the proposed sign and setbacks from the nearest public or private road right-of-way and property line. If there are proposed grade changes, such as adding a berm, this shall be noted on the site plan. ▪ For ground signs and pole signs, the height of the sign. ▪ For wall signs, the height and width of the building wall. 	

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Title and Purpose

Article
1

Section 1-1 Title

The Suttons Bay Village Zoning Ordinance shall be known, and may be cited, as the "Suttons Bay Village Zoning Ordinance" and may be referred to as the "Zoning Ordinance," or "ordinance," within this document.

Section 1-2 Intent

This ordinance is intended to implement the Village's Master Plan, as adopted per the Michigan Planning Enabling Act (Act 33 of 2008). The provisions of this ordinance are the minimum requirements adopted for the protection of public health, safety, welfare and for the promotion of orderly growth in Suttons Bay Village. This ordinance is intended to:

- A. Ensure that uses of land are situated in appropriate locations and developed with sensitivity to neighboring property.
- B. Limit the inappropriate overcrowding of land.
- C. Prevent the congestion of population and transportation systems and other public facilities.
- D. Facilitate adequate and efficient provision of non-motorized and motorized transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs.

Section 1-3 Components and Exhibits

- A. *Parts.* The Zoning Ordinance provides for the regulation of the development and use of land within Suttons Bay Village. The Zoning Ordinance is divided into four parts as follows:
 - 1. Part I General Provisions.
 - 2. Part II Zoning Districts.
 - 3. Part III Development Provisions.
 - 4. Part IV Administration.
- B. *Exhibits.* Exhibits with graphics are provided as "figures" to illustrate the intent of the language included in the ordinance. When there is an apparent discrepancy between the text and a figure, the text shall supersede. In cases where the exhibit is a table, it shall be considered a zoning requirement.

Section 1-4 Legal Basis

This ordinance is enacted pursuant to the Michigan Zoning Enabling Act (Act 110 of 2006), as amended.

Section 1-5 Effective Date

This ordinance, Ordinance No. 2 of 2018, was adopted by the Village Council of the Village of Suttons Bay, Leelanau County, Michigan, at a meeting held on August 20, 2018, and a notice of publication ordered published in the Leelanau Enterprise, a newspaper having general circulation in the Village, and has an effective date of September 6, 2018.

Section 1-6 **Scope**

This ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with existing provisions of deed restrictions; subdivision regulations; private restrictions placed upon property by covenants; condominium rules, ownership association rules; ordinances, laws, regulations of any federal, state or county agency. When this ordinance has stricter regulations, limitations or requirements, this ordinance shall control. The Administrator shall not enforce private deed restrictions or similar restrictions placed upon property by covenants.

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General Provisions for All Districts

Article
2

Section 2-1 Intent and Purpose

- A. *Purpose.* It is the purpose of this article to provide regulations that apply in all zoning districts to all permitted uses and special uses, as applicable.
- B. *Scope.* The Zoning Ordinance applies to all parcels of land and to every building, structure or use.

Section 2-2 General Compliance

- A. *Compliance.* For the purpose of this ordinance, except as hereafter specifically provided, no lot, land, parcel or premises shall be used, maintained or occupied, and no building or structure or part thereof shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations specified for the zoning district in which it is located; these limitations being construed as the minimum legislation necessary to promote and protect the general welfare and safety of the community. Zoning affects every structure and use and extends vertically.
- B. *Land Division.* No parcel of land shall be divided in a manner that is in conflict with any provisions of this ordinance or the Land Division Ordinance.
- C. *Landowner Responsibility.* Village property owners are responsible for the continuing compliance with all provisions of this ordinance.
- D. *Enforcement.* The Administrator shall enforce this section by cooperating with and reporting suspected violations to the respective enforcement agency(s) responsible for enforcement of the statutes, rules or ordinances cited above.
- E. *Previous Approvals and Uses.* If construction on a building is lawfully begun prior to adoption of this ordinance, nothing in this ordinance shall be deemed to require any change in the planned or designed use of that building, provided that actual construction is being diligently carried on, and further provided that the building shall be entirely completed for its planned or designed use within two years from the effective date of this ordinance. The use of any land or premises, or any structure, existing and lawful at the time of enactment of the zoning ordinance, or amendment thereto, may be continued even though the use does not conform to the current provisions of the zoning ordinance.

Section 2-3 Accessory Buildings

- A. *Residential Principal Use of Property.*
 - 1. Attached. Accessory buildings or garages shall be considered part of the principal building and subject to all setback requirements of the principal building, if structurally and architecturally integrated into the building or if attached by an enclosed breezeway or similar enclosed structure not greater than 10 feet in length.
 - 2. Detached. One (1) detached accessory building is permitted per parcel, subject to the following requirements:
 - a. Accessory buildings shall be located at least 10 feet from any other building.
 - b. Placement in front yards is prohibited.

- c. There shall be a minimum set back of five (5) feet from the side and rear property lines.
 - d. The accessory building shall not occupy more than 30 percent of the required rear yard.
 - e. Height shall not exceed 25 feet or the height of the principal structure, whichever is less.
 - f. Area shall not exceed 50 percent of the principal building first floor square footage or 750 square feet, whichever is less.
 - g. An accessory building shall not be constructed or occupied on a lot before the principal building or use on the lot is constructed.
3. Oversized Detached Accessory Buildings. The Planning Commission may approve accessory buildings greater than the area required by the Zoning Ordinance after consideration of the following factors:
- a. The size of the lot or parcel of land as it relates to the size of the proposed building.
 - b. The intended use for the building.
 - c. The proposed type and construction, and general architectural character of the building and compatibility with the neighborhood character.
 - d. The location of the proposed building in relation to the principal dwelling and dwellings on nearby properties.
 - e. The type and kind of other principal and accessory buildings and structures presently located on the lot or parcel of land.
 - f. The type and kind of principal and accessory buildings and structures located on properties which are adjoining and in the same neighborhood.
 - g. The effect on light and air circulation of any adjoining properties.
 - h. The environmental effect of the building(s) or their proposed use.
 - i. The potential visible impact on adjacent properties.
 - j. Placement of the building on the property in relation to existing or planned roads, land divisions, and utilities.
- B. *Non-Residential Principal Use of Property*. Buildings and structures accessory to non-residential uses shall meet the minimum setback requirements and height limitations for principal buildings in the respective zoning district.

Section 2-4 Access, Driveways, and Private Streets

- A. *General*.
- 1. Permit Required. No individual, association, corporation or entity, either public or private, shall construct or extend a private driveway or street without first having obtained a permit from the Village.
 - 2. Jurisdiction. Any proposed private driveway or street must be permitted by the applicable public authority if intersecting with a public street. If the private driveway or

street intersects an existing private street, written permission from the owners, private street association or other entity that owns the private street shall be submitted.

3. Access. Driveway entrances and exits to a parcel of land shall comply with the Village of Suttons Bay curb cut requirements, and shall require a right-of-way permit when applicable. No new curb cuts are allowed on M-22 and St. Joseph Avenue in the CB and NG Districts.
 4. Occupancy Permits. No occupancy permit for a structure on a parcel accessed by a private driveway or street shall be approved until the driveway or street has been approved and inspected according to this section.
 5. Parking. On-site parking of vehicles shall be restricted to improved parking areas, such as driveways, parking lots, garages, and carports.
 6. Maintenance and Repairs of Sidewalks. Any and all repair of damage to sidewalks due to driveway and private street construction shall be the responsibility of the landowner.
 7. Fire Department. Property access, driveways, and streets are subject to applicable fire codes.
- B. *Application*. All applications for private driveways and streets shall be on an established application form and shall include any required fees, the required number of plans, the private easement and maintenance agreement (if applicable) and any other required information.
- C. *Types and Approval Authority*.
1. Driveway and Shared Driveway. A driveway or shared driveway shall be reviewed and approved by the Administrator.
 2. Private Street. A private street shall be reviewed by the Planning Commission, which shall make a recommendation to the Village Council. The Village Council shall provide final approval of private streets.
- D. *Residential Driveway Requirements- Single-Family and Two-Family*.
1. Permitting. Driveways are subject to Village permitting and construction standards, including stormwater runoff design requirements.
 2. Number and Location. The number and location of driveways, including horseshoe driveways with two (2) curb cuts, providing direct access to a public or private street shall not exceed those which have been determined by the Administrator to be necessary for proper and efficient traffic flow and that preserves the safety of pedestrians and motorists. In making this determination, the Administrator shall consider the posted speed limit on the street, the proximity of intersecting streets and driveways, and other circumstances determined relevant by the Administrator.
 3. Surface. The driveway surface may be paved with a hard surface or may be aggregate (gravel). However, the following areas shall be paved:
 - a. If no sidewalks, paved between street edge and right-of-way line.
 - b. If sidewalks, paved from street edge to a point five feet interior of the inside edge.

4. Location and Design. A driveway shall be permitted in the front or side yard subject to the following:
 - a. The driveway surface and any connected pad shall be at least three (3) feet from a side lot line.
 - b. No driveway access shall exceed 12 feet in width for a distance of 10 feet from the edge of pavement, or where a sidewalk is required, for a distance of five (5) feet from back of sidewalk. The driveway shall not exceed 12 feet in width except that the driveway abutting the front elevation of a garage or carport may be of a width equal to width of the garage or carport space. That width may extend a sufficient depth to support placement of single row of vehicles outside of the garage or carport and then shall taper to 12 feet or less.
 - c. The driveway may include an attached pad for purposes of allowing vehicles exiting a garage, carport, or driveway to back-up and turn the vehicle in order to allow forward entry on to the street.
 - d. The driveway shall be positioned for direct access to the garage or carport. In the event a garage or carport does not exist, the orientation of the driveway shall be to the side or rear yard.
 5. Shared Driveway Requirements.
 - a. Limitations. A shared driveway shall only be approved to provide the primary access from a road to two (2) contiguous lots, which because of their zoning, configuration, or other circumstance related to the land, cannot be or are unlikely to be split into future additional lots.
 - b. Design and Construction Requirements.
 - (1) The shared driveway shall be located within an easement with a minimum width of 20 feet.
 - (2) The shared driveway shall have a minimum width of 10 feet of travel surface.
 - (3) The driveway surface may be paved with a hard surface or may be aggregate (gravel).
 - c. Application and Approval. Shared driveway applications shall be reviewed by the Administrator and Fire Chief.
 6. Entry and Exit. For driveway access onto M-22 and M-204, the access shall be designed and constructed so that vehicles can enter and exit the parcel in a forward moving direction of travel.
- F. *Private Street Requirements.*
1. Design and Construction Requirements.
 - a. Private streets shall comply with Village street construction and design standards; however, the requirements of this section shall supersede those standards.
 - b. Private streets shall not connect to other private streets or rely on other private streets for access to public roads unless proof of authorization and approval by the association or entity responsible for maintenance and control of connecting private street is provided.

- c. A private street with only one (1) access to a public road shall not exceed 1,000 feet in length, as measured along the centerline of the private street. Any private street exceeding this length shall provide for at least one (1) additional access to a public road.
 - d. Streets over 660 feet shall include:
 - (1) 66-foot easement.
 - (2) 24-foot improved roadbed.
 - (3) Three (3) foot improved shoulder on each side.
 - e. Streets 660 feet or less shall include:
 - (1) 66-foot easement.
 - (2) 20-foot improved roadbed.
 - (3) Two (2) foot improved shoulder on each side.
 - f. Drainage ditches and culverts, as necessary, shall be constructed on both sides of the street.
 - g. Street grades shall not exceed seven (7) percent.
 - h. Cu-de-sac turnarounds shall have a radius of no less than 40 feet of improved roadbed for the accommodation of emergency vehicles and other commercial vehicles.
 - i. If an approve private street is proposed to be extended past 660 feet, the roadbed and shoulder for the entire street shall meet the requirements for streets over 660 feet.
2. Easement and Maintenance Agreement. Applications for shared driveways and private streets shall include a copy of the recordable legal instrument(s) describing and granting the access easement(s), describing the maintenance agreement, and signed by all owners of the lands served by the access easement and other parties in interest. All easements and maintenance agreements shall be reviewed and approved by the Village Attorney. A copy of the recorded version shall be provided to the Administrator as a condition of approval. The instrument shall include the following:
- a. Provisions that assure that the travel surface will be maintained, repaired, and snowplowed for the full width and length to ensure safe travel and accessibility by emergency vehicles at all times.
 - b. Provisions that assure that the costs of maintenance of the travel surface and its easement are paid for in an equitable manner.
 - c. A legal description of the access easement and a legal description of the individual parcels of land to be served. All properties served by the access easement and travel surface shall be subject to the private road maintenance agreement.
 - d. Provisions declaring that the maintenance agreement constitutes a restrictive covenant, running with the benefitted lands, and binding on all current and future owners and other parties in interest as to the respective obligations stated therein.

- e. Provisions to indemnify, save and hold the Village and its officers, employees, and agents, harmless from any and all claims for personal injury and/or property damage arising out of the failure to properly construct, maintain, repair, or replace the travel surface.
 - f. Provisions authorizing the Village, in its sole discretion, to establish a special assessment to perform reasonably necessary maintenance of the private street or shared driveway.
 - g. Provisions authorizing the Village, in its sole discretion, to enforce the terms of the maintenance agreement, by any lawful means, in addition to such enforcement by any of the owners of the lands served by the private street or shared driveway, or by another interested party.
 - h. The document shall specify the method of private street financing of all maintenance, improvements, snow removal, and the apportionment of these costs among those benefitted, and the right of the Village to assess the costs against those properties benefitted, plus a 25 percent administrative fee, and to perform improvements in the event of a failure of those benefitted to privately perform these duties for the health, safety, and general welfare of the area.
3. Application and Approval. A private street shall be reviewed in accordance with the procedures for a Level "B" site plan. Applications must include the checklist requirements.
 4. Planning Commission Review. The Planning Commission shall review the application and plans and shall make a recommendation to the Village Council. In making its recommendation, the Planning Commission shall find that the proposed private street:
 - a. Will not be detrimental to the public health, safety or general welfare.
 - b. Will not adversely affect the use of land.
 - c. Will be constructed to assure a safe and unimpeded route of travel for motor vehicles, pedestrians and emergency vehicles in all weather conditions.
 - d. Will be constructed to protect against or minimize soil erosion and prevent damage to lakes, streams, wetlands and the natural environment of the Village.
 - e. Will be in conformance with the Master Plan.
 - f. Will be in conformance with special conditions, as deemed necessary by the Planning Commission, such as the provision of landscaping, lighting and sidewalks, which have a reasonable relationship to the health, safety and general welfare of the Village.
 5. Variations and Waivers. On a case-by-case basis, the Planning Commission may recommend waivers for certain requirements, as site conditions warrant.
 6. Village Council Action. Upon receipt of the recommendation by the Planning Commission, the Village Council shall approve, approve with conditions, or deny the application. The record shall include the basis of the Village Council's decision.
 7. Performance Guarantee. A performance guarantee for 125 percent of an engineer's opinion of probable cost or contract amount shall be required as a condition of private street approval. The performance guarantee shall be released upon inspection and approval of the completed private street.

8. As-Built Drawings. The applicant, at their expense, shall provide the Village with a set of "as-built" drawings bearing a certificate and statement from a registered engineer certifying that the private street has been completed in accordance with the requirements of the permit upon completion.

G. *Inspections and Compliance.*

1. Inspections. Upon completion of construction of the private street or shared driveway, the Village shall inspect the completed construction to determine if it complies with the approved plans, specifications, permit, and this ordinance. A final compliance approval shall be granted if all requirements are met.
2. Noncompliance. If the completed private driveway or street does not satisfy the requirements of the permit or this ordinance, the applicant shall be notified of the noncompliance in writing and shall be given a reasonable period of time to correct the deficiencies. Failure to correct the deficiencies within the time provided shall constitute a violation of this ordinance.

H. *Maintenance and Repairs.*

1. Maintenance Required. Private driveways and streets shall be maintained in a manner that complies with the provisions of this section.
2. Safe and Unimpeded Route. All private driveways and streets shall be continuously maintained at the proper widths and be clear of brush or trees and branches to a height of 14 feet to assure a safe and unimpeded route of travel for motor vehicle traffic, pedestrians and emergency vehicles in all weather conditions.
3. Responsibility. All costs for maintenance and repair of the private driveways and street shall be the responsibility of the benefitting property owners or any property owners' association.

Section 2-5 Dwelling Regulations

No building shall be used for dwelling purposes that does not comply with the requirements of the zoning ordinance, and other Village ordinances. Garages or other accessory buildings, tents, recreational vehicles, basements, partial or temporary structures, whether of fixed or portable construction, shall not be erected, established or moved onto a parcel and used for any living purposes, unless authorized by the Administrator in accordance with this ordinance.

Section 2-6 Environmental Protection

Notwithstanding anything to the contrary contained in this ordinance, the following provisions shall apply:

A. *Water Protection.*

1. Tree Removal. Within 10 feet of the water's edge of tributaries and springs that drain to Lake Michigan, an undisturbed area of vegetation shall be maintained and woody and native herbal species shall not be removed. Trees with a trunk diameter of three (3) inches at breast height, four and a half (4 ½) feet or greater, shall not be removed unless dead or dying. Trees and other woody plant material of a smaller diameter at breast height shall not be removed, except to prune or clear a filtered view of the water body. It shall be the landowner's responsibility to maintain this buffer in a healthy state.

2. Flood Plain. No building or structure shall be built, located or constructed within a 100-year flood plain of any water bodies in any land use area as may be determined by the Michigan Department of Natural Resources (DNR) or Department of Environmental Quality (DEQ).
- B. *Hazardous Substances*. All businesses and facilities which use or generate hazardous substances in quantities greater than 220 pounds per month or 25 gallons per month, whichever is less, or store hazardous substances in quantities greater than 220 pounds per month or 25 gallons per month, whichever is less, shall comply with the groundwater protection requirements of this section. Provided, however, the groundwater protection requirements of this section shall not apply to fuel stored in a fuel tank that is part of the motor vehicle for purposes of use by that vehicle's motor and shall not apply to materials in a five (5) gallon, or smaller, pre-packaged sealed container.
- C. *Groundwater Protection*.
1. Applicability. Projects and related improvements shall be designed to protect water bodies, including lakes, ponds, streams, wetlands, floodplains, groundwater, steep slopes and natural and man-made drainage systems.
 2. Floor Drains. When constructed, general purpose floor drains shall be:
 - a. Connected to an on-site holding tank (not a septic tank/drain field or a dry well) in accordance with state, county and municipal requirements; or
 - b. Authorized through a state groundwater discharge permit; or
 - c. Connected to a public sewer system.
 3. Other Requirements. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharge to groundwater, including direct and indirect discharges, shall be allowed without appropriate state and county permits and approvals.
 4. Out-of-Service Wells. Out-of-service water wells shall be sealed and abandoned in accordance with applicable requirements of the Michigan Water Well Construction and Pump Installation Code.
 5. Wellhead Protection Overlay Area. If a building or site plan includes territory within a Wellhead Protection Overlay Area, the applicant shall submit a signed statement providing permission for periodic follow-up groundwater protection inspections by the Administrator, county and state officials.
- D. *Aboveground and Underground Storage*. All tanks shall be permitted by the appropriate state agency and shall be maintained in compliance with all applicable regulations.
- E. *Ridgeline Protection*.
1. Steep Slopes. In areas where slopes are 18 percent or steeper, harvesting of trees shall not occur except in conformance with a forest management plan prepared by, and under the supervision of, a professional forester using Michigan Department of Natural Resources best management practices for forestry.
 2. Horizon Line. At the crest of the hillsides and on hillsides, the following requirements apply:

- a. Prior to clearing a parcel, a tree survey that identifies the number of species of all trees six (6) inches or greater in diameter at breast height, four and a half (4 ½) feet, within the affected area shall be professionally prepared.
 - b. If there are existing trees, then there shall be a sufficient number of mature trees left in place around structures, or trees which have been removed shall be re-established at a rate of two (2) canopy trees for every one (1) tree removed, six (6) inches or greater in diameter at breast height, four and a half (4 ½) feet. New trees shall be at least two and a half (2 ½) inches in diameter at installation measured at four and a half (4 ½) feet.
 - c. The height of structures shall be lower than the surrounding trees left in place or existing.
 - d. Trees shall be preserved within building sites so that views have an appearance of being unbroken from Grand Traverse Bay and roads approaching the Village. This is not intended to prevent the selective trimming for views and removal of diseased or unhealthy trees. Clearcutting of an entire site is prohibited.
3. Steep Hillides. On slopes over 25 percent as measured by two (2) foot contours, enough natural vegetation shall be retained to ensure long-term soil stabilization and a natural appearance of the hillside. This is not intended to prevent the selective trimming of trees for filtered views.

F. *Replanting.*

1. Requirement. In areas illegally cleared, a landowner shall be required to replant trees of at least 2.5 inches diameter at breast height (DBH), which is measured four and a half (4 ½) feet above the ground.
2. Type and Number. The number of trees required to be replanted shall be based on the projected crown spread of the proposed tree types at maturity. The minimum number of trees required is any combination that results a total area crown spread at maturity equal to the size of the area cleared. Species shall be the same as removed or other consistent with other types in the immediate vicinity, and shall be regionally suitable, non-invasive, hardy, and survivable in Leelanau County.

- G. *Wetland Protection*. Within 10 feet of a delineated wetland, an undisturbed area of vegetation shall be maintained and woody and native herbal species shall not be removed. Trees with a trunk diameter of three (3) inches at breast height, four and a half (4 ½) feet or greater, shall not be removed unless dead or dying. Trees and other woody plant material of a smaller diameter at breast height shall not be removed.

H. *Waterfront Greenbelt.*

1. Minimum Depth. A greenbelt a minimum of 25 feet deep will be established and maintained as a condition for new development or redevelopment taking place on waterfront parcels. This strip will be made up of a mixture of low growing shrubs and trees that are well suited for the site. This strip will be located upland from the Lake Michigan Historic High Water Elevation (582.3' IGLD 1985) and no lawn may be maintained between this strip and the water's edge.
2. Required Trees. A minimum of 30 percent of the greenbelt area will be made up of a mature canopy or trees that are well suited for the site and will be at least 40 feet in height at maturity. Trees shall be preserved within the greenbelt so that views from the Grand Traverse Bay have an appearance of being unbroken and to prevent shoreline

erosion. This is not intended to prevent the selective trimming for views and removal of diseased or unhealthy trees, however, clearcutting of the greenbelt is prohibited.

3. Pathway. A single path a maximum of six (6) feet wide is allowed through the greenbelt.
4. Waterfront-Viewing Platforms. One water front viewing platform, a maximum of 10 feet by 12 feet will be allowed per parcel. This platform shall be constructed at ground level and be made up of materials that allow for the free infiltration of water. Larger platforms may be approved by the Planning Commission if the following standards are met:
 - a. The platform will not significantly impact the waterfront greenbelt.
 - b. The platform will not require the removal of significant older-growth trees.
 - c. The platform will not be obtrusive to neighboring property.
5. Docks. One (1) seasonal dock is allowed per parcel within the greenbelt.

Section 2-7 Essential Services

- A. *Authorization*. Essential services shall be permitted in all zoning districts as authorized under any franchise or license in effect within the Village, subject to regulation as provided in any law of the State of Michigan or in any ordinance of the Village.
- B. *Intent*. It is the intent of this section to ensure conformity of all structures and uses to the requirements of this ordinance when maintaining conformity is practicable and not in conflict with the specific requirements of such franchise, license, legislation or other Village ordinance. In the absence of such conflict, the Zoning Ordinance shall prevail.
- C. *Review*. The Administrator shall determine that the yard, parking and landscaping (if any) requirements are met, and that all planned facilities are designed to have a minimal impact to surrounding uses.
- D. *Non-Essential Services*. Wireless communication facilities are not considered essential services and shall be subject to the requirements of Section 9-13 Wireless Communications.

Section 2-8 Frontage

Any parcel or lot created after the effective date of this ordinance shall have lawful frontage upon and shall take access from a public road under the jurisdiction of the Leelanau County Road Commission, Michigan Department of Transportation, Suttons Bay Village, or from an approved private street meeting the requirements of Section 2-4.

Section 2-9 Grading and Excavation

- A. *Drainage*.
 1. Slope. Elevations for any building site shall have a grade sloping away from the walls of the building to prevent the ponding of surface water along foundations.
 2. Runoff. No premises shall be filled or graded to discharge surface runoff onto abutting properties in a manner that increases the amount of post-development runoff.

- B. *Elevating a Building Site.* Grading and/or filling of materials to elevate the grade for a higher structure is permitted, however, structure height will be measured from the existing elevation prior to grading.
- C. *Excavation.* The construction, maintenance or existence of any unprotected, un-barricaded, open or dangerous excavations, holes, pits or wells, which, in the opinion of the Administrator, constitute or are likely to constitute a danger or menace to the public health, safety or welfare is prohibited. This section shall not apply to any excavation for which a building permit or a temporary permit has been issued by the Village and which is properly protected and posted with warning signs.

Section 2-10 Height

- A. *Measurement.* Vertical distance of structure height is measured from the average elevation of the finished lot grade at the front of the building to the highest point of the roof, not including parapets on flat roofs.
- B. *Sloping Grade and Walkout.* On a sloping grade, the height shall be measured from the average grade, between front and rear building lines or between side building lines, whichever dimension reflects the greater degree of slope, the highest point of the roof, not including parapets on flat roofs.
- C. *Maximum Height.* Unless otherwise authorized by this ordinance, height maximums are subject to the limitations of Table 4-3, 5-3 and 6-3.
- D. *Height Exceptions.*
 - 1. The following structures and architectural appurtenances may exceed the height requirements of the zoning district by not more than 15 feet:
 - a. Belfries and spires on places of worship.
 - b. Chimneys.
 - c. Radio and television antennas and towers.
 - 2. Over-the-air reception devices and antennas mounted on mast structures that are 12 feet higher than the roofline of the principal building shall be subject to setbacks of no less than 125 percent of their height.
 - 3. The following structures and architectural appurtenances may exceed the height requirements of the zoning district by not more than five (5) feet:
 - a. Cupolas.
 - b. Elevator bulkheads.
 - c. Roof structures housing necessary mechanical appurtenances.
 - d. Mechanical and HVAC equipment.
 - e. Parapet walls, measured from the adjoining roof.
 - f. Other comparable structural and architectural appurtenances.

Section 2-11 Mechanical Equipment

- A. *Placement.* Mechanic equipment (HVAC), generators, and other similar utility-related equipment located on the ground shall be located in the rear or side yard not closer than three (3) feet to adjoining property.
- B. *Ground Mounted Equipment.* When along side lot lines, equipment shall be screened by shrubbery or fencing so as to not be visible from neighboring property.
- C. *Rooftop Equipment.* Rooftop HVAC equipment shall be screened on all sides or concealed by a parapet so it is not visible from the ground as observed from the curb or pavement edge of the street and any sidewalks.

Section 2-12 Parking of Recreational Equipment

- A. *Applicability.* This section applies to the outdoor storage or parking of recreational equipment on residential properties. There are no restrictions concerning indoor storage of recreational equipment.
- B. *Parking Location.* Recreational equipment shall be subject to the following parking and locational requirements:
 - 1. Front Yard. Placed on paved or gravel driveway with a minimum setback of 20 feet from the right-of-way.
 - 2. Side Yard. Placed on a paved or gravel surface with a minimum side setback of 10 feet.
 - 3. Rear Yard. Placed on pavement, gravel, or grass, with a minimum rear setback of 10 feet.
 - 4. Principal Building. Parking of recreational equipment is limited to parcels and lots with principal dwellings. Where a single parcel or lot is divided by a right-of-way or easement, the recreational equipment shall be located on the portion of the property where the principal dwelling is located.
- C. *Maximum Number.* One (1) item determined to be recreational equipment may be stored outdoors subject to the requirements of this section. Multiple vehicles on one (1) trailer do not count against the maximum number permitted, only the trailer itself.
- D. *Maximum Length.* Recreational equipment parked outdoors on residential property shall not exceed 20 feet.
- E. *Connections.* Recreational vehicles shall not have permanent fixed connections to electricity, water, gas, or sanitary sewer, and shall not be used for living purposes, subject to Section 2-12 F.
- F. *Temporary Stays.* Campers, motorhomes, and similar portable accommodations shall not be occupied for temporary stays more than seven consecutive (7) days and no more than 14 days per calendar year. For temporary stays, temporary connections to extension cords for power or water hoses is permitted.
- G. *Modifications.* The Zoning Administrator may modify minimum setbacks and maximum length requirements if it is determined that the parking of recreation equipment will not affect adjacent property owners, the character of the neighborhood, or the viewsheds from public right-of-way. At the discretion of the Zoning Administrator, requests for modifications may be forwarded to the Planning Commission for consideration and determination.

Section 2-13 Principal Use

- A. *Principal Use per Lot.* Except as otherwise provided in this ordinance, there shall be only one principal use per parcel.
- B. *Principal Use Collectively.* Exceptions are allowed for mixed uses, where permitted by this ordinance, or groups of multi-family buildings, retail or industrial buildings that are determined by the Administrator to be a principal use collectively, based on a consideration of the following characteristics:
1. Individual buildings sharing common parking areas.
 2. Access to the buildings/uses is provided by shared access drives or streets.
 3. The property is used on a condominium basis and complies with all applicable provisions of this ordinance.
 4. Individual activities support one another (such as auto dealership/vehicle repair or a convenience store/restaurant/gas station), unless it is a mixed commercial and residential use allowed by this ordinance, such as upper floor residential and ground for commercial or office use.
 5. The buildings are architecturally consistent and compatible.

Section 2-14 Setbacks, Yards, Lots, and Parcels

- A. *Setbacks.* No buildings may be placed within the minimum required horizontal distance measured from the lot lines per the applicable zoning district. Front yard setbacks are measured from front lot lines, side yard setbacks are measured from side lot lines and rear yard setbacks are measured from rear lot lines.
- B. *Residential Average Front Setback.* In the CR zoning district, the minimum front setback requirements for a principal building in any residential district may be reduced in cases where two (2) or more lots, entirely or partially within 100 feet of a subject lot, on the same side of the street and on the same block, are occupied by principal buildings of which the existing front setback is less than required by the zoning district. The average of the established setbacks for those buildings shall be the minimum required front setback for the subject lot. However, the front setback shall not be reduced to a measurement less than 75 percent of the required front setback.
- C. *Yards, Lot Lines, and Setbacks by Lot Type.*
1. Interior Lots.
 - a. Yards and Lot Lines. Interior lots shall have one (1) front lot line, one (1) front yard, two (2) side lot lines, two (2) side yards, one (1) rear lot line, and one (1) rear yard.
 - b. Setbacks. Buildings on interior lots shall be subject to one (1) front setback, two (2) side setbacks, and one (1) rear setback.
 2. Corner Lots.
 - a. Yards and Lot Lines. A corner lot with street frontage on two (2) connecting sides shall have the following yards and lot lines:

- (1) A corner lot shall have one (1) primary front lot line, one (1) secondary front lot line (side street), one (1) interior side lot line, and one (1) rear lot line. A corner lot has one (1) primary front yard, one (1) secondary front yard, one (1) side yard, and one (1) rear yard.
 - (2) On lots with existing structures, the primary front lot line and primary front yard shall be the location of the traditional front entrance of the structure.
 - (3) For undeveloped lots or lots to be redeveloped, the narrower front lot line shall be the primary front lot line and location of the primary front yard.
 - (4) Where the lot lines are of equal length, and/or the primary front lot line is not evident, the Zoning Administrator shall determine the primary front lot line and primary front yard.
- b. Setbacks. On a corner lot with street frontage on two (2) sides, buildings shall be subject to the following setbacks: one (1) primary street front setback, one (1) secondary street front setback, one (1) side setback, and one (1) rear setback.

3. Multi-Frontage Lots.

- a. Yards and Lot Lines. A multi-frontage lot with street frontage on three (3) sides shall have the following yards and lot lines:
- (1) If the dwelling is oriented toward one (1) of the two (2) parallel streets, the lot shall have two (2) front lot lines and two (2) front yards, one (1) secondary front lot line and one (1) secondary front yard (street side), one (1) interior side lot line and one (1) interior side yard, and no rear lot line and rear yard.
 - (2) If the dwelling is oriented toward the middle street, the lot shall have three (3) primary front lot lines and three (3) primary front yards abutting the streets, and one (1) rear lot line and one (1) rear yard.
- b. Setbacks. On a multi-frontage lot with street frontage on three (3) sides, buildings shall be subject to the following setbacks:
- (1) If the dwelling is oriented toward one of the two (2) parallel streets, buildings shall be subject to three (3) front yard setbacks and a side setback.
 - (2) If the dwelling is oriented toward the middle street, buildings shall be subject to three (3) front setbacks and a rear setback.

4. Through Lots.

- a. Yards and Lot Lines. Through lots shall have two (2) front lot lines, two (2) front yards, two (2) side lot lines, and two (2) side yards.
- b. Setbacks. Buildings shall be subject to two (2) front setbacks and two (2) side setbacks.

5. Cul-De-Sac Lots. The front yard setback shall follow the curve of the front lot line.

D. Lot and Parcel Dimensional Requirements.

1. Lot Width. Lot width shall be the horizontal distance between side lot lines, measured between the two points where the required setback intersects with the side lot lines.

2. Lot Depth. Lot depth shall be the average distance between the front lot line and the rear lot line. The average shall include measurements of the side lot lines, if extending from front lot line to rear lot line, and the shortest measurement from the front lot line to the farthest point of the rear lot line.
 3. Depth to Width Ratio. If under 10 acres in area, a lot or parcel shall not be more than four (4) times deeper than its width.
 4. Frontage. All lots shall have a minimum road frontage on a public or private road that is at least equal to the minimum width required by the applicable zoning district. Cul-de-sac lots or lots on the outside edge of curved streets shall have a minimum of 40 feet of street frontage.
 5. Two-Family Dwelling. Land division or subdivision for two-family dwellings may occur so that two (2) units are placed on one lot in accordance with the requirements of the district in which the building is located, or so that the units are placed on pairs of lots with the lot line through the common wall between the individual dwelling units. If lots are platted so that each unit is on an individual lot, the plat shall indicate which lots are paired. Paired lots shall each provide half of the required minimum size and width, but may together meet other requirements of the applicable dimensional standards.
- E. *Dwelling Orientation Determination*. The Administrator shall consider the following when determining orientation of the dwelling:
1. Location and orientation of existing or proposed buildings on the lot in relation to existing buildings on properties in the same general neighborhood, historic development patterns, and existing developed through lots.
 2. Location and impact of existing vegetation, water, or other natural features affecting the location of buildings or structures on the lot in question.
- F. *Projections into Required Setbacks*.
1. Architectural Features. Certain architectural features, such as cornices, bay windows (or windows without foundations), window wells, gutters, chimneys, pilasters and similar features may project no further than three (3) feet into any setback area.
 2. Enclosed or Covered Additions. Any porch, carport, terrace, addition, deck or balcony that is enclosed or covered shall meet the minimum setback requirements of the principal building or accessory building to which it is attached.
 3. Exemptions from Setback Requirements. Unless a regulation in a specific zoning district provides otherwise, the following structures may be located anywhere on a parcel:
 - a. Terraces, retaining walls, patios.
 - b. Storage sheds less than 100 square feet (one per parcel).
 - c. Flag poles.
 - d. Hydrants.
 - e. Clothes lines.
 - f. Arbors, trellises, trees, plants, shrubs.
 - g. Recreation equipment, outdoor cooking equipment.
 - h. Walkways and steps.

- i. Barrier-free accommodations.
- j. At-grade decks and patios, not covered by a roof.
- k. Paved, concrete and improved driveways, subject to Section 2-4.

Section 2-15 Sidewalks

- A. *General.* Sidewalks are required for all new public and private uses except single-family or two-family residential dwellings on existing parcels, not part of a subdivision, condominium project or PUD.
- B. *Requirements.* All sidewalks shall:
 - 1. Be barrier free and accessible.
 - 2. Be constructed of brick, concrete, concrete pavers, or concrete with brick borders.
 - 3. Be no less than five (5) feet wide in residential areas and no less than eight (8) feet wide on the side of the block where there are commercial buildings.
 - 4. Assist in creating a complete linked network of walkways connecting all uses with parks and other community facilities.

Section 2-16 Temporary Dwelling

- A. *Permit Required.* No person shall use or permit the use of any temporary dwelling, such as a recreational vehicle or manufactured home, as a principal or seasonal dwelling on any site, parcel, field or tract of land, except by zoning permit in accordance with this section.
- B. *Authorized Dwelling Requirements.* A temporary dwelling may be permitted during the construction of a principal dwelling when all the following conditions are met:
 - 1. The location of the temporary dwelling or trailer shall comply with all setback requirements for principal dwellings in the zoning district in which it is located.
 - 2. The use of the temporary dwelling shall not be contrary to the public health, safety or welfare.
 - 3. The use of the temporary dwelling shall be limited to 12 months beginning with the issuance of a permit. The permit may be renewed for not more than six (6) months at a time upon approval of the Administrator if meaningful, substantial and ongoing progress is demonstrated by the applicant.

Section 2-17 Temporary Storage Containers

Temporary storage containers may be placed on driveways for no more than 14 days per year.

Section 2-18 Temporary Structures and Uses

The Administrator shall consider and approve a temporary structure, use or event if it complies with all requirements of this section. At the discretion of the Administrator, the application may be forwarded to the Planning Commission for consideration and approval. The Administrator or Planning Commission

shall review the application and other submitted materials and shall approve, deny or approve it with conditions.

- A. *Construction Site Buildings.* Temporary construction buildings and structures, including trailers, incidental to construction work on a parcel, may be established subject to the following restrictions:
1. Use. Construction buildings and structures may be used only for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on-site sanitation facilities related to construction activity on the same lot. An enclosed structure for temporary sanitation facilities shall be required on all construction sites.
 2. Restriction. No construction building or structure shall be used as a dwelling unit.
 3. Removal. Construction buildings and structures shall be removed from the lot within 30 days after an occupancy permit is issued for the permanent structure on the parcel.
- B. *Sales Office and Model Homes.* Sales offices or model homes may be placed on a parcel, subject to the following conditions:
1. Permit. A permit shall be issued by the Administrator prior to installation of construction.
 2. Timeframe. The permit shall specify the location of the office and shall be valid for a period of one (1) year.
 3. Renewal. A temporary permit may be renewed by the Administrator for up to two (2) successive one (1) year periods or less, at the same location if the office is still incidental and necessary.
- C. *Special Events.* Special events are permitted in all zoning districts subject to compliance with all adopted Village regulatory ordinances.

Section 2-19 Tents

- A. *Applicability.* This section applies to tents 120 square feet or greater on non-residential properties.
- B. *Site Plans.* Tent locations and use shall be shown on site plans and approved per Article 14.
- C. *General Requirements.*
1. Security. Tents shall be roped, braced, and/or anchored to withstand the elements of weather and prevent against collapsing.
 2. Setbacks. Tents shall be subject to the setbacks applicable to principal buildings. Guy lines and stakes may project into required setbacks but shall be no closer than one (1) foot from any property line.
 3. Safety. To prevent injury, guy lines and stakes shall be distinguishable by coloring, flagging, or other visual indicators and rebar and stake ends shall be capped and covered.
- D. *Building and Fire Code.* Tents and any other electrical, mechanical, and structural components are subject to all applicable building and fire codes.
- E. *Condition.* Tent coverings shall be maintained, shall remain taut and secure, and shall not contain rips, holes, and discoloration.

Section 2-20 Traffic Visibility

- A. *Clear Vision.* No use, structure or plant material, such as off-street parking spaces, fences, signs, berms, hedges, or planting of shrubs, which is taller than three (3) feet or which obstructs safe vision at a street corner, shall be located, erected or maintained within the following areas.
1. Intersection of Streets. Within the triangular area formed by the intersection of the street right-of-way lines and a line connecting two (2) points which are located on those intersecting right-of-way lines 30 feet from the point of the intersection of the right of way lines (Figure 2-1 a).
 2. Street and Driveway. Within the triangular area formed by the intersection of a street right-of-way line and a driveway and a line connecting two (2) points that are located on the right-of-way line and the driveway 20 feet from the point of intersection of the right-of-way line and driveway (Figure 2-1 b).
- B. *Exemptions.* Buildings in the CB District are exempt from the clear vision requirement of Section 2-20 A; however, all clear vision areas are subject to review and approval by the Administrator.

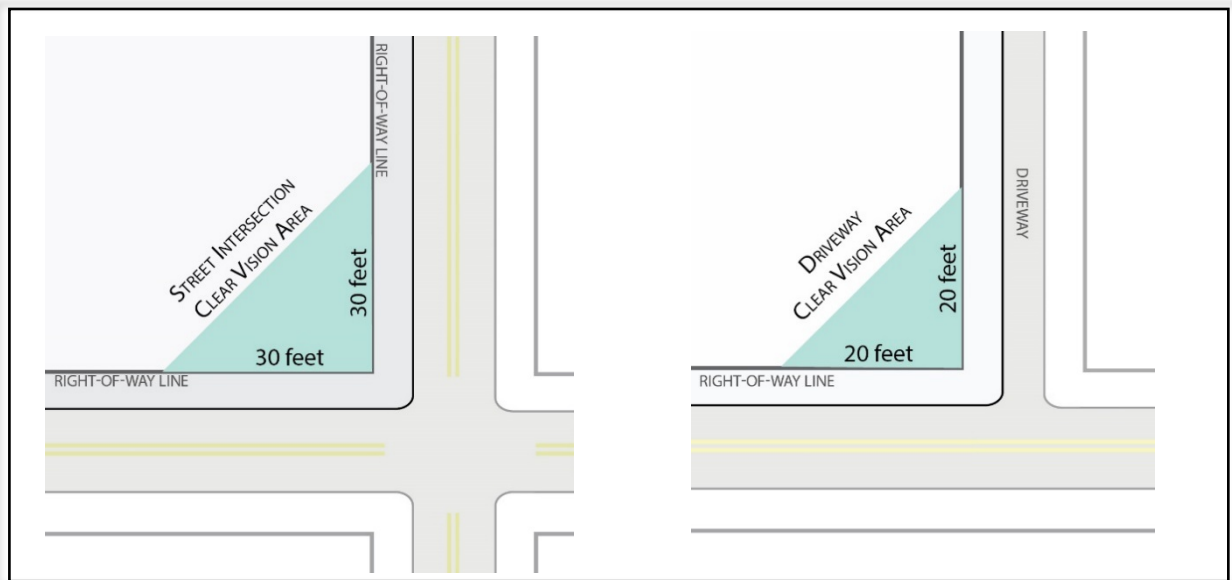


Figure 2-1 a Street-Street

Figure 2-1 b Street-Driveway

Section 2-21 Walls and Fences

- A. *General Provisions.*
1. Permit. Fences and walls require a permit.
 2. Measurement. Fence and wall height shall be measured from the natural grade to the uppermost portion of the fence or wall.
- B. *Requirements.*
1. Residential and Mixed Use District Requirements.

- a. Fences may not exceed six (6) feet in height. Fences located in front yards and waterfront yard portions of a parcel shall not exceed three and a half (3 ½) feet in height.
 - b. Fences in front yards shall not be opaque, such as a privacy fence.
 - c. There shall not be attached, affixed, or placed on any fence or wall any spike, nail, barb (including barbwire), or other pointed instrument on a fence.
 - d. No fence or wall shall be constructed or maintained which is charged or connected with an electrical current.
2. Commercial and Industrial District Requirements.
- a. Fences may not exceed eight (8) feet in height.
 - b. Barbed wire fencing is only permitted in the WI district.
3. Placement.
- a. No fence shall be located below the Lake Michigan historic high-water elevation of (582.3 feet IGLD 1985).
 - b. No fence or wall shall be erected within one (1) foot of any lot line abutting a street right-of-way line and shall not obstruct a clear vision area (Section 2-19).
 - c. If one side of the fence has a finished side, that side shall face adjacent properties, the water or streets.

Zoning Districts and Map

Article
3

Section 3-1 Zoning Districts

The Village is divided into the following zoning districts:

Table 3-1 Zoning Districts		
Symbol	District Name	Regulated In
RESIDENTIAL DISTRICTS		
CR	Central Residential	Article 4
NVR	Newer Village Residential	
SFWR	Single-Family Waterfront Residential	
HR	Hillside Residential	
WC	Waterfront Condominium	
MIXED USE DISTRICTS		
CB	Central Business	Article 5
NG	North Gateway	
SG	South Gateway	
BV	Bay View	
COMMERCIAL AND INDUSTRIAL DISTRICTS		
SB	South Business	Article 6
WI	Warehouse Industrial	
SPECIAL AREA ZONING DISTRICTS		
PL	Public Lands	Article 7
PLANNED UNIT DEVELOPMENT DISTRICTS		
PUD	Planned Unit Development	Article 8

Section 3-2 Official Zoning Map

- A. *Zoning Boundaries.* The locations and boundaries of the Zoning Districts identified in Section 3-1 are established on a map entitled "Suttons Bay Village Zoning Map" which is declared a part of this ordinance.
- B. *Location and Record Keeping.* Regardless of any published copies of the Zoning Map, the official Zoning Map shall be located in the office of the Village Clerk and shall be the final authority as to the current zoning status of all land in the Village. A record is to be kept by the Village Clerk of all changes made or required to be made to the official Zoning Map.
- C. *Identification.* The official Zoning Map shall be identified by the signature of the Village Clerk.
- D. *Amendments.* The Zoning Map shall be kept up to date and accessible to the general public. Once a change to the map becomes effective it shall be reflected on the official Zoning Map upon the effective date.

Section 3-3 Interpretation of Zoning District Boundaries

- A. *Rules.* Where the boundaries of a zoning district as shown on the official zoning map are uncertain, the following rules shall apply:
 1. Where boundaries approximately follow streets, alleys or highways, their centerlines or those lines extended shall constitute the zoning district boundaries.

2. Where boundaries approximately follow lot lines, they shall be construed as following those lot lines.
 3. Where boundaries approximately follow the Village limit lines, they shall be construed as following those lines.
 4. Where boundaries are approximately parallel to the centerline of a street or highway, they shall be construed as being parallel to the centerline and at the distance from the centerline as indicated on the official zoning map. If a distance is not given, the location on the map shall be determined by using a scale.
 5. Where boundaries follow the shoreline of a stream, lake, or other body of water, they shall be construed to follow that shoreline. In the event the shoreline changes, the boundaries shall be construed as moving with the shoreline. Boundaries indicated as approximately following the centerline of streams, rivers, drainage ditches or other bodies of water shall be construed to follow those centerlines.
 6. Where the application of these rules leaves a reasonable doubt as to the boundaries between two (2) districts, the Zoning Board of Appeals shall interpret the boundary location.
- B. *Boundaries Dividing a Lot.* Where a boundary line divides a property, each use and building on the lot or parcel shall comply with the requirements of the district in which it is located.

Section 3-4 Uses Not Listed

A use not specifically mentioned or described by category is prohibited unless authorized by the Administrator or Zoning Board of Appeals by Section 3-5, Similar Uses.

Section 3-5 Similar Uses

- A. *Intent.* Since every potential land use cannot be addressed in the Zoning Ordinance, each district may accommodate similar uses, as referenced in this section.
- B. *Review.* All applications for a use not specifically addressed in a zoning district, or inquiries concerning a use, shall be submitted to the Administrator for review and a decision.
1. Factors. The Administrator shall base a determination on the following factors:
 - a. The proposed use is not listed as a permitted or special land use in any other zoning district.
 - b. The use is consistent with the district purpose.
 - c. The use is substantially similar to other allowed uses relative to its character, scale, and overall compatibility.
 - d. The use is not expected to create objectionable impacts to public health, safety, and welfare if it were established in the applicable zoning district.
 - e. The use would not be more appropriate within a different zoning district.
 2. Zoning Board of Appeals. The Administrator may, in their sole discretion, submit a proposed use to the Zoning Board of Appeals for a similar use determination if consideration of the review factors does not lead to a clear conclusion.

- C. *Compliance.* If a proposed use is determined to be similar to a use listed within the district, the proposed use shall comply with all the standards or requirements associated with the listed use. If the named use is a special land use within the applicable zoning district, the use shall be reviewed and approved per Article 13 and any other applicable provisions of this ordinance.
- D. *Determination.* The determination of whether a proposed use is similar to another listed use shall be considered as an interpretation of the use regulations and is not determined to be a use variance. Once a use has been determined to be similar, it shall be specifically determined to be the named use with which it shares similarities.
- E. *Prohibited Use.* If a use is not specifically listed anywhere in this ordinance and is not determined to be similar to any other specifically listed uses, the use is prohibited, per Section 3-4.

Section 3-6 Zoning of Vacated Areas

When a street, alley or other public way is vacated by governmental action, and when the lands within the boundaries of such a facility are attached to and become a part of the lands adjoining the vacated street, alley, or public way, the lands formerly within the boundaries of the facility shall be subject to the same zoning regulations as apply to the adjoining lands.

Section 3-7 Zoning of Annexed Lands

Upon annexation of any land to the Village, the annexed property shall be zoned to the most appropriate district upon annexation. Zoning of the land shall be consistent with the Master Plan and consideration shall be given to the criteria listed in Section 18-2.

Residential Districts

Article
4

Section 4-1 Intent and Purpose

- A. *Central Residential (CR)*. The CR district is located on the original Village street grid system and allows the lowest possible lot size.
- B. *Newer Village Residential (NVR)*. The NVR district is a medium density residential district accommodating traditional single-family development on larger, newer lots within the Village.
- C. *Single-Family Waterfront Residential (SFWR)*. The SFWR district accommodates single-family detached development on larger lots at the lowest density of the Zoning Ordinance, close to a half-acre minimum lot size.
- D. *Hillside Residential (HR)*. The HR district primarily accommodates single-family detached and two-family development.
- E. *Waterfront Condominium (WC)*. The WC district accommodates multiple family dwellings along the waterfront while requiring deeper setbacks from right-of-way and property lines.

Section 4-2 Table of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this ordinance. Land and/or buildings in the districts indicated at the top of Table 4-2 may be used for the purposes denoted by the following abbreviations:

- A. *Permitted Use (P)*. The use may be established by right on land and/or within buildings in the applicable zoning district, subject to all other applicable provisions of this ordinance.
- B. *Special Land Use (SLU)*. The use is subject to discretionary review by the Planning Commission.
- C. *Specific Conditions*. Indicates requirements or conditions that are applicable to specific uses.

Table 4-2 Schedule of Uses: Residential Districts

Use	CR	NVR	SFWR	HR	WC	Specific Conditions
ACCESSORY USES						
Accessory dwelling	P	P	P	P		Section 9-2
Accessory building	P	P	P	P	P	Section 2-3
Home occupation	P	P	P	P		Section 9-6
Primary caregiver facility	P	P	P	P	P	Section 9-10
ACCOMODATIONS, HOSPITALITY, ENTERTAINMENT						
Bed and breakfast	P	P	P	P		Section 9-4
INFRASTRUCTURE, TRANSPORTATION, COMMUNICATIONS						
Essential service	P	P	P	P	P	Section 2-7
INSTITUTIONAL/CIVIC						
Parks, playgrounds, outdoor recreation areas	P	P	P	P	P	
Place of worship	P	P				Section 9-5
School, private	P	P				Section 9-5
RESIDENTIAL						
Day care (children), family day care home	P	P	P	P	P	
Day care (children), group day care home	SLU	SLU	SLU	SLU	SLU	
Dwellings, multi-family					P	Section 9-7
Dwellings, single-family detached	P	P	P	P	P	
Dwellings, two-family		P		P		
Foster care home (adult), adult foster care family home	P	P	P	P	P	
Foster care home (adult), adult foster care small group home		SLU				
Foster care home (adult), adult foster care large group home		SLU				
Foster family home (children), foster family home	P	P	P	P	P	
Foster family home (children), foster family group home		SLU				
Home, convalescent or nursing		P				
Housing, independent and assisted living		P				
OTHER						
Similar uses	SLU/ P	SLU/ P	SLU/ P	SLU/ P	SLU/ P	Section 3-5

Section 4-3 Spatial Requirements

- A. *Spatial Requirements- Residential Districts.* All lots shall meet the minimum area and width requirements of Table 4-3. New lots shall not be created, except in conformance with these requirements. All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in Table 4-3.

Table 4-3 Spatial Requirements- Residential Districts											
Residential Districts	Min. Depth (ft.)	Min. Width/ Frontage	Setbacks (feet)					Height of Primary (feet)	Stories	Building Coverage	Max. Impervious Coverage
			Primary Street Front	Side Street Front	Side	Rear/ Alley	Lake Michigan				
CR	100	40/40	15- 25 ¹	6 ²	6	10	-	30	2.5	40%	50%
NVR	100	80/40	15	15	15	15	-	30	2.5	30%	40%
SFWR	200	100/100	25	25	15		50	30 (street) 40 (lowest grade)	2.5	Greater of 30% or 2,500 SF	Greater of 30% or 2,500 SF
HR	100	100/20	40	40	40	40	-	30, 40 for dwellings with walk out basement	2.5	Lesser of 40% or 8,000 SF	Lesser of 50% or 10,000 SF
WC	150	200/200	35	35	Lesser of 35 or height of bldg.		50	35	2.5	25%	40%

- B. *Single-Family and Two-Family Garages.* If garage doors are oriented toward the primary street frontage, they must be positioned at least five (5) feet behind the primary façade of a house. The total width of garage door openings shall not exceed 40 percent of the total width of any street-facing elevation of the house. On a corner lot, a garage facing a secondary street may be flush with the secondary side elevation or behind.

¹ For the CR district, the minimum setback is 15 feet and the maximum setback is 25 feet.

² The six (6) foot Secondary Street Front Setback is only applicable to the side of dwellings on corner lots. For instance, setbacks from Madison, Jefferson, Park, Adams, Grove, and Concord Streets may only be six (6) if the home faces the other street (Broadway, Lincoln, St. Mary's, Race, and Stratton). If facing the secondary street, two primary street front setbacks shall apply.

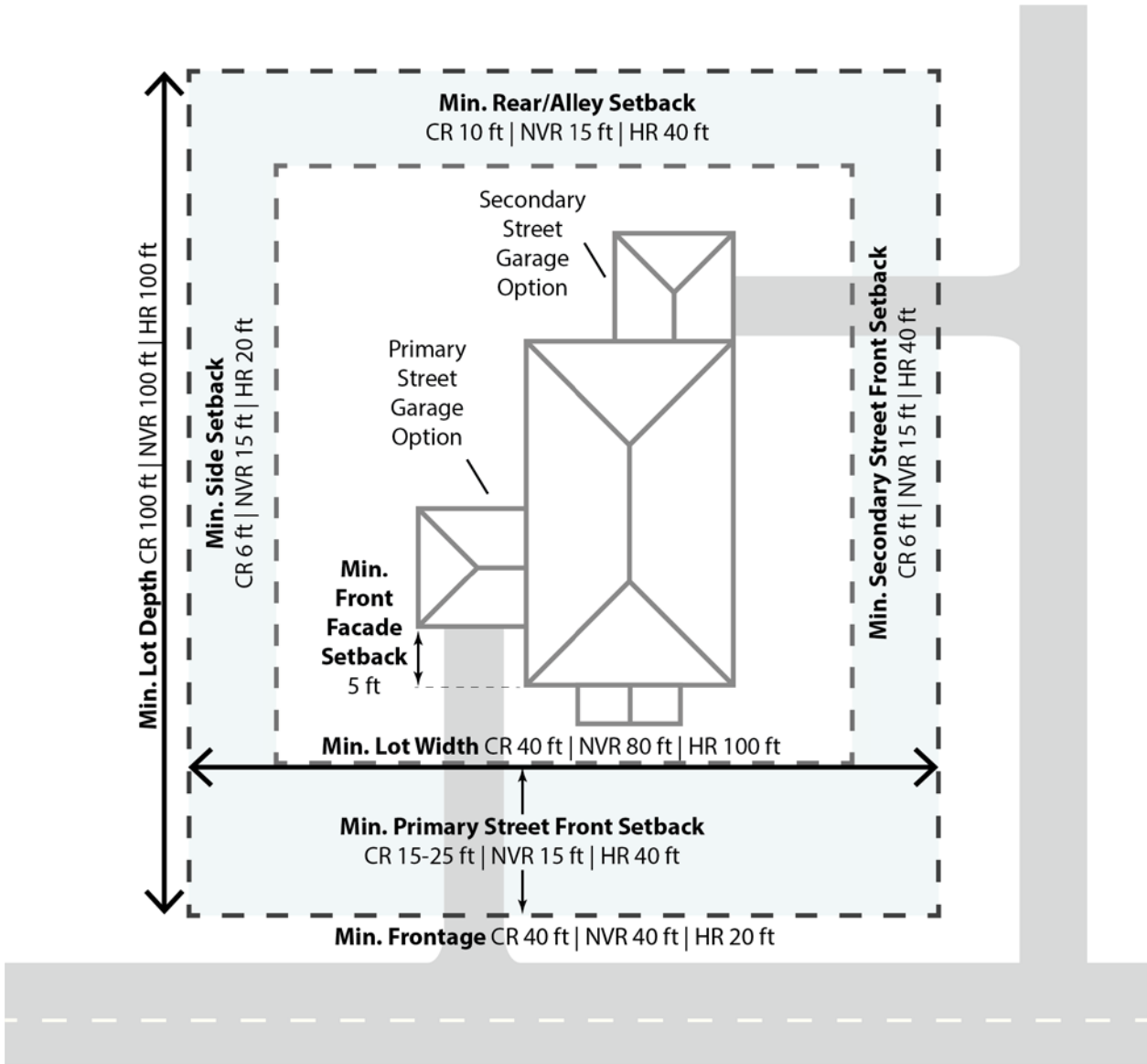


Figure 4-1 CR, NVR, and HR Spatial Requirements- Single-Family Dwellings

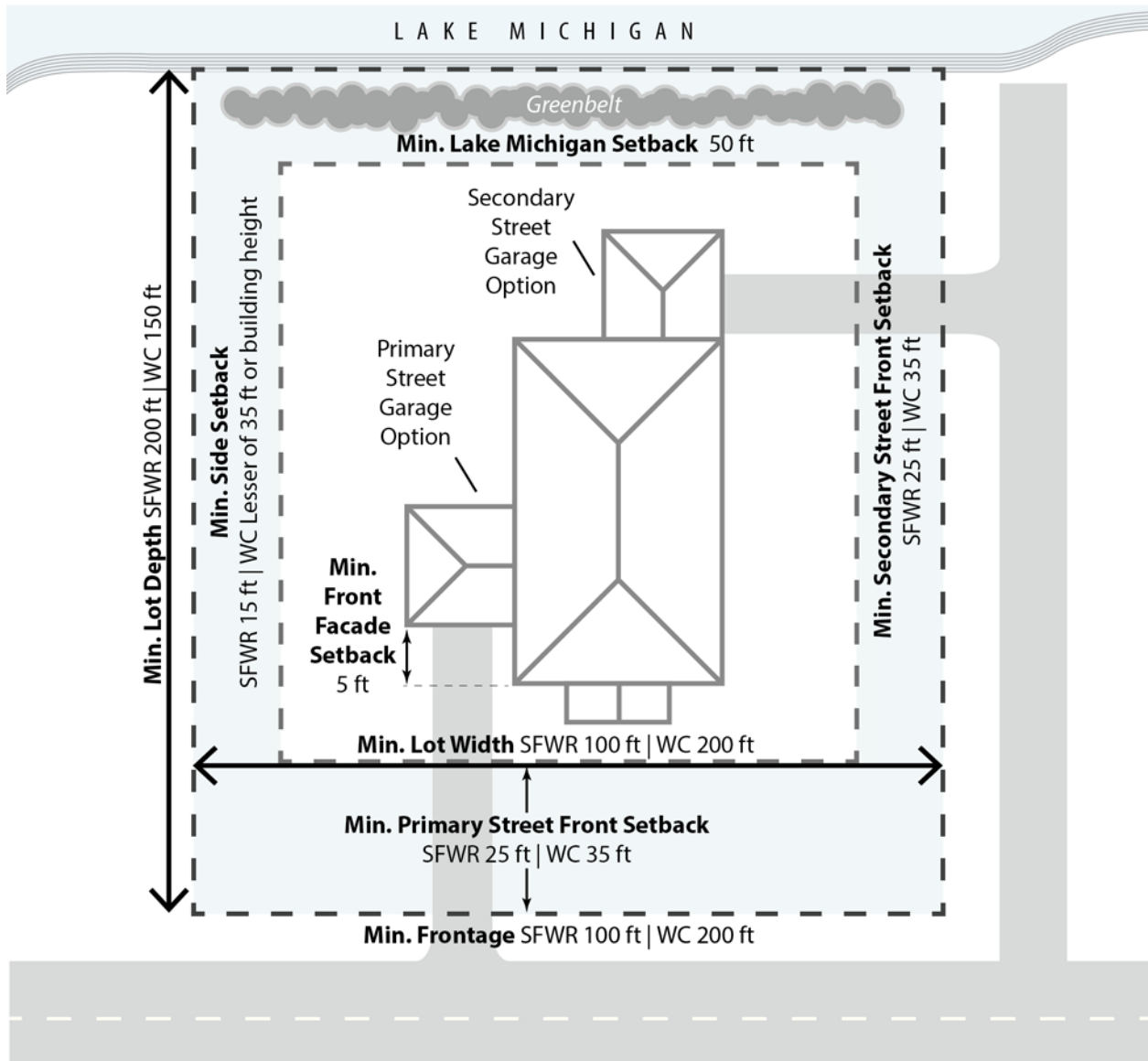


Figure 4-2 SFWR and WC Spatial Requirements- Single-Family Dwellings

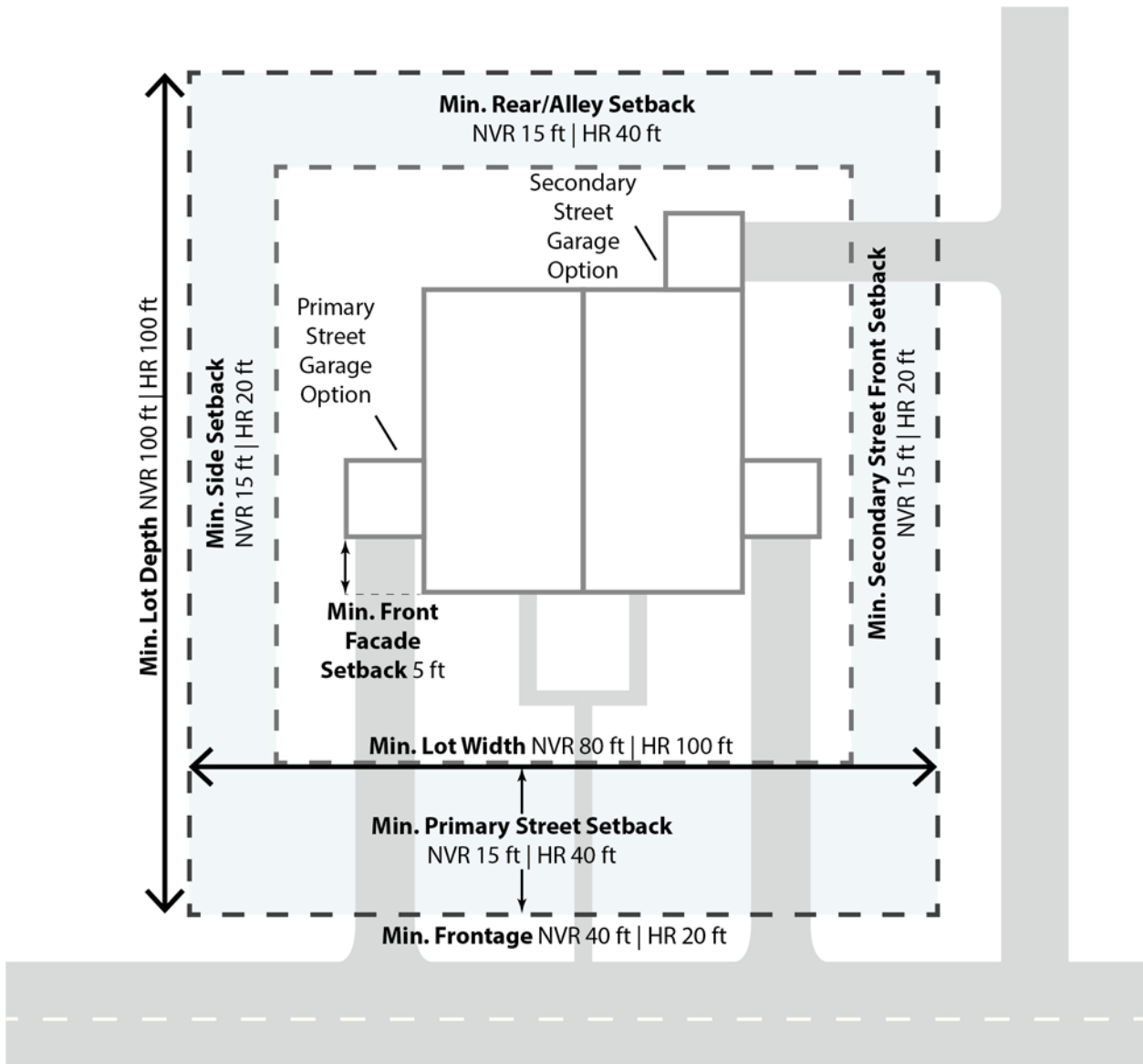


Figure 4-3 NVRA and HR Spatial Requirements- Two-Family Dwellings

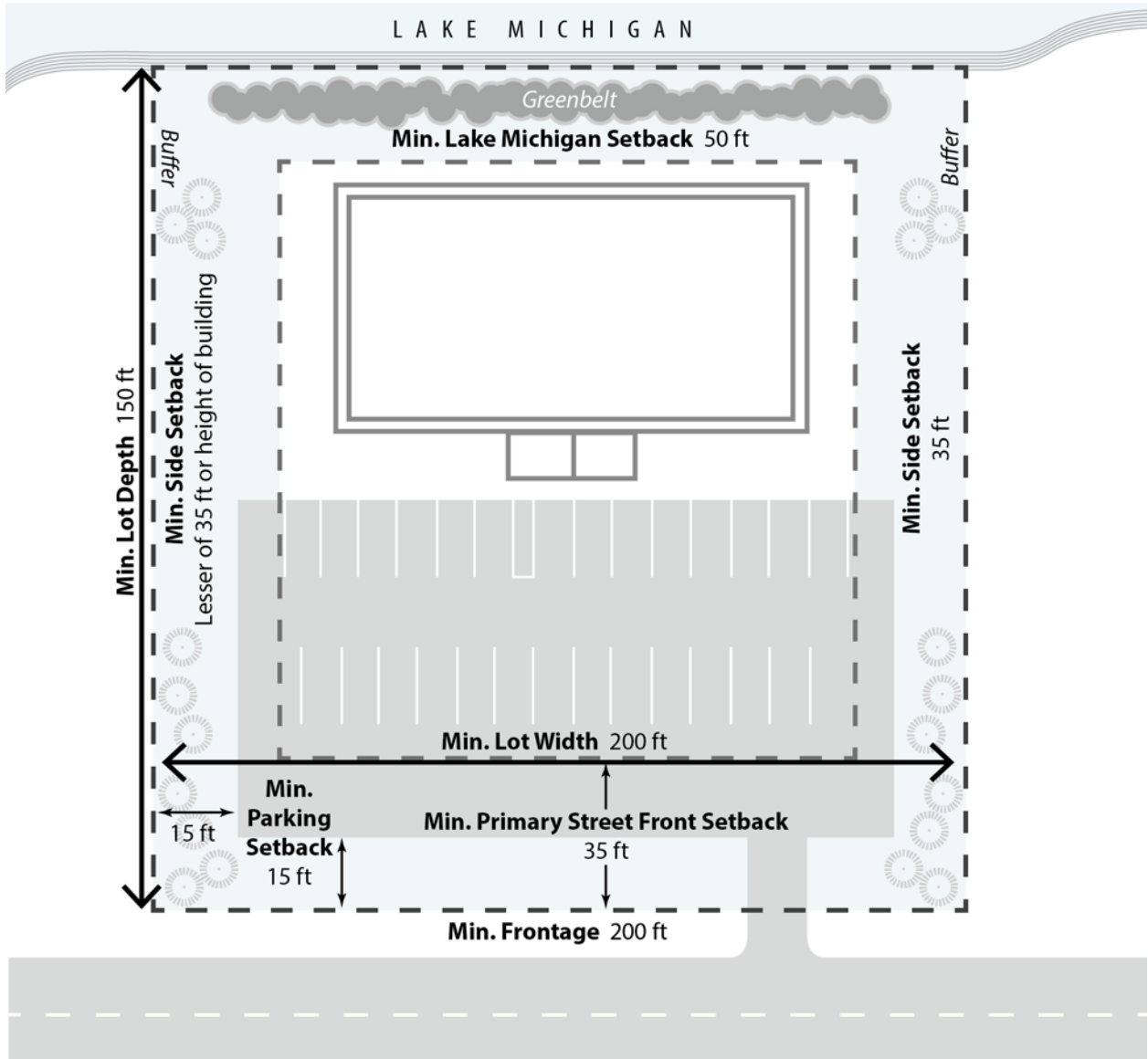


Figure 4-4 WC Spatial Requirements- Multi-Family Dwellings

Section 4-4 Site Development Regulations

In addition to the requirements of this article, all development in the Residential Districts shall meet the applicable requirements as listed elsewhere in this ordinance:

- A. *General Provisions.* Article 2, as applicable.
- B. *Specific Use Requirements.* Article 9, if noted in Table 4-2.
- C. *Off-Street Parking and Loading.* Article 10.
- D. *Landscaping and Lighting.* Article 11.
- E. *Signs.* Article 12.
- F. *Special Land Uses.* Article 13, if noted in Table 4-2.
- G. *General Review Procedures.* Article 14, as applicable.

Section 4-5 Hillside Residential Parcels

A single existing parcel or a series of adjacent existing parcels under a single ownership and outside of a platted subdivision may be divided provided that all of the following standards can be met:

- A. *Density.* Density shall be limited to no more than one new parcel per 20,000 square foot gross master parcel area.
- B. *Building Site.* All resulting parcels shall have a minimum building envelope of 100 feet by 100 feet, located in an area where no portion of the pre-existing natural slopes exceeds 18 percent, as identified by the Soil Survey of Leelanau County or by a topographic survey (done at two-foot contours). New structures must be sited in these areas on newly created parcels.

Section 4-6 Water and Sewer

Any lot in a subdivision and all condominium developments approved after the effective date of this ordinance shall be served by public water or sewer. Alternatively, community systems may be authorized if permitted by the Leelanau County Health Department.

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Mixed Use Districts

Article
5

Section 5-1 Intent and Purpose

- A. *Central Business (CB)*. The CB district protects the traditional, small town character of the downtown and enhances a pedestrian-oriented environment. The district accommodates a mix of retail stores, offices, entertainment, civic spaces, residential uses and related activities that are mutually supporting and serve the needs of the Village. The intent of this district is to encourage a lively social environment and economically viable downtown with a wide variety of uses in a pedestrian oriented and unified setting.
- B. *North Gateway (NG)*. The NG district accommodates a mix of residential and commercial uses while maintaining residential neighborhood design characteristics to the north of the CBD.
- C. *South Gateway (SG)*. The SG district accommodates a mix of residential and commercial uses while maintaining residential neighborhood design characteristics to the south of the CBD.
- D. *Bay View (BV)*. The BV district is a mixed use district intended to accommodate residential use at a variety of densities, civic use, office space and retail, in addition to mixed use buildings.

Section 5-2 Table of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this ordinance. Land and/or buildings in the districts indicated at the top of *Table 5-2* may be used for the purposes denoted by the following abbreviations:

- A. *Permitted Use (P)*. The use may be established by right on land and/or within buildings in the applicable zoning district, subject to all other applicable provisions of this ordinance.
- B. *Special Land Use (SLU)*. The use is subject to discretionary review by the Planning Commission.
- C. *Specific Conditions*. Indicates requirements or conditions that are applicable to specific uses.

Table 5-2 Schedule of Uses: Mixed Use Districts					
Use	CB	NG	SG	BV	Specific Conditions
ACCESSORY					
Accessory dwelling		P	P	P	Section 9-2
Accessory building	P	P	P	P	Section 2-3
Accessory sidewalk cafés and sales	SLU	SLU	SLU	SLU	Section 9-3
Home occupation		P	P	P	Section 9-6
Primary caregiver		P	P	P	Section 9-10
ACCOMMODATIONS, HOSPITALITY, ENTERTAINMENT					
Banquet hall	P	SLU	SLU	P	
Bed and breakfast	P	P	P		Section 9-4
Ecotourism	P			P	
Hotel/motel	P			P	
Marina	P			P	
Off Premise Tasting Room	P	P	P		
On Premise Tasting Room	P	P	P		
Restaurant	P	SLU	SLU	P	
Restaurant with micro-brewery, small distillery, or small winery	P	SLU	SLU	P	

Table 5-2 Schedule of Uses: Mixed Use Districts					
Use	CB	NG	SG	BV	Specific Conditions
Restaurant with accessory outdoor cooking, dining and entertainment	SLU	SLU	SLU	P	Section 9-3
Tavern	P				
Theater	P				
INDUSTRIAL, MANUFACTURING, ASSEMBLY					
Distillery, small	P	SLU	SLU		
Micro-brewery	P	SLU	SLU		
Winery, small	P	SLU	SLU		
INFRASTRUCTURE, TRANSPORTATION, COMMUNICATIONS					
Essential service	P	P	P	P	Section 2-7
INSTITUTIONAL/CIVIC					
Community oriented cultural facility	P	P	P		
Community public safety	P				
Meeting facility		P	P	P	
Parks, playgrounds, outdoor recreation areas	P			P	
Place of worship	P	P	P	P	
OFFICES AND SERVICES					
Animal services, animal clinic/hospital	P				
Child care center	P	SLU	SLU	P	
General offices and services	P	SLU	SLU	P	
RESIDENTIAL					
Day care (children), family day care home		P	P	P	
Day care (children), group day care home		SLU	SLU	SLU	
Dwellings, multi-family				P	Section 9-7
Dwellings, single-family detached		P	P	P	
Dwellings, two-family		P	P	P	
Dwellings, units on upper floors of buildings with non-residential uses at street level (single or multiple)	P	P	P	P	
Foster care home (adult), adult foster care family home		P	P	P	
Foster family home (children), foster family home		P	P	P	
Home, convalescent or nursing				P	
Housing, independent and assisted living				P	
RETAIL					
General retail (indoor), less than 5,000 SF	P	SLU	SLU	P	
General retail (indoor), 5,000 SF or greater				P	
OTHER					
Similar uses	SLU/ P	SLU/ P	SLU/ P	SLU/ P	Section 3-5

Section 5-3 Spatial Requirements

- A. *Spatial Requirements- Mixed Use Districts.* All lots shall meet the minimum area and width requirements of Table 5-3. New lots shall not be created, except in conformance with these requirements. All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in Table 5-3.

Zoning District		CB	NG	SG	BV
Minimum Depth (ft.)		120	100	120	
Width (ft.)		25 min.	60 min., 120., max.	60 min., 120., max.	
Minimum Frontage		25	Equal to width	Equal to width	
Front Setback	Front/ Primary Street (ft.)	0 max. ¹	15 min.	15 min.	15 min.
	Front/ Secondary Street (ft.)	0 min., 5 max.	10 min.	15 min.	15 min.
Side Setback	Adjacent Commercial (ft.)	0 min.	10 min.	10 min.	5 min.
	Adjacent Residential (ft.)	10 max.	10 min.	10 min.	5 min.
Rear Setback	Alley (ft.)	0 min.	10 min.	10 min.	10 min.
	Lot (ft.)	10 min.	10 min.	10 min.	20 min.
	Secondary Street (ft.)	0 min., 20 max.	15 min.	15 min.	15 min.
	Lake Michigan(ft.)	50 min.	50 min.	50 min.	50 min.
Height- (ft.) ²	All buildings	15 min., 35 max.	35 max.	35 max.	35 max.
	Corner lot buildings	20 min. ³	35 max.	35 max.	35 max.
Stories- Maximum (number)		1 min., 3 max.	1 ½ min., 2 max.	1 ½ min., 2 ½ max.	1 ½ min., 2 ½ max.
Building Coverage Maximum (%)		-	40	40	-
Impervious Surface Maximum (%)		-	50	50	-
Front Parking Setback (ft.)		25 min.	-	-	-
Building Frontage Minimum (%)	Primary Street	80	-	-	-
	Side Street	50	-	-	-
	Secondary Street	50	-	-	-

¹ See Section 5-5 B for exceptions.

² Certain projections may exceed 35 feet. See Section 2-11 D.

³ Buildings on corner lots in the CB district may meet the minimum height requirement based on the method of measurement in Section 2-11 A or by a false second story or extended-height parapet wall.

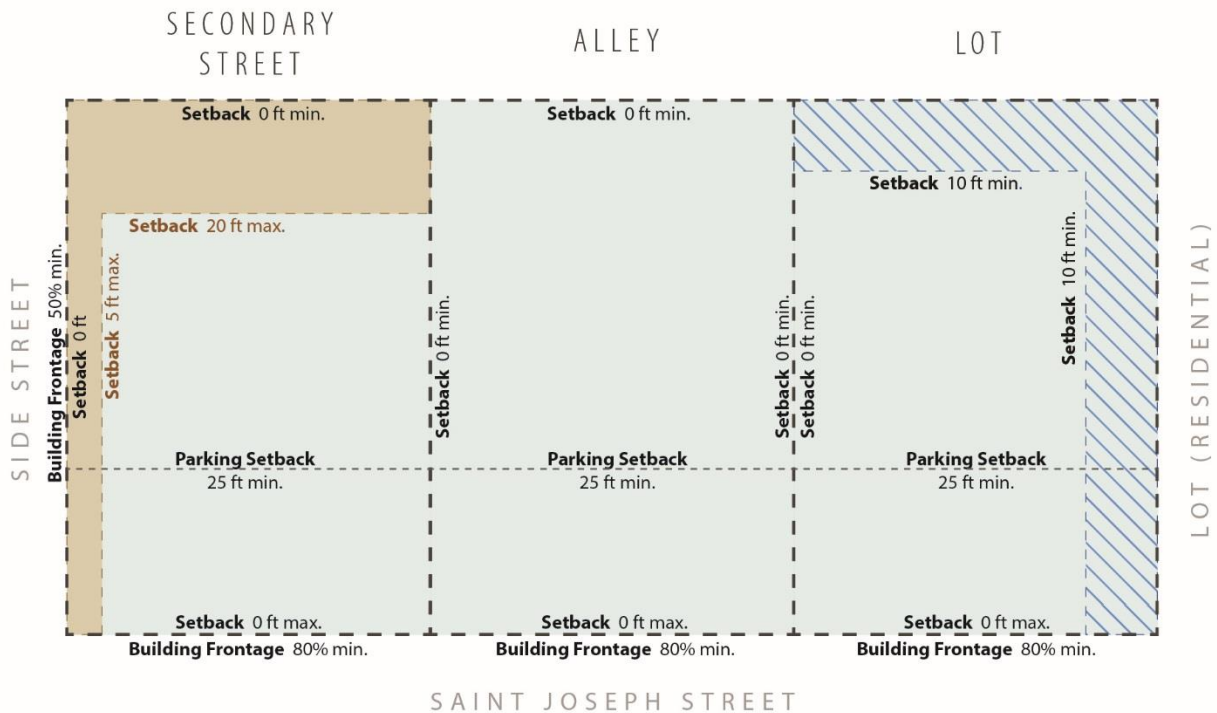


Figure 5-1 CB District Spatial Requirements

Section 5-4 Site Development Regulations

In addition to the requirements of this article, all development in the Mixed Use Districts shall meet the applicable requirements as listed elsewhere in this ordinance:

- A. *General Provisions.* Article 2, as applicable.
- B. *Specific Use Requirements.* Article 9, if noted in Table 5-2.
- C. *Off-Street Parking and Loading.* Article 10.
- D. *Landscaping and Lighting.* Article 11.
- E. *Signs.* Article 12.
- F. *Special Land Uses.* Article 13, if noted in Table 5-2.
- G. *General Review Procedures.* Article 14, as applicable.

Section 5-5 CB District Form Requirements- Commercial Buildings

The building siting requirements for the CB District support a compact, mixed-use development pattern to reinforce the significance of traditional main street design. These requirements emphasize walkable, pedestrian environments that promote a synergy between compatible land uses and strong ties between buildings and the public realm.

- A. *Building Frontage.* On interior and through lots, the minimum building frontage requirement shall apply to front facades that face a primary, side, or secondary street in accordance with this section. On corner lots, the minimum building frontage requirement shall apply to two (2) frontages. Building frontage minimums are as follows:
1. Primary Street Frontage. Building frontage shall extend at least 80 percent of the lot width (St. Joseph). Facades of buildings on lots that abut St. Joseph shall face St. Joseph.
 2. Side Street Frontage. Building frontage shall extend at least 50 percent of the lot width (east/west streets).
 3. Secondary Street Frontage. Building frontage shall extend at least 50 percent of the lot width (north/south streets, excluding Saint Joseph).
- B. *Exceptions to Front Setback Requirement.* Buildings are subject to a zero (0) foot maximum front setback and front building lines must be established at the right-of-way line. The following exceptions are permitted to accommodate different building designs (Figure 5-2):
1. Covered Porches. The front exterior wall of a structure may be separated from the right-of-way line by no more than 10 feet if a covered porch is incorporated into the building design that extends a minimum width of at least 80 percent of the building frontage. The front porch footings shall be subject to the zero (0) foot maximum front setback.
 2. Alcoves. Alcoves for public space, dining, outdoor entertainment, similar uses or a unique design element, shall be permitted for a maximum of 30 percent of the lot width. The rearward frontage is the exterior wall parallel to the primary street, subject to the exception, and it does not have a minimum or maximum setback. When measuring required street frontage, the forward frontage and rearward frontage shall be combined to meet the 80 percent building frontage requirement. Alcoves are limited to interior sides of lots.
 3. Combination. When combination of an alcove and front porch is incorporated into the building design, the covered porch minimum width is 80 percent of the forward frontage. The front porch footings shall be subject to the zero (0) foot maximum front setback.
 4. Arcade. A colonnade supporting a second floor is permitted along the primary street frontage or forward frontage, provided the footings are subject to the zero (0) foot maximum front setback.

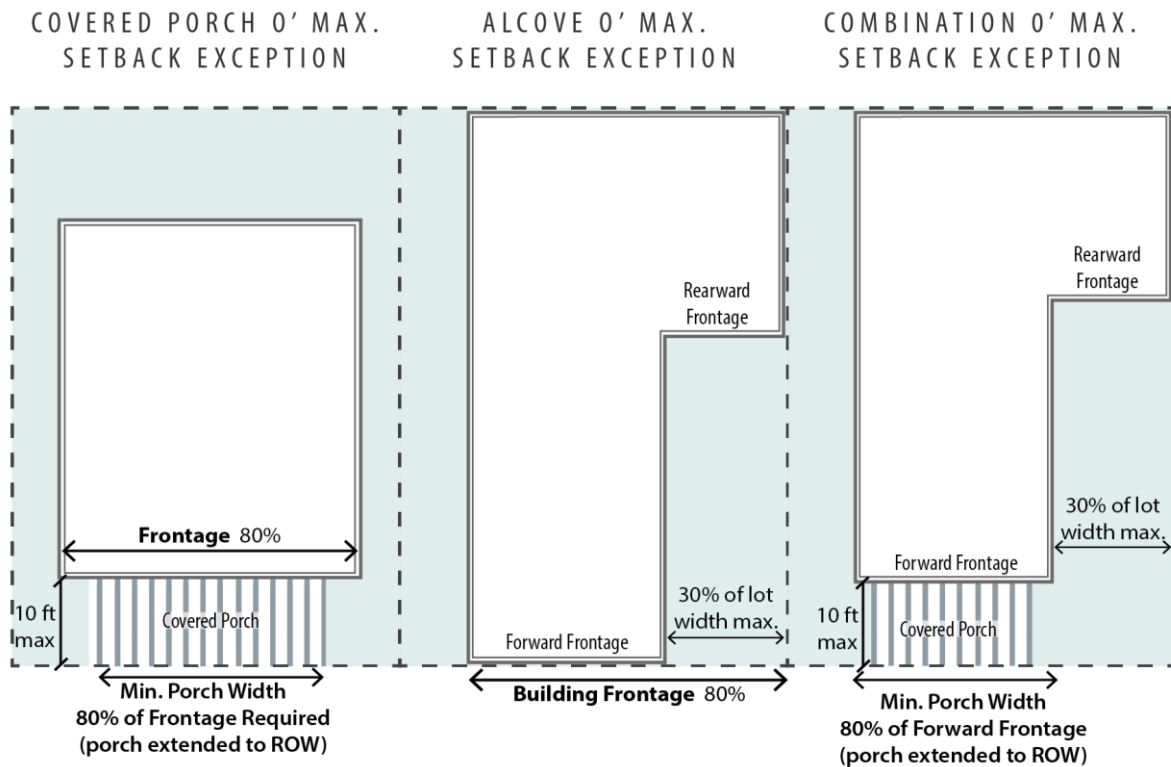


Figure 5-2 CB District Setback Exceptions

- C. *Architectural Articulation.*
1. Articulation. Long, uninterrupted façades on primary, side street and rear street frontages shall be avoided on first stories. Building bays, storefronts, entrances, columns, pilasters and other vertical elements shall be used in 15-foot increments to “break-up” the appearance of facades greater than 30 feet in width.
 2. Defined Stories. Cornice lines, stringcourses, and other architectural elements shall create a recognizable base, middle, and top to a building.
- D. *Storefronts.* Storefronts shall contain a ground floor that is visually distinct, as defined by traditional architectural elements, including display windows, a kick plate between the sidewalk and the base of a display window, a framed entry, piers/pilasters, awnings, transom windows or a sign band. Ground floors shall be designed with storefronts that have windows, doorways and sign panels that are integrally designed.
- E. *Projections.* Storefronts and building entrances may be enhanced by awnings or marquees, provided the following conditions are met:
1. Right-of-Way. No part of a building may project into the public right-of-way.
 2. Height and Projection. Projections shall maintain a clear height of at least eight (8) feet and project no less than three (3) feet and no more than six (6) feet from the building.
 3. Awnings. When incorporated into building design, awnings shall:
 - a. Be positioned immediately above ground floor windows and have a straight shed style that projects from the building. Cubed, curved or mansard style awnings are prohibited.

- b. Be constructed of durable materials such as canvas or steel that will not fade or tear easily. Plasticized, shiny or reflective materials are prohibited.
- c. Not be internally illuminated.

F. *Roofs.*

- 1. Flat Roofs. Flat roofs shall be enclosed by a parapet. Parapets may not extend horizontally beyond the plane of an exterior wall.
- 2. Mechanical Equipment. Mechanical equipment located on the roof shall be on the back half of the building and screened on all sides so it is not visible from the ground as observed from the sidewalk, or if no sidewalk exists, from the curb or pavement edge of the street.

G. *Windows and Doors.*

- 1. Transparency. Transparency requirements shall apply to the area of the façade between two (2) feet and 10 feet above the sidewalk regardless of where windows are located.
 - a. Only clear or lightly tinted, non-reflective glass in windows, doors, and display windows shall be considered transparent.
 - b. Ground floor windows shall contain displays that are meant for viewing from the outside, or shall be unobstructed for a depth of not less than four (4) feet into the building.
- 2. Amount of Windows and Doors.
 - a. Primary Street Ground Level. Minimum 70 percent.
 - b. Primary and Secondary Street Upper Levels. Minimum 20 percent.
 - c. Secondary Street Ground Level. Minimum 35 percent.
- 3. Window Design.
 - a. Ground floor window sills shall be at least two (2) feet above grade.
 - b. Window shape openings and panes on upper stories shall be taller than they are wide or be divided into segments that are taller than they are wide.
 - c. Windows should be proportionally distributed along second floor facades.

H. *Entrances.*

- 1. Recessed Entrance. Building entrances shall be recessed at least three (3) feet and at least one (1) main building entrance shall face a street. If recessed more than five (5) feet, a window display shall be provided between the doorway and the sidewalk. Angled entry walls are preferred to promote visibility of the entrance. Doorways shall not span more than one (1) story.
- 2. Identifiable Elements. A building entrance shall be clearly identifiable and reinforced by such architectural elements as awnings, pediments, pilasters, porte-cocheres, special paving, arches, changes in rooflines and planters.
- 3. Number. A building entrance is required for every 50 feet of frontage a building has on the primary street. There shall be at least one (1) usable building entrance along each street frontage.

I. *Exterior Areas.*

1. Outdoor Temporary Display Areas. Temporary outdoor display areas are permitted outside of public right-of-way, limited to the area within three (3) feet of the façade of the building to which it is accessory and shall not extend into adjoining sites. A minimum five (5) foot wide walking zone along the sidewalk and leading to the entrance to the establishment shall be maintained so that pedestrian circulation and access to the building is not impaired. Alternate locations may be approved where pedestrian circulation or entrances to building are not impaired.
2. Public Amenities. Space for bike racks, benches and similar uses/activities may be permitted, provided a minimum five (5) foot sidewalk clear area is provided and that Michigan Department of Transportation approval is received, if proposed within the state right-of-way.
3. Public Art. Public art is encouraged and may be located in appropriate areas without regard to setbacks, provided that clear vision at corners is maintained.

Section 5-6 North Gateway (All Uses) & South Gateway (Residential Uses) Form Requirements

The reuse or redevelopment of residential structures or the construction of residential style buildings is encouraged and a complementary residential development pattern that is based on traditional neighborhood design principles is outlined in this section. This section ensures that a consistent architectural character is maintained and the street is neither dominated nor defined by imposing garages, accessory structures or other architectural features that detract from the front façade of a building. Further, as expressed by traditional architectural forms, defined building entrances, window openings, materials and heights, new structures can be designed to blend with existing homes and businesses, thereby enhancing the character of the zoning districts that serve as gateways to the CB district.

A. *Facades.*

1. Parallel to Street. The front building façade shall be parallel to the adjacent front street.
2. Porches. Principal buildings shall include front or side porches.
 - a. Front porch. A projecting covered porch shall be open on at least two (1) sides, one (1) being the front.
 - b. Side Yard Porch. A projecting covered side yard porch shall be open on at least two (2) sides, one (1) being the front, with a front building line of the porch no further back than five (5) feet from the front building line of the building façade.

B. *Vernacular.* All buildings will be designed to reflect the historic local vernacular building tradition within the gateway districts (SG and NG), however, a mixture of housing and building types with common elements is encouraged. Building design and architecture shall be residential in character with articulation, massing, height and proportion similar to traditional American homes.

C. *Roofs.*

1. Type. Roofs shall be hip or gable. Shed roofs are permitted for additions or porches. Mansard, gambrel and flat roofs are prohibited.
2. Overhangs. Roof overhangs shall a minimum one (1) foot overhang at the eave and rake.

3. Eaves. Simple eaves and exposed rafter tails are encouraged.
 4. Pitch. Roof pitch must be greater than or equal to 8/12.
- D. *Windows*. Windows facing streets are subject to the following conditions:
1. Type. Windows shall be double hung with first story windows equal to or taller than upper story windows.
 2. Proportion. Window openings shall have vertical proportions or shall be square.
 3. Sills. All windows fronting streets shall have sills.
 4. Shutters. When used, shutters shall be sized equal to half the width of the window and be the same height of the window.
- E. *Walls*.
1. Materials. 80 percent of exterior walls shall be clad in wood or cementitious siding. The remaining may be brick or stone, or other comparable materials acceptable to the Administrator.
 2. Style. Siding may be horizontal lap, ship-lap or vertical board and batten.
- F. *Garages*.
1. Orientation. If an alley exists, garages shall be oriented toward back alleys.
 2. Loading. If no back alley exists, garages are encouraged to be rear-loaded or side-loaded. If garage doors are oriented toward the primary street frontage, they must be positioned at least five (5) feet behind the primary façade of a house. The total width of garage door openings shall not exceed 40 percent of the total width of any street-facing elevation of the house. On a corner lot, a garage facing a secondary street may be flush with the secondary side elevation or behind.

Section 5-7 South Gateway (Commercial Uses Only) Form Requirements

The reuse or redevelopment of residential structures or the construction of new residential appearing buildings for commercial uses are encouraged. This section ensures that a consistent architectural character is maintained for all new buildings. Further, as expressed by traditional architectural forms, defined building entrances, window openings, materials and heights, new structures can be designed to blend with existing homes and businesses, thereby enhancing the character of the zoning districts that serve as gateways to the CB district. The following requirements shall be required for new commercial buildings. Commercial change of use or building additions are encouraged to incorporate residential features into their development as reasonably practical with the design of the existing building. The Planning Commission shall determine if the intent of the residential character is being maintained during their review.

- A. *Facades*.
1. Parallel to Street. The front building façade shall be parallel to the adjacent front street.
- B. *Vernacular*. All new commercial structures shall be designed as to reflect a rustic residential character that resembles that of a modern beam or timber frame construction.
- C. *Roofs*.
1. Overhangs. Roof overhangs shall have a minimum one (1) foot overhang at the eave and rake.

2. Eaves. Simple eaves and exposed rafter tails are encouraged.
- D. *Windows*. Windows facing streets are subject to the following conditions:
1. Type. Windows shall be designed with large windows to emphasize the front façade and resulting in an expansive windowed first floor.
- E. *Walls*.
1. Materials. Exterior walls shall be a combination of the following materials clad in wood, brick or stone, and/or other comparable materials acceptable to the Administrator to reflect the residential character described in (b) above.
- F. *Accessory Structures*. If an alley exists, accessory structure overhead doors shall be oriented toward back alleys. If there is no alley, overhead doors shall not face the street.
- G. *Trash Storage*. All trash storage shall be screened from view from the streets by means of fence or shrubbery that is a minimum of 4 ft in height.
- H. *Parking*. Parking areas shall be located to the side or rear of the buildings and screened from view from adjacent parcels and streets.
- I. *Loading Areas and Docks*. If an alley exists, accessory structure overhead doors shall be oriented toward back alleys. If there is no alley, overhead doors shall not face the street.

Commercial and Industrial Districts

Article
6

Section 6-1 Intent and Purpose

- A. *South Business (SB)*. This SB district is intended primarily to accommodate a range of retail and service uses serving the broader needs of the community and the motoring public. Large-scale retailers, auto-related businesses and similar uses not generally appropriate for other commercial districts will be permitted. While the district will be established primarily along arterial roadways, care should be taken to ensure compatibility with adjacent uses and minimize conflicts with traffic along abutting streets.
- B. *Warehouse Industrial (WI)*. The WI district is established to accommodate industries such as light manufacturing or processing of previously refined materials and other industrial uses that could have an impact upon neighboring districts. This district also allows certain commercial uses that are necessary to provide services to employees within the district or are more intense than those permitted in other commercial districts. This district is intended to be located in areas where the allowed uses can most efficiently utilize major roadways, utilities and other infrastructure, while minimizing potentially incompatible influences upon neighboring districts.

Section 6-2 Table of Uses

Buildings or land shall not be used and buildings shall not be erected, except for the following specified uses, unless otherwise provided for in this ordinance. Land and/or buildings in the districts indicated at the top of *Table 6-2* may be used for the purposes denoted by the following abbreviations:

- A. *Permitted Use (P)*. The use may be established by right on land and/or within buildings in the applicable zoning district, subject to all other applicable provisions of this ordinance.
- B. *Special Land Use (SLU)*. The use is subject to discretionary review by the Planning Commission.
- C. *Specific Conditions*. Indicates requirements or conditions that are applicable to specific uses.

Table 6-2 Schedule of Uses: Commercial and Industrial Districts

Use	SB	WI	Specific Conditions
ACCESSORY USES			
Accessory building	P	P	Section 2-3
Outdoor storage related to a principal use	SLU	P	Section 9-8
Temporary outdoor accessory sales	SLU		Section 9-12
ACCOMMODATIONS, HOSPITALITY, ENTERTAINMENT			
Banquet hall	P		
Ecotourism	P		
Restaurant	P		
Restaurant with microbrewery	P		
Restaurant with outdoor dining	P		Section 9-3
Recreation facility, commercial indoor	P		
Recreation facility, commercial outdoor	P		
INDUSTRIAL, MANUFACTURING, ASSEMBLY			
Brewery		P	
Distillery		P	
Distillery, small	P		
Manufacturing, processing and packaging- light		P	
Manufacturing, processing and packaging- heavy		SLU	
Micro-brewery	P		

Table 6-2 Schedule of Uses: Commercial and Industrial Districts			
Use	SB	WI	Specific Conditions
Mini-warehouse		P	
Salvage operations		SLU	
Warehousing, under 5,000 square feet	P	P	
Warehousing, 5,000 to 10,000 square feet	SLU	P	
Wholesale and distribution		SLU	
Winery	P	P	
Winery, small	P		
INFRASTRUCTURE, TRANSPORTATION, COMMUNICATIONS			
Essential service	P	P	Section 2-8
Infrastructure and utilities- regional		SLU	
Parking facility, public or commercial	SLU	P	
Waste management facility		SLU	
Wireless communications		SLU	Section 9-13
INSTITUTIONAL/CIVIC			
Community oriented cultural facility	P		
Community public safety	P	P	
Meeting facility	P		
Parks, playgrounds, outdoor recreation areas			
Recreation facility, community based			
School, specialized/training		P	
OFFICES AND SERVICES			
Animal services, animal clinic/hospital	P		
Animal services, kennel	P	P	
Body branding, piercing and tattoo facility	P	P	
Child care center	P		
General offices and services	P		
General offices and service with a drive through facility	P		
Offices and services, such as landscaping and tree removal companies, exterminators, carpet cleaners, contractors' offices.		P	
Medical services, clinics and medical offices	P		
Vehicle repair, major	P	P	
Vehicle repair, minor	P		
Vehicle wash	P		
RETAIL			
Gas station/fuel sales	P		
General retail (indoor), under 5,000 square feet	P		
General retail (indoor), 5,000 to 10,000 square feet	SLU		
Permanent outdoor sales	SLU		Section 9-9
Vehicle sales and rental, automobiles, light trucks, boats	P		
Vehicle sales and rental: heavy equipment, heavy trucks, RVs, mobile homes		P	
OTHER			
Sexually oriented businesses		SLU	Section 9-11
Similar uses	SLU/ P	SLU/ P	Section 3-5

Section 6-3 Spatial Requirements

- A. *Spatial Requirements.* All lots shall meet the minimum area and width requirements of Table 6-3. New lots shall not be created, except in conformance with these requirements. All structures and their placement on a lot shall conform to the minimum dimensional requirements listed in Table 6-3.

Table 6-3 Spatial Requirements- Commercial and Industrial Districts										
Commercial and Industrial Districts	Min. Depth (ft.)	Min. Width (ft.)/ Frontage	Setbacks (feet)				Height of Primary	Stories	Building Coverage	Max. Impervious Coverage
			Primary Street	Side Street	Side	Rear/ Alley				
SB Structures less than 5,000 SF	150	150	8-12 ¹	12	30	30	35	2	30%	50%
SB Structures 5,000 – 10,000 SF	200	200	40	12	30	30	35	2	40%	60%
WI	200	200	40	40	25/ 50 ²	25/ 50 ²	35	1	50%	75%

¹ Minimum front setback is eight (8) feet and the maximum setback is 12 feet.

² Minimum side setback is 25 feet when adjacent to commercial and industrial zoned property, 50 feet when adjacent to residential or mixed use zoned property.

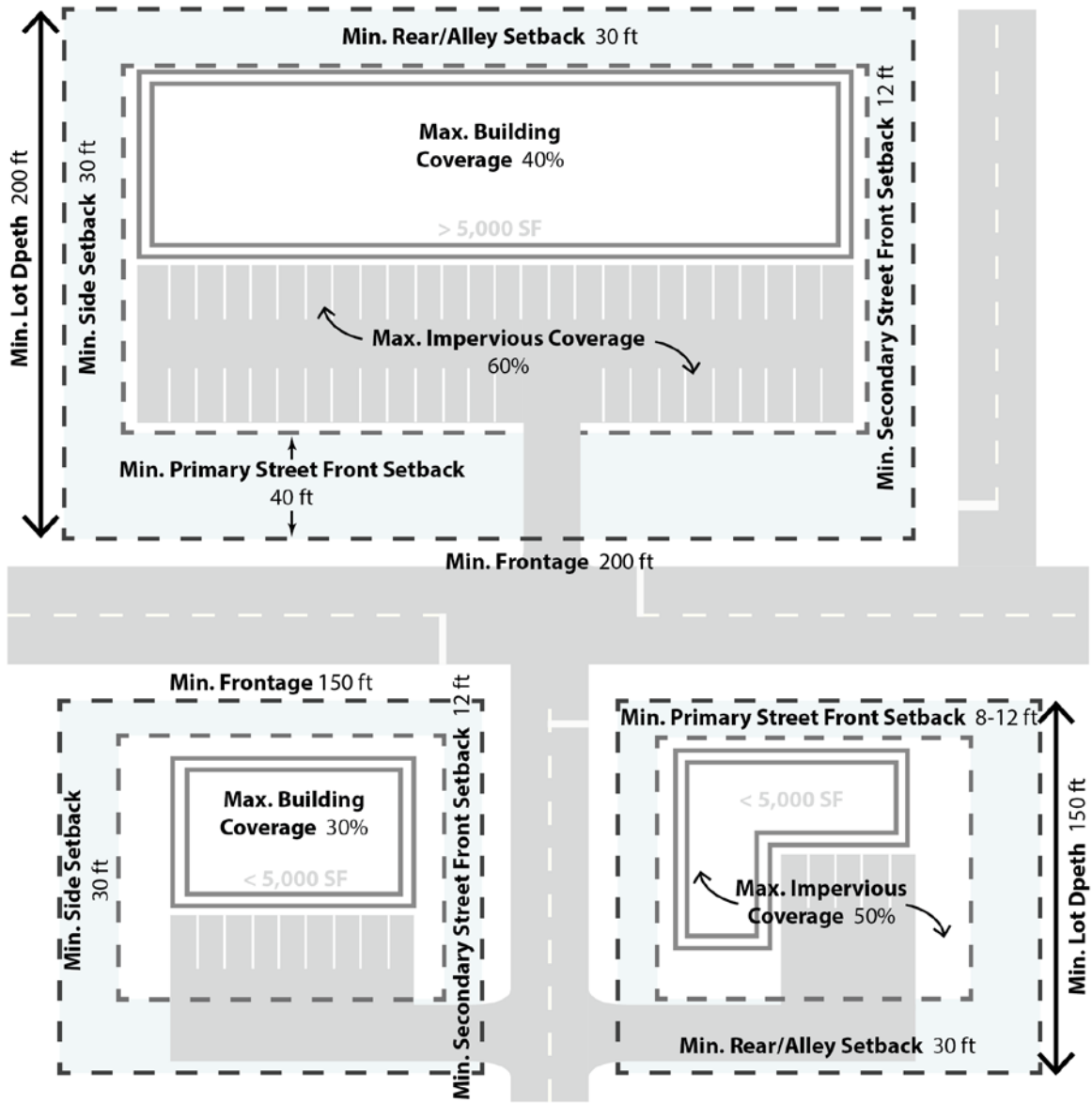


Figure 6-1 SB District Spatial Requirements

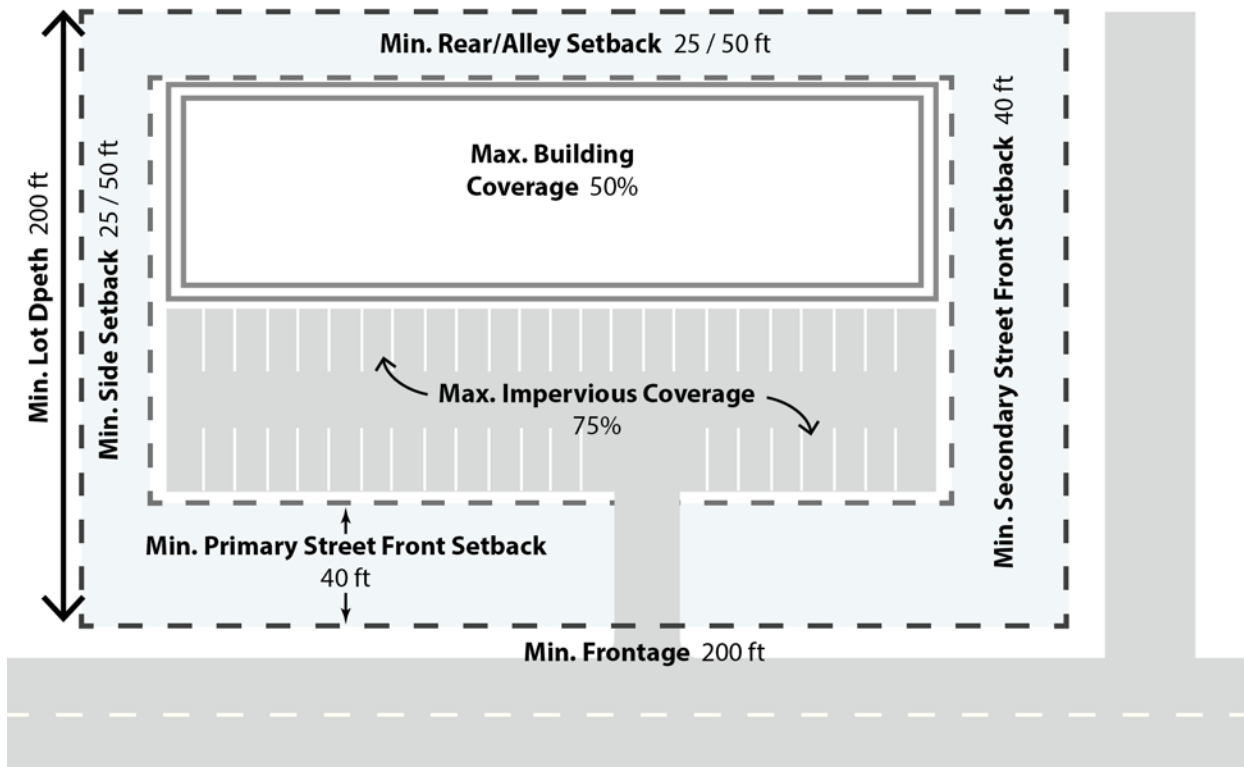


Figure 6-2 WI District Spatial Requirements

Section 6-4 Site Development Regulations

In addition to the requirements of this article, all development in the Commercial and Industrial Districts shall meet the applicable requirements as listed elsewhere in this ordinance:

- A. *General Provisions.* Article 2, as applicable.
- B. *Specific Use Requirements.* Article 9, if noted in Table 6-2.
- C. *Off-Street Parking and Loading.* Article 10.
- D. *Landscaping and Lighting.* Article 11.
- E. *Signs.* Article 12.
- F. *Special Land Uses.* Article 13, if noted in Table 6-2.
- G. *General Review Procedures.* Article 14, as applicable.

Section 6-5 SB District Requirements

- A. *Perimeter Building Sidewalk.* All perimeter buildings shall have a sidewalk a minimum of eight (8) feet in width on the public street facing side of the building.
- B. *Siting.* Warehouse buildings shall be sited in a manner so that they will be shielded from street views by buffer strips and perimeter buildings.

- C. *Access.* One common entrance/exit shall be allowed on each street on which master parcel fronts.

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Special Areas

Article
7

Section 7-1 Intent and Purpose

- A. *Public Lands (PL)*. The PL district supports a number of public lands that provide recreational and cultural opportunities for residents and visitors as well as the preservation of natural resources.

Section 7-2 Uses and Building Types

Future development in the PL district shall be reviewed and approved during the site plan review process by the Planning Commission. In parks owned by the Village of Suttons Bay, Planning Commission review shall be advisory to the Village Council. While no specific uses are prohibited in these areas, each use proposed shall be reviewed by the Planning Commission for compatibility with the intent and purpose of this District, relationship to surrounding uses and consistency with those uses specifically allowed. Specifically allowed uses include, but are not limited to, the uses listed in Table 7-2.

- A. *Permitted Use (P)*. The use may be established by right on land and/or within buildings in the applicable zoning district, subject to all other applicable provisions of this ordinance.
- B. *Specific Conditions*. Indicates requirements or conditions that are applicable to specific uses.

Table 7-2 Schedule of Uses: Public Lands Areas

Use	PL	Specific Conditions
Temporary Structures and Uses	P	Section 2-18
Ball fields	P	Section 7-3
Bicycle paths	P	Section 7-3
Civic buildings	P	Section 7-3 Section 9-5
Conservation areas	P	Section 7-3
Historical museums	P	Section 7-3
Ice rinks	P	Section 7-3
Launch ramps	P	Section 7-3
Marinas	P	Section 7-3
Open spaces	P	Section 7-3
Picnic areas	P	Section 7-3
Playgrounds	P	Section 7-3
Sledding/skiing hills	P	Section 7-3
Sports courts	P	Section 7-3
Swimming areas	P	Section 7-3
Walking paths	P	Section 7-3
Similar uses	P	Section 3-5

Section 7-3 Development Standards

All development shall meet the following standards:

- A. *Parcel Area, Width, and Coverage*. The Planning Commission will review proposed Level “B” site plan projects to assure compatibility with the surrounding neighborhood. Structures shall be a minimum of 25 feet from all adjacent private properties. No setbacks are established to publicly owned property, but all structures shall be reviewed and approved for appropriate location, character and purpose to assure compatibility, in accordance with Article 14.

-
- B. *Shoreline Yard and Setback Requirements.* Except for boat ramps, docks, harbormaster offices, and piers, all other structures shall be set back a minimum of 50 feet from the established Lake Michigan historic high-water elevation (582.3 feet IGLD 1985) unless a greater setback from the shoreline is required by the DNR/DEQ or other public agency.
 - C. *Building and Structure Height Limitations.* All buildings and structures shall be reviewed and approved for appropriate height to assure compatibility.
 - D. *Screening and Buffering.* Screening and buffering shall be reviewed and approved by the Planning Commission to assure adequate protection of the park use from adjacent private/public properties as a part of the review process.
 - E. *Other Requirements.* In addition to the requirements of this article the provisions of Article 2 of this ordinance shall also apply.

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Planned Unit Development Districts

Article
8

Section 8-1 Intent and Purpose

- A. *Intent.* The intent of this article is to offer an alternative to conventional development by permitting flexibility in the regulations for development by authorizing planned unit development districts (PUD). The standards in this article are intended to promote and encourage development on parcels of land that are suitable in size, location and character for the uses proposed while ensuring compatibility with adjacent land uses.
- B. *Purpose.* The PUD rezoning process is provided as a design option to allow for one (1) or more of the following:
1. Encourage innovation in land development in terms of variety, design, layout and type of structures constructed.
 2. Promote the efficient use of land to facilitate a more economic arrangement of buildings, circulation systems, land use and utilities.
 3. Encourage the adaptive re-use of significant or historic buildings.
 4. Provide the opportunity to mix compatible uses or residential types.
 5. Preserve and protect significant natural features, open space and cultural/historic resources.
 6. Ensure that new development is consistent with the character of the community.
 7. Promote efficient provision of public services and utilities.
 8. Minimize adverse traffic impacts and accommodate safe and efficient pedestrian access and circulation.
 9. Encourage development of convenient recreational facilities.
 10. Encourage the use and improvement of land where site conditions make development under conventional zoning difficult or less desirable.
- C. *Design Flexibility.* The PUD process and standards provide for flexibility in design and permit variation of the specific bulk, area, and in some situations, the density requirements of the Zoning Ordinance on the basis of the PUD plan, subject to the approval of the PUD by the Village Council in accordance with the requirements set forth in this article. A PUD shall not be sought primarily to avoid the standards and requirements of other zoning districts.

Section 8-2 Qualifying Conditions

The following criteria shall apply to all planned unit developments (PUDs):

- A. *Unified Control.* The planned unit development shall be under the control of one owner or group of owners and shall be capable of being planned and developed as an integral unit.
- B. *Recognizable Benefit.* The applicant shall demonstrate that the PUD provides at least four (4) of the following site design elements, which could not be attained through a project designed under conventional zoning:
1. Mixed-use development with residential, and non-residential uses or a variety of housing types.
 2. Pedestrian/transit-oriented design with buildings oriented to the sidewalk and parking to the side or rear of the site.

3. High quality architectural design beyond the site plan requirements of this article.
 4. Extensive landscaping beyond the site plan requirements of this ordinance.
 5. Preservation, enhancement or restoration of natural resources (trees, slopes, wetland areas, views of the bay, etc.).
 6. Preservation or restoration of significant or historic resources.
 7. Provision of open space, public plazas, or similar features.
 8. Efficient consolidation of poorly dimensioned parcels or property with difficult site conditions (e.g. topography, shape etc.).
 9. Effective transition between higher and lower density uses, and/or between non-residential and residential uses; or allowing incompatible adjacent land uses to be developed in a manner that is not possible using a conventional approach.
 10. Shared vehicular and pedestrian access between properties or uses.
 11. Mitigation to offset impacts on public facilities (such as street improvements).
 12. Significant use of sustainable building and site design features such as: water use reduction, water efficient landscaping, innovative wastewater technologies, low impact stormwater management, optimize energy performance, on-site renewable energy, passive solar heating, reuse/recycled/renewable materials, indoor air quality or other elements identified as sustainable by established groups such as the US Green Building Council (LEED) or ANSI National Green Building Standards.
- C. *Compatibility with Adjacent Uses.* The proposed location of uses or structures that are of a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, waste receptacles, swimming pools, tennis courts and facilities of a similar nature, shall not be located near the perimeter of the PUD or so as to negatively impact the residential use of adjacent lands.
- D. *Public Utilities.* All uses within the PUD shall be within the capacity of public water and sewer systems or will upgrade systems to necessary municipal standards. Private community-wide wastewater systems may be allowed if permitted by the Leelenau County Health Department and the Village.
- E. *Master Plan.* The proposed PUD shall be consistent with the Village Master Plan.

Section 8-3 Permitted Uses

- A. *Allowed Uses.* Any use permitted by right or by special land use allowed in any district may be permitted in a PUD, provided that all of the objectives and standards of this article are determined to be met and there is compliance with the procedures of this article.
- B. *Mixed Use.* Residential and non-residential uses may be permitted in combination to create an integrated, mixed-use development based upon the recommendations of the master plan.
- C. *Approval of Uses.* Approval of a PUD shall include the identification of the specific uses permitted within the PUD, and only those uses approved through this process shall be permitted.

Section 8-4 Zoning Requirements

- A. *Residential Density.* For projects that include single-family dwellings, the PUD concept plan narrative shall state minimum spatial requirements for single-family lots based on the minimums for single-family dwellings in Article 4. For projects that include multiple-family dwellings, the density of the development shall be based on the requirements of Section 9-7. Any deviation from these minimums shall be included in the Table of Modifications, as outlined in Section 8-7.
- B. *Dimensional Requirements.* The area, height and placement requirements for each portion of the PUD shall be based upon a stated zoning district, as provided in Article 4. The PUD concept plan narrative shall state the area, height and placement requirements for each portion of the PUD, based upon the appropriate zoning district and the residential density determined.
1. Residential developments shall meet the area, height and placement requirements of the Residential Districts, depending upon the type and character of the development.
 2. Non-residential developments shall meet the area, height and placement requirements of the Mixed Use and Commercial and Industrial Districts.
 3. Each use in a mixed-use development (containing both residential and commercial development) shall meet the height, area and placement requirements of the zoning district that corresponds to each element of the proposed development.
 4. Deviations from the minimums set forth above shall be included in the Table of Modifications as required in Section 8-7.
- C. *Variations from Minimum Requirements.* District regulations applicable to a land use in a PUD may be altered from those of the district(s) in effect immediately prior to the PUD rezoning, which shall be limited to, modification from the lot area and width, density, building setbacks, height, lot coverage, minimum floor area, landscaping, lighting, signs and parking. The applicant for a PUD shall identify, in writing, all intended variations from the prior zoning being proposed. Variations may be approved during the PUD Concept Plan review by the Village Council after the Planning Commission recommendation. These adjustments may be permitted only if they will result in a higher quality of development or better integration of the proposed use(s) with surrounding uses. The variations shall also satisfy one or more of the following criteria:
1. Preserves the best natural features of the site.
 2. Creates, maintains or improves habitat for wildlife.
 3. Creates, improves or maintains open space for the residents.
 4. Enhances the views into the site as well as the view from dwellings to be built on site.
 5. Results in a better development, consistent with the purposes of PUD expressed in Section 8-1 and the recommendations of the master plan.

Section 8-5 Review Procedure

- A. *PUD Process.* The PUD review and approval process includes the following steps:
1. Pre-Application. Pre-application conference with the Administrator to review the PUD concept and to discuss the review process.
 2. PUD Concept Plan and Rezoning.

- a. Planning Commission initial review of PUD Concept Plan and PUD rezoning and scheduling of public hearing;
 - b. Planning Commission public hearing; review and recommendation of the PUD Concept Plan and rezoning;
 - c. Village Council public hearing; review and approval of PUD Concept Plan and PUD rezoning.
3. PUD Final Site Plan. Planning commission approval of PUD Final Site Plan in accordance with the process for Level “B” Site Plan review.

Section 8-6 Pre-Application Conference

A pre-application conference shall be held with the Administrator for the purpose of determining the eligibility of the request for consideration as a PUD.

- A. *Conference Request*. A request for a pre-application conference shall be made to the Administrator. As part of the pre-application conference, the applicant shall submit a copy of a sketch plan that shows the property location, boundaries, significant natural features, vehicular and pedestrian circulation and land use for the entire site.
- B. *Guidance*. The Administrator shall advise the applicant of the conformance of the PUD concept with the objectives of the Village, whether the concept qualifies under the requirements of this article, and whether the general concept is substantially consistent with the master plan. Formal action shall not be taken at a pre-application conference and statements made at the pre-application conference shall not be considered binding commitments or an approval or denial of the concept.
- C. *Optional Advisory Review*. An applicant may choose to submit a sketch plan or draft plan for review by the Planning Commission. The review shall be informal and advisory only, and the input shall not constitute any form of approval or authorization of granting any type of permit.

Section 8-7 PUD Concept Plan Review

- A. *PUD Concept Plan Submittal*. Collectively, the materials listed below constitute the PUD Concept Plan.
 1. Submittal. The Preliminary Site Plan shall be drawn to an engineer's scale of not less than one (1) inch = 50 feet for property less than three (3) acres, or one (1) inch = 100 feet for property three (3) acres or more in size.
 - a. The Plan shall include all of the elements included PUD Concept Plan Checklist.
 - b. For projects proposed to be developed in phases, the PUD Concept Plan for the entire site shall be submitted for PUD Concept Plan approval. A map showing boundaries of individual phases shall be submitted, along with a proposed timeline for development of each phase.
 2. Narrative. A narrative shall describe the proposed PUD, the proposed timeframe of development, any proposed phasing of the development, proposed land uses, the zoning district(s) upon which the proposed density and the area, height and placement requirements are based, and documentation indicating how the qualifying conditions in Section 8-2 and the standards of Section 8-9 are met.

3. Table of Modification. The application shall include a table detailing all modifications from the use, density, area, height and placement requirements of the zoning district identified in the concept plan narrative. The table shall also detail all modifications from off-street parking regulations, general provisions, or subdivision regulations that would otherwise be applicable to the uses and development proposed in the absence of the proposed PUD. This table shall clearly identify the allowed regulation in comparison to the requested modification.
 4. Additional Information. Any additional information requested by the Planning Commission to better assist in the determination of PUD qualification such as, but not limited to market studies, fiscal impact analysis, utility studies, traffic impact studies, and environmental impact assessments.
- B. *Planning Commission Review of PUD Concept Plan and Rezoning.*
1. Initial Review. The Planning Commission shall review the draft PUD concept plan and upon determination that the application meets the requirements of this article, a public hearing date shall be set.
 2. Public Hearing and Recommendation. The Planning Commission shall hold a public hearing to solicit public input and the notice shall conform to the requirements of the Zoning Enabling Act and Section 15-6. The Planning Commission shall review the PUD Concept Plan in consideration of public hearing comments, technical reviews from Village staff and consultants, correspondence from applicable review agencies and compliance with the standards of this article and other applicable Village standards and requirements. The Planning Commission shall recommend approval, approval with conditions or denial of the PUD Concept Plan and rezoning to the Village Council. The recommendation shall be based on the following:
 - a. Whether all applicable provisions of this article are met.
 - b. Whether the proposed PUD meets the intent of this article, as outlined in Section 8-1.
 - c. Whether the qualifying conditions in Section 8-2 are met.
 - d. Whether the standards of approval in Section 8-9 are met.
- C. *Village Council Review of PUD Concept Plan and Rezoning.*
1. Village Council Action. Following receipt of a recommendation from the Planning Commission on the PUD Concept Plan and Rezoning, the Village Council shall hold a public hearing, review the application, and approve, deny, or approve with conditions.
 2. Conditions. In accordance with the Michigan Zoning Enabling Act, reasonable conditions may be attached to the approval of a PUD for the purpose of: ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; protecting the natural environment and conserving natural resources; ensuring compatibility with adjacent uses of land; promoting the use of land in a socially and economically desirable manner; and furthering implementation of the master plan. Conditions attached to the approval shall be incorporated into the PUD agreement required to be submitted with the final PUD site plan.
 3. Rezoning. Upon approval by the Village Council, the property subject to the PUD Concept Plan shall be rezoned to PUD, which shall become effective after notification

and publication according to the Michigan Zoning Enabling Act (Act 110 of 2006, as amended).

Section 8-8 PUD Final Site Plan Review

- A. *Submittal.* Following PUD Concept Plan and PUD Rezoning approval, the PUD Final Site Plan for the entire PUD or individual phases of the PUD shall be submitted for approval in accordance with Article 14, Level “B” Site Plan review submittal requirements.
- B. *Conformance with PUD Concept Plan.* All PUD Final Site Plans subsequently submitted shall substantially conform with the PUD Concept Plan, all conditions attached to preliminary approval and the requirements of this article.
- C. *Changes.* Major or minor changes and deviations between the PUD Concept Plan and the PUD Final Site Plan shall be considered through the following processes:
 - 1. Minor changes. Minor changes may be approved according to Section 8-10 below.
 - 2. Major changes. Any changes from the approved PUD Concept Plan not determined to be minor shall require that a new PUD Concept Plan be submitted and approved according to Section 8-7, before further consideration of the changed plan.
- D. *Approval.* If the Planning Commission finds that the PUD Final Site Plan is in substantial conformance with the approved PUD Concept Plan and the requirements of this article, it shall approve the plan.

Section 8-9 PUD Concept Plan and Rezoning Standards of Approval

A PUD shall only be approved if it complies with each of the following standards as well as applicable standards established elsewhere in this article

- A. The proposed PUD complies with the Intent and all Qualifying Conditions of Sections 8-1 and 8-2 of this article, respectively.
- B. The uses conducted within the proposed PUD, the PUD's impact on the community, and other aspects of the PUD are consistent with the master plan.
- C. The proposed PUD shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property, the surrounding uses of land, the natural environment, and the capacity of public services and facilities affected by the development.
- D. The PUD shall not negatively affect the character of the surrounding area.
- E. The PUD shall not be hazardous to adjacent property or involve uses, activities, materials, or equipment that will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, or glare.
- F. The PUD shall not place demands on public services and facilities in excess of current or anticipated future capacity.

Section 8-10 Amendments to a PUD Concept Plan

Changes to an approved PUD Concept Plan shall be permitted only under the following circumstances:

- A. *Minor Changes.* A minor change may be approved by the Administrator, according to the requirements of this section. A change that would alter any specified conditions imposed as part of the original approval shall not be considered a minor change.
1. Reduction of the size of any building and/or sign.
 2. Movement of buildings or signs by no more than 50 feet, provided setbacks are not reduced.
 3. Changes in floor plans of up to 10 percent of the total floor area that do not alter the character of the use or increase the amount of required parking.
 4. Internal rearrangement of a parking lot that does not affect the number of parking spaces, access locations or circulation patterns.
 5. Changes required or requested by the Village, Leelanau County, or other state or federal regulatory agency to conform to laws or regulations.
- B. *Other Minor Changes.* A minor change that is not listed in Paragraph A above may be submitted to the Planning Commission to determine if the change is minor and that the change would not alter the basic design or intent of the approved PUD. If the Planning Commission determines that the proposed change is minor, the Administrator shall be authorized to approve it administratively.
- C. *Major Changes.* A change that the Administrator or Planning Commission determines is not minor must be submitted as an amendment to the PUD and shall be processed in the same manner as the original PUD application (Section 8-7).

Section 8-11 Expiration and Extension

- A. *Expiration of Concept Plan Approval.* Approval of the PUD Concept Plan and rezoning by the Village Council shall confer upon the owner the right to proceed through the subsequent final planning phase for a period not to exceed two (2) years from date of approval.
- B. *Expiration of PUD Final Site Plan Approval.* Construction shall begin within one (1) year of the date of approval of the final PUD site plan.
- C. *Termination of Rights.* An approved PUD Concept Plan and PUD Final Site Plan shall automatically become null and void and all rights of development based on the plan shall terminate if not initiated in accordance with Section 8-11 A or B, or unless extended in accordance with 8-11 D.
- D. *Extension.* The Village Council may for good cause approve one (1) extension of up to one (1) year, if requested in writing by the applicant prior to the expiration date of the original PUD Concept Plan approval or PUD Final Site Plan approval.
- E. *Village Initiated Rezoning.* Upon expiration of a PUD Concept Plan, the Village Council may direct the Planning Commission to conduct a public hearing to provide a recommendation to revoke the PUD zoning and rezone the property to its original designation or other district as appropriate. If not initiated by the Village, any future rezoning or new PUD consideration must be initiated by the landowner or authorized applicant or representative.

Section 8-12 PUD Appeals and Variances

- A. *Zoning Board of Appeals.* The Zoning Board of Appeals shall have no jurisdiction to hear appeals of or make interpretations of any decisions regarding this article or proposed PUD Concept Plans or PUD Final Site Plans.
- B. *Variance.* This shall not prevent an individual lot owner from seeking a variance following the final approval of the PUD according to the procedures and standards of Section 17-6, provided that:
1. The Zoning Board of Appeals may only grant variances from area, height and placement requirements imposed by the PUD.
 2. A variance shall not be considered that would affect any condition of the approved PUD, any requirement of the approved and recorded PUD agreement, or would increase the residential density of the project.

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Specific Use Requirements

Article
9

Section 9-1 Intent and Purpose

- A. *Applicability.* Specific requirements apply to all of the uses listed in this article. These requirements apply in addition to all of the regulations of the zoning district in which the use is located, as well as all other applicable requirements in this ordinance.
1. Accessory Dwelling
 2. Accessory Cafés, Sales, Outdoor Dining, and Entertainment
 3. Bed and Breakfast
 4. Civic Buildings, Places of Public Assembly, Places of Worship
 5. Home Occupation
 6. Multi-Family Development
 7. Outdoor Storage
 8. Permanent Outdoor Sales
 9. Primary Caregiver Facility
 10. Sexually Oriented Business
 11. Temporary Outdoor Accessory Sales
 12. Wireless Communications
- B. *Special Land Uses.* A use identified in this ordinance as a special land use shall be established only according to the procedures and standards of Article 13. All standards listed in this article, in addition to the general standards for special land uses listed in Section 13-3, shall be met.

Section 9-2 Accessory Dwelling

- A. *Size.* Accessory dwellings in the Central Residential District (CR), Newer Village Residential (NV), Single-Family Waterfront (SFWF), South Gateway (SG), North Gateway (NG), and Bay View (BV) Districts shall not exceed 600 square feet. Accessory dwellings in the Hillside Residential (HR) District shall not exceed 800 square feet.
- B. *Setbacks.* Accessory dwellings are subject to the setback and height requirements for principal buildings within the applicable zoning district.
- C. *Owner-occupancy.* The owner of the parcel where an accessory dwelling exists shall reside on the property.

Section 9-3 Accessory Cafés, Sales, Outdoor Dining, and Entertainment

All business and service activities or uses shall be conducted entirely within a completely enclosed building, except the following uses may occur outdoors.

- A. *CB District- Sidewalk Cafes, Seating, and Display.*
1. Outdoor table, bench and waiter/waitress services for restaurants, and outdoor display of products for sale are allowed, provided that adequate accessible maneuvering space on the public sidewalk or public space is provided.
 2. The area must allow a minimum pedestrian right of way of six (6) feet and must be placed at least six (6) feet from the curb.
 3. If a sidewalk is used as part of an outdoor dining area, all tables, chairs, barriers, umbrellas and other equipment must be removed and stored off the sidewalk and shall be stored inside the restaurant during the offseason.
 4. Michigan Department of Transportation approval is needed for any activity in the state right-of-way.
- B. *Outdoor Dining and Entertainment.*
1. General Requirements.
 - a. When an outdoor dining area is immediately adjacent to a residential zoning district, all outdoor activity must cease at the close of business or 10:00 p.m., whichever is earlier.
 - b. The outdoor dining area shall be regularly maintained and cleaned.
 - c. Outdoor dining and any services associated with the use is subject to a 25-foot setback from any residential district property line.
 - d. Measures shall be taken to minimize the generation of smoke and fumes from outdoor cooking.
 2. Ground-Level Patio and Decks. The outdoor seating area shall be screened by a minimum three (3) foot high obscuring landscaping treatment, wall or other architectural feature.
 3. Roof Decks. Roof deck dining is limited to the CB Zoning District. Roof deck dining or activities are limited to flat roof buildings and are subject to the following conditions.
 - a. Roof decks must be set back at least five (5) feet from parapet walls or roof edges.
 - b. Temporary accessory structures or other permanent features are permitted on roof decks, however, shall not exceed the height requirement for the CB District. Moveable and temporary furnishings, such as umbrellas, tables, chairs and furniture, are permitted. Umbrellas must be anchored or fastened to the roof deck when in use.

Section 9-4 Bed and Breakfast

Bed and Breakfasts are allowed by right as a land use within a dwelling, even if the dwelling in which it is located or the lot is nonconforming, when all of the following conditions are met:

- A. *Maximum Bedrooms.* The maximum bedrooms for bed and breakfast use shall be three (3) in the Residential Zoning Districts. In all other districts where allowed, no maximum shall apply.
- B. *Owner Residence Requirement.* The owner(s) of the bed and breakfast shall reside in the dwelling during periods of operation.

- C. *Signage.* Permanent signage shall be limited to one (1) non-illuminated sign, a maximum of two (2) square feet in size, attached to the dwelling.
- D. *Facilities.* Separate cooking facilities, such as stoves, hot plates, toaster ovens, microwaves, dishwashers and sinks with running water are not allowed within a sleeping room in a bed and breakfast.
- E. *Accessory Building Prohibited.* No part of the bed and breakfast operation may be conducted in an accessory building.
- F. *Parking.* See Article 10.

Section 9-5 Civic Buildings, Places of Public Assembly, Places of Worship

Civic Buildings shall meet all of the following dimensional and bulk standards:

- A. *Central Residential (CR).*
 1. Street setback- 25 feet maximum from the parcel line.
 2. Alley/rear yard setback- 15 foot minimum from the parcel line.
 3. Side parcel setback- 15 foot minimum.
 4. Primary building height- 45 feet maximum.
 5. Steeple and decorative tower height- 75 feet maximum.
 6. Maximum building coverage- 70 percent of the gross parcel area.
 7. Maximum impervious surface coverage- 80 percent of the gross parcel area.
 8. Off-street parking – none required.
- B. *Newer Village Residential (NVR).*
 1. Parcel depth- 200 feet minimum.
 2. Parcel width- 100 feet minimum.
 3. Street setback- 15 feet minimum from the front parcel line (30 feet minimum for parcels fronting M-22).
 4. Side/rear yard setback- 15 feet minimum from the parcel line.
 5. Primary building height- 45 feet maximum.
 6. Steeple and decorative tower height- 75 feet maximum.
 7. Maximum building coverage- 40 percent of the gross parcel area.
 8. Maximum impervious surface coverage- 50 percent of the gross parcel area.
 9. Off-street parking- located to the side or rear of the primary structure.

Section 9-6 Home Occupation

Home occupations are allowed as an accessory use within a dwelling or accessory building when all of the following conditions, if applicable, are met:

- A. *Location.* All business activities shall take place inside the dwelling or accessory building and shall be accessory and clearly incidental and subordinate to the principal dwelling use.
- B. *Proportion of Home.* Not more than 25 percent of the gross floor area of the dwelling unit shall be used in the conduct of the home occupation.
- C. *Appearance.* The home occupation shall be conducted entirely indoors, and there shall be no change in the outside appearance of the dwelling or other visible evidence of the conduct of such home occupation on the property. Outside operations or storage associated with the home occupation, including outside storage of vehicles related to the business is prohibited.
- D. *Employment.* Only residents of the dwelling may be employed in the business.
- E. *Use Requirements.* Any retail use shall be incidental to the home occupation, and sales should only occur by mail, phone or internet, and are limited to mail-order delivery.
- F. *Signage.* Permanent signage shall be limited to a single sign no larger than two (2) square feet, non-illuminated and attached to the dwelling or accessory building wall.
- G. *Customers and Patrons.* Patrons and customers may visit the site but by appointment only. No more than two (2) individuals at any one (1) time may be scheduled. This prohibition is not intended to prevent or preclude instruction by an occupant of a residence in a craft or fine art, when conducted within the residence; provided, all other requirements of this section are met.
- H. *Repair Work.* Mechanical, maintenance and repair work on motor vehicles and repair of small engines and mechanical devices is prohibited except for such work on items owned or leased by the occupant for his/her personal use.
- I. *Traffic.* There shall be no traffic generated by a home occupation in greater volume or intensity than would normally be expected in a residential neighborhood.

Section 9-7 Multi-Family Development

- A. *Maximum Units.* Eight (8) units per structure maximum and 18 units per acre gross density.
- B. *Open Space.* Open spaces comprising at least 10 percent of the total gross area of the project shall be planned and built as a common area.

Section 9-8 Outdoor Storage

- A. *Location.*
 - 1. Outdoor storage areas are not allowed in front yards.
 - 2. Outdoor storage is subject to the setback requirements for the zoning district in which it is located.
- B. *Screening.* The outdoor storage area shall be screened from view of adjoining properties, in accordance with the following specifications:
 - 1. A solid, sight-obscuring fence or wall shall surround the storage area.
 - 2. The fence or wall shall not contain any openings other than a gate for access, which shall be closed at all times when not in use.

3. The fence or wall shall be constructed of masonry, treated wood or other material; provided, the material is determined to be durable, weather resistant, rust proof and easily maintained. Chain link and barbed wire fences are limited to the WI District.
- B. *Alternative Materials.* If approved as part of the special use approval, the required screening may be comprised of suitable plant material, upon a determination by the Administrator, that the alternate materials will provide the same degree or better of opacity, screening and compatibility with adjoining properties as a fence or wall.

Section 9-9 Permanent Outdoor Sales

- A. *Setbacks.* The outdoor display of products shall not be placed within required setback areas for the principal use.
- B. *Maximum Area.*
1. General Retail. General outdoor retail sales areas may not exceed 20 percent of the principal building square footage.
 2. Car, RV, and Boat Sales Lots. Sales lots are not subject to maximum sales area requirements.
- C. *Screening.* When adjacent to residential uses or zoning districts, outdoor display and sales areas shall be enclosed and screened by the on-site buildings or by a six (6) foot privacy fence or a comparable evergreen vegetative screen, berm, or combination of fencing, evergreens, and/or berms.
- D. *Sales Area Surface.*
1. Surface. Sales areas shall be paved with asphalt or concrete.
 2. Alternative Material. Subject to Planning Commission approval, the sales area surface for landscaping materials and nursery stock may be a pervious surface of equal durability. Gravel, crushed rock, and other alternative surfaces may also be permitted if the Planning Commission finds that the surface:
 - a. Is demonstrated to be properly drained;
 - b. Can be maintained in a durable state that minimizes dust generation; and
 - c. Will maintain the character and quality of nearby development.
- E. *Approval.* Approval of alternative material does not provide a permanent right that carries with the lot of record. Surfaces may be required to be upgraded during future improvements, change of use, and/or further development.

Section 9-10 Primary Caregiver Facility

- A. *Intent and Purpose.* The enactment of the Michigan Medical Marijuana Act (hereinafter referred to as the "MMMA"), Initiated Law 1 of 2008, MCL 333.26423, et. Seq., and its administrative rules, R 333.101, et seq, has precipitated the Village of Suttons Bay Zoning Ordinance to implement land use regulations to address the medical use of marijuana in accordance with the MMMA.
- B. *Regulations for Qualifying Patients.* The medical use or cultivation of marijuana by a qualifying patient in that qualifying patient's dwelling or an accessory building is classified as an accessory

use to the principal residential use of the property and can be established without a zoning permit in any zoning district, but shall be subject to the following regulations:

1. Valid Registry. The qualifying patient must be issued and must maintain a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
2. Storage. All marijuana plants or products must be contained within the dwelling or accessory building in an enclosed, locked facility that permits access only by the qualifying patient.
3. Screening. If a room with windows within the dwelling or accessory building is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.

C. *Regulations for Primary Caregiver Facilities*. Primary caregiver facilities shall comply with all of the following regulations:

1. Operation. The primary caregiver facility shall be operated by a primary caregiver who has been issued and maintains a valid registry identification card by the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the provisions of the MMMA.
2. Enclosure. All marijuana plants or products must be contained within the primary caregiver facility in an enclosed, locked facility that permits access only by the primary caregiver.
3. Lighting on Adjacent Properties. If a room with windows within the primary caregiver facility is utilized to grow marijuana for medical use, any artificial lighting shall be shielded to prevent glare, must not be visible from neighboring properties, and must not be visible from adjacent streets or public ways.
4. Hours of Operation. Qualifying patient visits to a primary caregiver facility shall be restricted to between the hours of 9:00 a.m. and 6:00 p.m.
5. Minors. No qualifying patients under the age of 18 shall be permitted at any time at a primary caregiver facility, except in the presence of his/her parent or guardian.
6. Required Notices. A primary caregiver shall display within a primary caregiver facility indoors a notice that “qualifying patients under the age of 18 are not allowed at the primary caregiver facility, except in the presence of his/her parent or guardian,” in a manner legible and visible to his/her qualifying patients.
7. Signage. All signs related to the primary caregiver facility shall comply with the applicable sign regulations in Article 12 of this ordinance.
8. School Buffer. A primary caregiver facility shall not be located within 1,000 feet of the parcel on which any public or private school, having a curriculum including kindergarten through 12th grade and its accessory structures, is located.
9. Public Building/Institutional Use Buffer. A primary caregiver facility shall not be located within 500 feet of the parcel on which any of the following uses are located:
 - a. Any church or place of worship and its accessory structures.
 - b. Any preschool, child care or day care facility and its accessory structures.

- c. Any public facility, such as libraries, museums, parks, playgrounds, public beaches, community centers, and other public places where children may congregate.
- 10. Electrical Code Requirement. The primary caregiver facility, including any room or area utilized to grow marijuana for medical use, shall contain electrical service and wiring, certified by an electrician licensed in the State of Michigan, meeting the applicable requirements of the electrical code in effect in the Village.
- D. *Relationship to Federal Law*. Nothing within this section is intended to grant, nor shall it be construed as granting immunity from federal law.

Section 9-11 Sexually Oriented Businesses

A minimum of 750 feet must be maintained between sexually oriented businesses.

Section 9-12 Temporary Outdoor Accessory Sales

- A. *Review*. Temporary outdoor accessory sales are subject to review and approval by the Administrator in accordance with this section.
- B. *Location and Restrictions*. Temporary outdoor accessory sales may be permitted only in connection with, incidental to, and on the same lot as, a permitted use. Third-party temporary outdoor sales and any sales activity on vacant parcels are prohibited. Proof of tenant occupancy in the principal building shall be provided to the satisfaction of the Administrator.
- C. *Submittal Requirements*. Applications shall include a sketch plan illustrating structures, tents, off-street parking, utilities, and lighting.
- D. *Requirements*.
 - 1. Sales. Merchandise sold shall be that of the regular retail use in the principal building of the site.
 - 2. Prohibited Areas. Sales areas are prohibited in public right-of-way, sidewalks, driveways, or fire lanes.
 - 3. Parking Areas. Sales areas may operate in parking spaces if the required parking for the property remains in compliance with the parking requirements of this ordinance. However, no more than 20 percent of the available parking spaces may be utilized for temporary use.
 - 4. Duration. The event or sale shall be permitted a maximum of twice during a calendar year for a maximum of 14 days each occurrence.
 - 5. Clear Vision. The sales area shall not extend into the clear vision area at any street intersection and shall comply with Section 2-20 Traffic Visibility.
 - 6. Tents and Structures. All temporary structures shall be erected in a safe manner in accordance with any applicable Building Codes, ordinances, and standards. Tents shall comply with Section 2-19.

Section 9-13 Wireless Communications

- A. *Application.* The application for special use approval for a wireless telecommunications tower shall be submitted jointly by the owner/operator of the tower and the owner of the property on which the tower is to be located.
- B. *Use.* Wireless communication facilities may be considered as principal or accessory uses.
- C. *Co-Location.* A co-location study must be submitted and co-location space must be provided on the proposed tower.
- C. *Height.* A wireless communications tower shall be exempt from building height limitations; provided, however, that the tower height shall be no higher than the minimum height necessary to serve its intended function and in no case shall exceed 199 feet.
- D. *Setbacks.* The wireless communication tower shall be set back from all property lines a distance not less than the height of the tower, including antennae.
- E. *Location.* The applicant shall demonstrate that it is not feasible to provide equivalent service by locating the antenna on an existing tower or other existing structure in the Village.
- F. *Visual Impact.*
1. A visual impact analysis shall be submitted which includes graphic depictions of the anticipated appearance of the tower from adjacent vantage points in the surrounding area.
 2. Photo renderings of the proposed tower at the proposed location must be submitted as part of Site Plan review.
 3. The tower shall not have an adverse impact on significant views from properties within one-quarter ($\frac{1}{4}$) mile of the tower site. For purposes of this section, a "significant view" is defined as a view from a residential property that has one or more of the following characteristics:
 - a. A view from a residence and its immediate perimeter that encompasses landscape features substantially free of manmade alteration, as a result of the unique topographic siting of the home.
 - b. A view which is a dominant feature of a residential building site and which contributes significantly to its value, as evidenced by the siting of a home on the property, the size, number, and orientation of windows on the home, and the location and orientation of improved outdoor spaces, such as patios and decks, on the home site.
 - c. The fact that the proposed tower may be visible from a residence shall not alone be considered an adverse impact on a significant view.
- G. *Architecture.* The tower and any ancillary building housing equipment needed for operation of the tower shall be of a size, type, color, and exterior materials that are aesthetically and architecturally compatible with the surrounding area, and as unobtrusive as possible. Landscape screening and appropriate camouflaging may be required by the Planning Commission to accomplish screening of equipment buildings.
- H. *Lighting.* The applicant shall provide documentation of any lighting to be installed on the tower. If tower lighting is required or proposed, the tower location may not be approved unless the Planning Commission determines that it will not have a significant adverse impact on properties and residents of the surrounding area.

- I. *Design.* The tower shall be designed to accommodate, and the owner/operator of the tower shall agree to permit, use of the tower by other communications services providers, including local government agencies, on reasonable commercial terms, so long as such use does not conflict with the owner/operator use of the tower.
- J. *Abandonment.* If, for any reason, the tower ceases operation or is abandoned, the Village may order its removal from the site by the owner of the tower and/or the owner of the property on which the tower is located. The tower shall be removed within 90 days of the date of such notification. If the tower is not removed within 90 days of notification by the Village, the Village may arrange for the removal of the tower and shall bill the cost of removal, plus 10 percent of the cost, to the owner of the tower and the owner of the property on which the tower is located.
- K. *Signage.* All signs shall comply with Article 12.

Section 9-14 Prohibition on Marihuana Establishments and Facilities.

- A. Pursuant to law and Section 6 of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, as amended, marihuana establishments are prohibited within the boundaries of the Village of Suttons Bay.
- B. Marihuana facilities are prohibited within the boundaries of the Village of Suttons Bay.

Off-Street Parking and Loading

Article
10

Section 10-1 Intent and Purpose

The purpose of this article is to prescribe regulations for off-street parking and loading of motor vehicles in residential and non-residential zoning districts; to ensure that adequate parking and access are provided in a safe and convenient manner; and to afford reasonable protection for adjacent land uses from light, noise, air pollution and other effects of parking areas. These regulations are designed to alleviate or prevent congestion of streets by establishing minimum requirements for on-site parking, access, storage, loading, and/or unloading. Off-street parking and loading facilities shall be provided and maintained for all buildings, structures, or premises used for purposes permitted by this ordinance in accordance with the provisions of this article.

Section 10-2 General Requirements

A. *Applicability.*

1. Nonconforming Parking. No parking or loading area lawfully established prior to the adoption of this ordinance and which meets the requirements of the prior regulations in effect at the time of construction shall be required to provide and maintain the parking and loading requirements of this article.
2. Additional Parking Required. In all districts at the time of erection or enlargement of any main building or structure, vehicle off-street parking spaces shall be provided with adequate access to all spaces. The number of required off-street parking spaces shall be provided prior to the issuance of a certificate of occupancy and shall be based on Table 10-3.
3. Parking Permitted. Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings; provided, all requirements of Section 10-4 are met. However, any excess parking is subject to Section 10-3 G.

B. *Limitations on Parking Areas.*

1. Use of Parking Areas. Required off-street parking facilities shall be used solely for the parking of passenger vehicles or light trucks for patrons, occupants, or employees of specified uses. Parking facilities shall not be used for the storage, display, sale, repair, dismantling, or wrecking of any vehicle, equipment, or material. Further, no repair work, sales, or service of any kind shall be permitted in association with off-street parking facilities, unless those facilities are enclosed in a building and the work or service is otherwise permitted in the district. Inoperable vehicles shall not be stored in an off-street parking area for more than 24 hours, except for areas approved for outdoor storage.
2. Outdoor Dining. Unless approved through site plan review, parking areas shall not be converted to, or used for, outdoor dining or other commercial activities.
3. Commercial Vehicles in Residential Areas. Parking on residential lots is restricted to passenger vehicles and no more than one commercial truck or van of no more than three (3) tons capacity (manufacturer's rating).

C. *Storage.* Private parking areas required by this ordinance and publicly owned parking lots shall not be used for the storage of junk or the continuous parking of recreational equipment without a current license plate, for more than a 24-hour period.

D. *Setbacks.* Parking lots are subject to 15-foot front setbacks. Parking lots are subject to 15-foot side and rear setbacks if adjacent to a Residential Zoning District, otherwise, parking lots are not subject to setbacks.

Section 10-3 Required Off-Street Parking

- A. *Parking Placement.* All off-street parking for uses in the SB District, Mixed-Use Districts, and for multi-family buildings shall be located to the side or the rear, or internal to the site.
- B. *On-Street Parking Exemption.* For commercial and mixed-use buildings in the Mixed Use Districts, on-street parking spaces along the front property line shall be counted toward the number of parking spaces required for the use in that building (except where there are driveway curb cuts). However, this shall not apply to residential use parking requirements.
- C. *Residential Off-Street Parking.* Access lanes and off-street parking areas shall be located at the rear of residential buildings, townhouses and multi-family buildings.
- D. *Garages and Storage.* Parking garages or other buildings intended for the storage of four (4) or more vehicles shall be located at the rear of parcels and be accessed from rear alleys or lanes.
- E. *Computing Required Spaces.* In determining the minimum required number of off-street parking spaces, the following instructions shall apply:
 - 1. Determining Floor Area. Off-street parking requirements shall be calculated based on usable floor area (UFA) of the use to which the parking is accessory, or as otherwise provided in Table 10-3.
 - 2. Fractions. If the calculation of required parking spaces results in a fraction, the fraction shall be considered as being the next unit and counted as one additional space.
 - 3. Public Assembly Seating. In sports arenas, churches, and other places of assembly in which patrons occupy benches, pews, or similar seating facilities, each 24 inches of such seating shall be counted as one seat for the purpose of determining requirements.
 - 4. Determining Parking Requirements for Unlisted Uses. For uses not specified in Table 10-3, the minimum number of required parking spaces shall be determined by the Administrator, on the basis of requirements for similar uses, the square footage of the use, and the relationship between the size of the use and the number of persons served or employed.
- F. *Minimum Number of Off-Street Parking Spaces.* Unless shared, reduced, or deferred in accordance with this article, uses shall have a minimum parking count in accordance with Table 10-3.

Table 10-3 Parking Requirements by Zoning District		
Residential Districts		
CR	Central Residential	<ul style="list-style-type: none"> ▪ Residential: Two (2) spaces minimum per primary dwelling plus one (1) additional space if an accessory dwelling is constructed. ▪ Church and Civic Buildings: None required.
NVR	Newer Village Residential	<ul style="list-style-type: none"> ▪ Residential: Two (2) spaces minimum per primary dwelling plus one (1) additional space if an accessory dwelling is constructed. ▪ Churches, Civic Buildings, Long Term Care Facilities: A minimum of one (1) off-street parking space for every 300 square feet.
SFWR	Single-Family Waterfront Residential	<ul style="list-style-type: none"> ▪ Residential: Two (2) spaces minimum per primary dwelling plus one (1) additional space if an accessory dwelling is constructed.
HR	Hillside Residential	<ul style="list-style-type: none"> ▪ Residential: Two (2) spaces minimum per primary dwelling plus one (1) additional space if an accessory dwelling is constructed.
WC	Waterfront	<ul style="list-style-type: none"> ▪ Residential: Two (2) spaces minimum per dwelling.

Table 10-3 Parking Requirements by Zoning District		
	Condominium	
Mixed Use Districts		
CB	Central Business	<ul style="list-style-type: none"> ▪ Residential/Hotel: One (1) parking space for each dwelling or hotel room. ▪ All off Street parking will be located off of an alley or Front Street.
NG	North Gateway	<ul style="list-style-type: none"> ▪ Residential: Two (2) spaces plus one (1) additional space if an accessory dwelling is constructed. ▪ Overall: A maximum of four (4) parking spaces per parcel.
SG	South Gateway	<ul style="list-style-type: none"> ▪ Residential: Two (2) spaces plus one (1) additional space if an accessory dwelling is constructed. ▪ Apartment/Hotel: One (1) space per apartment or hotel room. ▪ Other Uses: One (1) space per employee.
BV	Bay View	<ul style="list-style-type: none"> ▪ Retail: One (1) space per 800 sq. ft. of floor space. ▪ Hotel: One (1) space per room plus one (1) space per employee working at peak hours. ▪ Restaurants & Taverns: One (1) space for every eight (8) seats. ▪ Offices: One (1) space per 400 sq. ft. of floor space. ▪ Single Family & Two-Family Residential: Two (2) spaces per dwelling unit. ▪ Multi-Family/Townhouse: Two (2) spaces per dwelling unit.
Commercial and Industrial Districts		
SB	South Business	<ul style="list-style-type: none"> ▪ All Uses: One (1) parking space for every 400 sq. ft.
WI	Warehouse Industrial	<ul style="list-style-type: none"> ▪ Retail and Service: One (1) parking space shall be provided for each 100 sq. ft. ▪ Other Uses: One (1) parking space shall be provided for each employee and for any vehicle based on the premises.

- G. *Excess Parking.* In order to minimize excessive areas of pavement that detract from aesthetics, contribute to high rates of storm water runoff and generate reflective heat, the minimum parking space requirements of this section shall not be exceeded by more than 10 percent, unless approved by the Planning Commission as part of site plan review. In approving excess parking spaces, the Planning Commission shall determine that the parking is necessary, based on documented evidence, to accommodate the use on a typical day. Parking over this amount shall incorporate pervious paving materials to the maximum extent practical and as subsurface conditions allow.

Section 10-4 Off-Street Parking Facility Location and Design Requirements

All off-street parking areas shall be developed in accordance with the standards of this section.

- A. *Approval.* Approval for location of all exits and entrances shall be obtained from the Village Street's Committee, Village Council or designee. Such approval shall also include the design and construction thereof in the interests of safety, adequate drainage and other public requirements.
- B. *Dimensions and Layout.* Each off-street parking space shall open directly upon an aisle or driveway at least 12 feet wide or such additional width and design, as required by Table 10-4, to provide safe and efficient vehicular access to the parking spaces. All aisles or driveways shall be unobstructed and allow for the passage of emergency vehicles at all times.

Parking Pattern	Parking Space		Maneuvering Lane Width	
	Width	Length	One-Way	Two-Way
0° (parallel)	8.5	22	12	22
30° to 53°	9	18	14	22
54° to 74°	9	18	18	22
75° to 90°	9	18	24	24

- C. *Driveway Surface.* Driveways and drive aisles shall be surfaced with asphalt, bituminous, portland cement binder pavement or similar material to provide a durable and dustless surface. Gravel driveways and drive aisles are prohibited, unless approved by the Administrator for temporary uses.
- D. *Parking Surface.* Parking spaces shall be paved with asphalt or concrete or an approved pervious surface. Pervious parking spaces are encouraged in order to reduce the amount of impervious cover on developed sites and may be used to reduce post-construction stormwater runoff rates, volumes and pollutant loads. The use of permeable surfaces shall be subject to approval by the Administrator.
- E. *Drainage or Runoff.* Parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto adjacent property or public sidewalks or public streets. Any runoff generated by parking areas shall be disposed of in appropriate drainage facilities.
- F. *Striping of Parking.* Parking areas shall be striped to identify each parking space. The striping shall be maintained at all times.
- G. *Wheel and Bumper Guards.* Each parking space shall be equipped with wheel or bumper guards, so no part of a parked vehicle will extend beyond the parking area onto a street right-of-way or adjacent property and to protect landscaped areas, unless a raised curb serves the same function.
- H. *Accessible Parking.* Pursuant to the Americans with Disabilities Act (ADA) of 1990, as amended, accessible parking shall be provided for any building or use initiated after the effective date of this ordinance according to the minimum requirements of the ADA and other requirements that may be adopted by federal, state, or local law.

Section 10-5 Residential Lot Parking

- A. *Alley Access.*
1. Alley off-street parking areas will not encroach on the alley right of way and shall be at least 18 feet in depth.
 2. Garage entrances and off-street parking will be located in the rear for parcels serviced by an alley.

Section 10-6 Shared and Common Parking

- A. *Definition.* The shared parking option is defined as the dual function of off-street parking spaces where operating hours or parking needs associated with individual buildings or uses occur at

distinctly different times, for instance office and restaurants or places of worship and retail businesses.

- B. *Justification.* To take advantage of this option the applicant must demonstrate in detail, as part of the site plan and to the satisfaction of the Planning Commission, how the shared parking option would function in a specific application to receive an exemption.
- C. *Requirements.*
1. Facilities located on separate properties must be within 500 feet of each other.
 2. Sidewalks or pathways shall be provided between the properties. Necessary street crossings must travel over formally striped crosswalks.
 3. The availability of parking for all affected properties or uses shall be indicated by directional signs.
- D. *Change in Conditions.* Any change to the conditions giving rise to the shared parking option exemption shall require a review by the Planning Commission in order for the exemption to remain in force, such uses that have conflicting hours of operation.
- E. *Agreements.* Prior to establishing shared use of parking, the property owner or owners shall submit to the Administrator a written agreement in recordable form ensuring the shared parking use. All shared parking agreements shall run with the land and such covenants shall be recorded with the Register of Deeds. If any party to the agreement withdraws, that party shall be responsible to provide the required parking individually, in accordance with the provisions of this article.

Section 10-7 Parking Reduction

Parking minimums may be reduced, if approved by the Planning Commission, where it is demonstrated that parking demand is expected to be lower than the requirements of Table 10-3 and the following standards are met:

- A. *Single Building or Use.*
1. Convenient municipal off-street parking or on-street spaces are located within 500 feet of the subject property.
 2. Expectation of walk-in trade is reasonable due to sidewalk connections to adjacent residential neighborhoods or employment centers. To allow for a parking space reduction, the site design shall incorporate pedestrian connections to the site and on-site pedestrian circulation, providing safe and convenient access to the building entrance.
 3. The applicant has provided a parking study, conducted by a qualified traffic engineer or parking expert, demonstrating that another standard would be more appropriate based on actual number of employees, expected level of customer traffic, or actual counts at a similar establishment.
- B. *Mixed Occupancy or Multiple Buildings.* Parking may be reduced for shared/common parking lots by multiple uses where:
1. There will be a high proportion of multipurpose visits.
 2. Uses have peak parking demands during differing times of the day or days of the week and meeting the following requirements:

- a. Parking facilities at a church or place of worship may be used to meet up to 50 percent of the off-street parking required for theaters, stadiums, other places of public assembly, retail stores, personal services establishments, office buildings, and industrial facilities lying within 600 feet of the church or place of worship. Distance shall be measured from the nearest point of public entrance to the building to the nearest point of the parking lot.
 - b. There is no conflict between times when the uses are in need of the parking facilities.
 - c. The church or place of worship makes the spaces available and enters into a recordable agreement with the owners of the affected uses who will be sharing the parking, as provided in Section 10-6.
- C. *Transferability.* Parking reductions only apply to a specific use approved by the Planning Commission. Approvals do not transfer during change of use or expansion of use.

Section 10-8 Deferred Parking

- A. *Intent.* Where a reduction in the number of required parking spaces may not be warranted, but an applicant demonstrates that the parking requirements for a proposed use would be excessive, the Planning Commission may defer some of the required parking.
- B. *Requirements.* Deferred parking plans shall be in accordance with the following:
1. Site Plan. A site plan shall be presented showing all required parking, but identifying those spaces that will not be constructed until needed. All deferred parking spaces and aisles shall meet the design and dimensional requirements of this article.
 2. Landscaping. Any area designated for deferred parking shall be maintained in a landscaped appearance and not occupy required buffers, greenbelts or parking lot setbacks, or be used for any other purpose such as outdoor storage or accessory buildings. Landscaping, such as parking lot trees, that would otherwise be required for the deferred spaces shall be installed within the deferred parking area.
 3. Timeframe. As a condition of approval, construction of all or a portion of the deferred parking spaces may be initiated by the owner or required by the Village, based on parking needs or as required by Table 10-3. The deferred parking shall meet all requirements of the ordinance in effect at the time of construction.

Section 10-9 Off-Street Loading Requirements

- A. *Uses Requiring Loading Areas.* On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, retail sales, consumer services or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets, alleys and parking spaces. Commercial uses within the CB district are exempt from this requirement.
- B. *Loading Area Design Requirements.*
1. Loading and unloading spaces shall be paved and, unless otherwise adequately provided for, shall be 10 feet by 50 feet, with 15-foot height clearance.

2. Loading spaces shall not use any portion of any public right-of-way.
 3. Maneuvering space for trucks using the loading spaces shall be provided on premise, and shall not necessitate the use of public right-of-way.
 4. Loading spaces shall be located to the side or rear of a building.
- C. *Required Parking.* Required loading spaces shall not be included in the count of off-street parking spaces.
- D. *Number.* Off-street loading areas shall be provided according to Table 10-9.

Table 10-9 Minimum Off-Street Loading Spaces	
Building Gross Floor Area	Minimum Truck Loading Spaces
0 to 1,400 square feet	None
1,401 to 20,000 square feet	1 space
20,001+	1 space plus 1 space for each 20,000 square feet in excess of 20,000 square feet

- E. *Modification.* The Planning Commission or Administrator may modify the required size of loading spaces for uses, such as offices, that will involve smaller delivery trucks.

Landscaping and Lighting

Article
11

Section 11-1 Intent and Purpose

It is the purpose of this article to require landscaping to minimize the adverse effects of certain outdoor activities upon their surroundings and to improve the appearance of parking areas and street frontages within the community. It is further intended to preserve and enhance the aesthetic qualities, character, privacy, and land values of property within the Village. The landscape and exterior lighting regulations in this article further:

- A. Promote the public health, safety, and general welfare by reducing noise, air, and visual pollutions, air temperature, and light glare.
- B. Improve air quality.
- C. Prevent soil erosion and increase water retention.
- D. Improve the appearance of off-street parking, vehicular use areas, and property abutting public rights-of-ways.
- E. Improve the aesthetics and safety of pedestrian sidewalks, both within paved areas and along public rights-of-way.
- F. Require buffering between incompatible land uses.
- G. Protect residential privacy.
- H. Provide landscaping that will survive and flourish in this area.
- I. Preserve, to the degree possible, night skies unaffected by light pollution and glare.

Section 11-2 General Requirements

- A. *Applicability.*
 - 1. Developments. Landscaping requirements apply to multi-family residential developments and all non-residential development, except the CB District.
 - 2. Site Plan Approval. These requirements apply to all new buildings and parking lots and the affected area of expansions to existing buildings and parking lots requiring site plan approval.
 - 3. Installation. Required landscaping shall be installed before occupancy or establishment of the use, unless the approving authority authorizes occupancy or establishment of the use prior to complete landscape installation, based on unforeseen weather conditions or the timing of construction as it relates to the planting season. In cases where deferment is approved, a performance guarantee as established by the Administrator may be required.
- B. *Number.*
 - 1. Substitution. No substitution of plant species or sizes shall be allowed unless approved by the Administrator in writing.
 - 2. Preservation. Preservation of existing plant material that complies with the standards and intent of this article may be credited toward meeting the landscape requirements.

C. *Installation and Maintenance.*

1. Type. All plant materials shall be hardy, free of disease and insects, and native to northern Michigan and the overall landscape plan shall incorporate a variety of tree and shrub types.
2. Size. Minimum size at installation is the following:
 - a. Canopy Tree: 2.5 inches at DBH (diameter at breast height), four and a half (4 ½) feet above the ground.
 - b. Ornamental Tree. 1.5 inches at DBH.
 - c. Evergreen Tree. Six (6) feet in height.
 - d. Shrub. 24-inch wide spread.
3. Setback. Plant material shall not be placed closer than four (4) feet to any fence or property line.
4. Placement. Where trees are placed in two (2) or more rows, planting shall be staggered in rows for a more natural appearance.
5. Utilities. All plant material shall be planted in a manner that will not cause damage to utility lines (above and below ground) and public roadways.
6. Drainage. All plant material shall be installed in a manner that does not alter drainage patterns on site or adjacent properties, or obstruct vision for safety of ingress or egress.
7. Maintenance. All landscaping shall be maintained after planting. The owner or controlling party shall be responsible for maintenance.
8. Replacement. The developer may be required to post a performance guarantee in accordance with Section 15-5 with the Administrator to ensure that any trees or other landscaping plantings that die within two (2) years of planting shall be replaced. When required to be replaced, diseased or dead plants, trees or shrubs shall be replaced within one (1) growing season.
9. Groundcover. All landscaped areas shall be mulched and those not containing trees and shrubs shall be planted with ground cover. Mulch, of any type, is not considered groundcover, nor is it a substitute for ground cover. However, mulch (including shredded bark, wood chips, lava rock, decorative stone and similar generally accepted landscape accent materials) may be used around planting beds.
10. Berms. Berms. Berms shall be designed to vary in height and shape to create a more natural flowing appearance. The maximum slope for a berm shall be one foot vertical to three (3) feet horizontal, unless otherwise allowed by the Planning Commission.

Section 11-3 Landscape Plans

- A. *Landscape Plans*. Landscape plans are required for all Level “B” reviews. Landscape plans shall include the following:
1. Landscape plans shall be prepared by a registered landscape architect and sealed.
 2. Proposed landscaping shall be shown on a separate drawing at the same scale as the required site plan. To ensure that landscaping is not affected by or interferes with utilities, the plans shall indicate all existing or proposed utilities and easements

3. Planting plans shall show all landscaped areas and plants listed in a table by common and scientific name including quantities, size at planting and anticipated mature height and spread. Anticipated mature height and spread shall be shown on the plan with circles indicating anticipated plant size at maturity.
 4. Text shall accompany the landscape plan, providing calculations for the proposed landscaping and describing how the plan complies with the regulations of this article.
 5. Existing natural and man-made landscape features and proposed buildings and structures, as required for the overall site plan, shall be clearly indicated.
 6. Landscape plans shall show all existing trees (four inch caliper or greater) located in portions of the site that will be built upon or otherwise altered. Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan.
 7. Measures to protect existing trees to be saved shall be noted on the plans.
 8. A maintenance strategy, including but not limited to watering schedules, permanent irrigation, or other methods acceptable to the Village.
- B. *Modifications.* Landscaping plans are subject to Administrative or Planning Commission review and approval, as part of the required Level "A" or Level "B" site plan. The approval authority may modify the requirements of this article under any of the following circumstances.
1. Existing vegetation, topographic or built features make compliance with requirements unnecessary or difficult to achieve.
 2. The application of requirements will result in a significant loss of existing vegetation, or natural or cultural features.
 3. Modification of requirements will clearly result in a superior design that could not be otherwise achieved.

Section 11-4 Buffers

- A. *Waterfront Condo (WC).* A vegetative buffer will be established and maintained in along property lines adjacent to other residential zoning districts. This buffer shall be planted with a mixture of shrubs and trees that will provide a dense visual barrier within five (5) years of establishment.
- B. *South Business (SB).*
1. Warehouse buildings shall be sited in a manner so that they will be shielded from street views by buffer strips and perimeter buildings.
 2. A buffer strip of dense trees a minimum of 40 feet in width shall be established maintained around perimeter of the master parcel. Perimeter buildings and common access drives are excluded from this buffer requirement. Also excluded are abutting property lines of other master parcels in this development area.
- C. *Warehouse Industrial (WI).* Screening berms shall be a minimum of three (3) feet in height. Two (2) rows of evergreen trees a minimum of five (5) in height will be established and maintained on top and along the side slope of the berm. Tree spacing should be at least 20 feet and staggered. Except for entrance/exit areas, all parcels will be screened from view from adjacent streets and residential areas with berming and trees.

Section 11-5 Screening

- A. *Outdoor Trash Storage.* All trash storage areas shall be screened from view from the streets by means of a fence constructed of wood, wood substitute, masonry, or shrubbery that is a minimum of six (6) feet in height.
- B. *Off-Street Parking.* Except for entrance/exit areas, all off-street parking areas will be screened from view from adjacent public streets with densely planted shrubbery that is a minimum of four (4) feet high or by a wall no less than four (4) feet and no more than six (6) feet in height.

Section 11-6 Parking Lot Landscaping

- A. *Requirements.* To provide shade and to break up the visual appearance of large paved areas, parking lots with more than 50 spaces shall be landscaped, based on the following requirements:
1. One (1) canopy tree for every 10 parking spaces shall be planted within or around the parking lot.
 2. Planted Landscape islands or peninsulas are encouraged to break up the visual monotony of large paved parking lots. If trees are included within islands and peninsulas, they shall be planted at least three (3) feet from the edge to avoid contact with vehicles.
 3. Alternative Low Impact Design solutions shall be encouraged, such as rain gardens or areas for stormwater infiltration.

Section 11-7 Street Trees

- A. *Applicability.* Canopy shade trees are required along streets (both public and private) in subdivision and condominium developments.
- B. *Requirements.* Shade trees shall be planted at intervals no less than 20 feet or greater than 40 feet apart, on both sides of new streets and the project side for new development along existing streets. The requirement does not apply to rear alleys.
- C. *Characteristics.* All shade tree species selected for planting shall have the following characteristics:
1. Be tolerant of pollution and direct or reflected heat.
 2. Require little maintenance by being mechanically strong as well as being resistant to insects and disease.
 3. Be able to survive without irrigation two (2) years after planting.
 4. Shall consist of deciduous species that cast moderate shade, but that can withstand trimming to facilitate views of storefronts and signage.
 5. In residential areas shall normally survive more than 60 years and have a mature height of at least 50 feet.

Section 11-8 Exterior Lighting Requirements

Lights shall meet the requirements of this section:

- A. *Prohibited Lighting.* The following lighting types and methods are prohibited:
1. High Intensity Lights. Laser lights, searchlights or any similar high intensity light are prohibited.
 2. Hazardous Lights. Any lighting where the light source creates glare and is a hazard to travelers on an adjacent street.
 3. Flashing and Moving Lights. Exterior lighting, or interior lighting that is noticeable from the exterior, that flashes, moves, or is intermittent. Holiday lighting is exempt from this requirement.
 4. Traffic Control or Emergency Lights. Lighting that is similar to that used for traffic control devices or emergency vehicles.
 5. Colored Lights. No colored lights shall be used at any location or in any manner that would be confused with or construed as traffic control devices.
- B. *General Requirements.* All outdoor lighting fixtures including, but not limited to, pole-mounted or building-mounted yard lights, dock lights, and shoreline lights other than decorative residential lighting such as porch or low level lawn lights under three (3) feet shall be subject to the following regulations:
1. Direct or directly reflected light is confined on-site.
 2. Lighting fixtures shall be a down-lighted type having 100 percent cut off.
 3. That light from any illuminated source shall be so shaded, shielded, and directed away from adjacent properties.
- C. *Commercial Requirements.*
1. Applicability. Lighting shall be provided throughout any non-residential parking lot. Lights to illuminate parking lots shall not be attached to any building.
 2. Height. Pole and building mounted fixtures shall have a maximum height of 20 feet when in or adjacent to a residential district. All other light fixtures shall have a maximum height of 25 feet. The height of a fixture shall be measured from the parking lot grade to the nearest portion of the light source. No portion of the fixture may extend more than one additional foot higher than the maximum heights.
 3. Illumination Levels. Light levels on commercial sites shall meet the requirements in Table 11-8 for the developed portion of the site containing buildings, drives and parking lots.
 - a. Sites are not subject to minimum lighting levels during closed hours.
 - b. Table 11-8 shall not apply to ornamental street lighting, public street lights or driveway/intersection lighting necessary for pedestrian and traffic safety.
 - c. The light level along a non-residential lot line may be increased to the parking lot maximum in cases where there are shared access/vehicular connections or the adjacent use is a similar use.

Table 11-8 Required Site Illumination		
Location on Site	Minimum Footcandles	Maximum Footcandles
Parking Lots and Building Entrances	0.5 (at any point) 2.0 (average)	10.0
Walkways	0.2 (at any point) 1.0 (average)	10.0
Along Front Lot Line Adjacent to the Street Frontage	0.0	2.0
Along a Lot line Adjoining a Non-Residential Use or District	0.0	1.0
Along a Lot line Adjoining a Residential Use or District	0.0	0.5

4. Demonstration of Compliance. Compliance with the lighting design criteria shall be demonstrated by submitting the following information as part of the required site plan:
 - a. Lighting plan showing light fixture locations and type designations.
 - b. Lighting equipment specifications and data sheets, including fixture height.
 - c. Manufacturer’s cut-sheets and any other materials or information required to convey the intent of the lighting design.

5. Photometric Plans. The Administrator or Planning Commission may require a photometric plan to ensure that the intent and requirements of this section are met. When required, a photometric plan (lighting grid) shall be prepared by an electrical engineer. The photometric plan shall show horizontal luminance levels in a point-by-point format.

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Signs

Article
12

Section 12-1 Intent and Purpose

The intent and purpose of this article is to:

- A. Allow signs designed to be visible to the public while recognizing that the number, placement and size of signs may be distracting or obstructive to motorists and pedestrians and may create a traffic hazard.
- B. Balance the need for communication with preservation of the appearance of the rural landscape and neighborhood character and maintaining a safe environment.

Section 12-2 Sign Permits

- A. *Sign Permit Required.* No person shall erect, replace, apply, structurally alter or add to any sign without first obtaining a permit, unless specifically exempted by this article.
- B. *Application Procedure.* Application for a permit to erect, replace, apply, structurally alter or add to a sign shall be made to the Administrator, by submission of the required forms, fees, exhibits and information by the owner of the property on which the sign is to be located, or by his agent or lessee. The application shall contain the required checklist information (Table B-7).
- C. *Permits Not Required.*
 - 1. Maintenance. Painting, repainting, cleaning, maintenance, repair and change of sign message or graphics shall not be considered erection or alteration of a sign that requires issuance of a sign permit, provided that no structural alterations or additions to the display area are made.
 - 2. Re-lettering and Rewording Changeable Copy. Changing advertising copy or message, either electronically or manually, on a previously approved sign, such as a theater marquee, institutional bulletin board and similar approved signs that are specifically designed for changeable copy, shall not require a permit.

Section 12-3 Nonconforming Signs

- A. *Conformity.* A lawful sign that no longer conforms to the height, size, area, location or other requirements of this article as of the date of the adoption of this ordinance, is hereby deemed to be nonconforming.
- B. *Damage.* Any nonconforming sign, sign structure, frame or standard damaged by any means shall not be restored or rebuilt if the damage exceeds 50 percent of present day replacement value considering a sign of equal and similar size, building materials, construction and quality. The sign owner shall provide an estimate acceptable to the Administrator for an official determination concerning restoration and repair eligibility.
- C. *Alterations and Maintenance.* A nonconforming sign may not be expanded, enlarged or extended; however, the face of a nonconforming sign may be replaced as long as the nonconforming nature of the sign is not expanded or increased. Nonconforming signs may be maintained and repaired, subject to the restrictions of Section 12-4.

Section 12-4 Disrepair

Signs that are no longer functional or are in disrepair for more than 30 days shall be repaired or removed, at the expense of the property owner, within 30 days following notice of non-compliance. Notice shall be given to the property owner by U.S. mail. Failure to comply within the stated 30-day period shall be deemed a violation of this ordinance. If the sign is not removed or repaired within the stated timeframe, the Administrator shall cause the sign to be removed and assess the cost of removal against the property to the full extent permitted by law.

Section 12-5 General Requirements

- A. *Regulation by District.* The number, size and design of signs shall be regulated in each respective zoning district. If the zoning district does not have sign regulations for a particular sign type, then that sign type shall not be allowed.
- B. *Measurement of Sign Area.*
1. Freestanding Sign. The area of a freestanding sign shall be computed as including the entire area within a rectangular geometric form or combination of such forms comprising all the display area of the sign and including all of the elements of the matter displayed. Frames and borders bearing copy or display materials shall be included in the computation of the sign area. Where a sign has two (2) or more faces, the area of all faces shall be included determining the area of the sign, except where two such faces are placed back to back, parallel to one another, and less than 12 inches apart, the area of the sign shall be of one face.
 2. Wall Sign. For a sign consisting of individual letters and/or a logo affixed directly onto a building, the area of the sign shall be computed by measuring the area of the envelope required to enclose the extreme limits of the lettering and logo.
 3. Multiple Tenant Building. For buildings with multiple tenants, the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall (Figure 12-1).

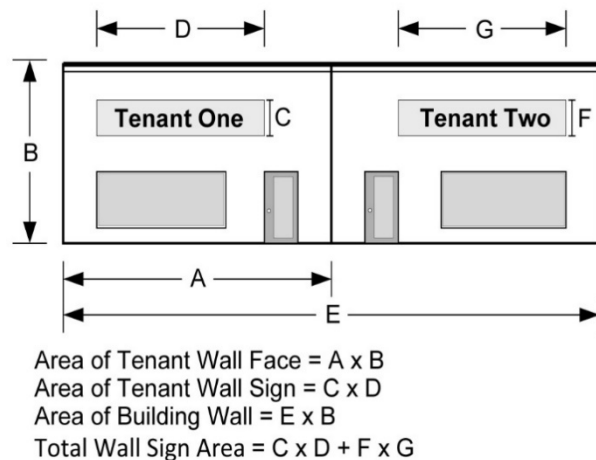


Figure 12-1

C. *Height.*

1. Roof Height. The height of all building-mounted signs shall not extend vertically past a roof eave or the bottom edge of a parapet.
2. Clearance. All portions of a projecting sign shall be a minimum height of eight (8) feet above grade and shall not project over a paved portion of a street or alley.
3. Freestanding Signs. The height of a freestanding sign shall be measured as the vertical distance from the highest point of the sign to the finished grade of the ground immediately beneath the sign, including the sign standard (Figure 12-2). Artificially constructed earthen berms shall count against the maximum height.

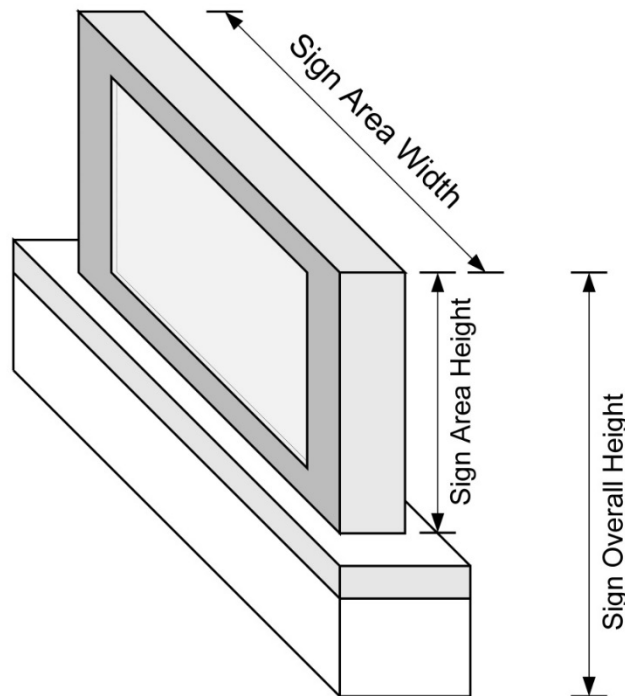


Figure 12-2

- D. *Clear Vision Area.* No signage is permitted in clear vision areas, per Section 2-18.

Section 12-6 Exempt Signs

The following signs are permitted in any district without a sign permit but shall conform to the applicable requirements of this section:

Table 12-6 Signs Exempt From Permitting	
Type of Sign	Requirements
Historic marker	Historical marker including plaques or signs describing a property's designation as a historical site or structure and containing narrative, not exceeding 20 square feet in area.
Incidental and informational signs	Signs not exceeding two (2) square feet in sign face area on mailboxes or newspaper tubes, or posted on private property relating to private parking or warning the public against trespassing or danger from animals.
Interior building sign	Any sign which is located completely within an enclosed building, and which is not visible from outside the building or which is primarily directed at persons within the premises upon which the sign is located.
Interior site sign	Signs not visible to motorists or pedestrians on any Street, alley, water body, public lands, or adjacent Parcels.
Legal postings	As required by law.
Murals and art	Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, logos, commercial representations, trademarks, moving parts or lights.
Residential wall sign	One (1) sign not exceeding two (2) square feet.
Yard sign	One (1) not exceeding six (6) square feet.
Official signs	Official signs of a non-commercial nature erected by public utilities.
Portable and temporary signs	See Section 12-8.
Public and governmental signs	Signs erected by, on behalf of, or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, street signs, historical markers, traffic, directional, and regulatory signs.
Religious symbols	Symbols incorporated into the architecture on places of worship or structures owned and operated by religious organizations shall not be considered a sign unless accompanied by text.
Traffic control signs	Signs, not owned and under the authority of county, village, state, or federal street agencies, which direct traffic movement onto or within a property which are not owned property that are not owned and under the authority of county, village, state, or federal Street agency shall not exceed nine (9) square feet in area for each sign. Logo or business names shall not exceed 20 percent of the sign area. Such signs shall be located behind the street right-of-way line. Two (2) directional signs per driveway shall be permitted.
Vehicle sign	Signs on a bus, truck, trailer, or other vehicle while operated and used for transport in the normal course of a business, provided that the primary use of the vehicle displaying the sign shall not be for the purpose of advertising a business on the premises where the vehicle is parked.
Window sign	The total area of all signs within one (1) foot of the window shall not obscure more than 25 percent of the window area.

Section 12-7 Prohibited Signs

The following signs are prohibited:

- A. Signs within a public right-of-way or dedicated public easement, unless the sign is installed or owned by the Village or the Michigan Department of Transportation, whichever has jurisdiction over the public right-of-way or public easement, or written consent is obtained for the sign from the Village Council or the Michigan Department of Transportation, whichever has jurisdiction over the right-of-way within which the sign will be located.

- B. Illuminated signs in residential zoning districts.
- C. Signs affixed to trees, utility poles or rocks, unless the rock is a monument type base for a sign professionally designed for that purpose.
- D. Signs that interfere with the ability of vehicle operators or pedestrians to see traffic signals or other traffic.
- E. Signs that obstruct any window, door, fire escape, or opening intended to provide entry or exit to any structure, building, or right-of-way.
- F. Bulletins, bills, flyers, posters, and any other display which is tacked, pasted or otherwise affixed to walls of buildings, barns, sheds, trees, poles, fences, signs, and sign posts.
- G. Signs attached or painted on a bench.
- H. Signs that are on public property unless the sign is installed or owned or approved by a governmental entity that owns the public property.
- I. Signs that imitate an official traffic sign or signal.
- J. Signs by, or which include, floodlights, spot or beacon lights.
- K. Signs illuminated by an upward facing light source, or any light source that is not shielded so the direct rays of light are confined to the surface of the sign.
- L. Signs with flashing lights, flashing messages, changing, and blinking lights.
- M. All types of banners (except as allowed in Section 12-9) pennants, streamers, and inflatable signs or balloons.
- N. Signs with moving parts.
- O. Pole signs.
- P. Billboard signs.
- Q. Roof signs.

Section 12-8 Sign Requirements by District

The following signs are permitted in combination, unless noted otherwise, in each district, subject to the requirements described in Table 12-8, issuance of a sign permit and all other applicable regulations.

Table 12-8 Signs By District	
RESIDENTIAL DISTRICTS	
Home Wall Sign	
Number	One (1) wall or projecting sign per dwelling.
Size	Two (2) square feet maximum.
Location	Façade of dwelling or accessory structure.
Development Gateway and Entry Sign	
Number	Two (2) per development entry, one (1) per side of the entry driveway.
Size	24 square feet maximum.
Setback	½ of the required building setback.
Height	Six (6) square feet maximum.
Ground Sign for Non-Residential Principal Use	
Number	One (1) per street frontage, two (2) maximum.

Table 12-8 Signs By District	
Size	24 square feet maximum.
Setback	½ of the required building setback.
Height	Six (6) feet maximum.
Wall Sign for Non-Residential Principal Use	
Number	One (1) per street frontage, two (2) maximum.
Size	20 percent of wall area to which it is attached but not to exceed 24 square feet.
Other	A wall sign shall not extend past the edge of the wall to which it is affixed and no wall sign shall extend above the roofline of a building.
MIXED USE DISTRICTS	
Wall, Canopy, Projecting, Marquee or Awning Sign	
Number	No maximum.
Size	For a single business located on a lot, 20 percent of wall area to which it is attached, not to exceed 24 square feet. For each business located within the same structure, 20 percent of their individual façade, not to exceed 24 square feet per business.
Location	Wall signs mounted flat against the wall.
Other	Wall signs shall not extend past the edge of the wall to which it is affixed and no wall sign shall extend above the roofline of a building. All other signs shall be a minimum of eight (8) square feet above the sidewalk or grade.
COMMERCIAL AND INDUSTRIAL DISTRICTS	
Ground Sign	
Number	One (1) per street frontage, two (2) maximum.
Size	24 square feet maximum.
Setback	½ of the required building setback.
Height	Eight (8) feet maximum.
Wall Sign	
Number	One (1) per street frontage, three (3) maximum.
Size	For a single business located on a lot, 20 percent of wall area to which it is attached, not to exceed 24 square feet. For each business located within the same structure, 20 percent of the individual façade, not to exceed 24 square feet per business.
Other	Wall signs shall be mounted flat against the building wall. Wall signs shall not extend past the edge of the wall to which it is affixed and no wall sign shall extend above the roofline of a building. All other signs shall be a minimum of eight (8) feet above the sidewalk or grade.
Business Center Ground Sign	
Number	One (1) per street frontage, two (2) maximum, no other freestanding signs allowed for individual businesses.
Size	24 square feet maximum.
Setback	½ of the required building setback.
Height	Eight (8) feet maximum.
Development Gateway and Entry Sign	
Number	One (1) per development entry.
Size	24 square feet maximum.
Setback	½ of the required building setback.
Height	Six (6) feet maximum.

Section 12-9 Temporary and Portable Signs

- A. *Temporary Signs.* Except for street banners approved by the Village and/or Michigan Department of Transportation, other temporary signs are permitted in accordance with the following:
1. Be located on the same property as the event or on private property with written permission.
 2. Shall comply with all other provisions of this article.
 3. Shall not exceed the size regulations for the zoning district or six (6) square feet, whichever is greater. One (1) banner may be larger if located on the face of the structure where the event will occur.
 4. Shall not impede the flow of traffic or pedestrian movement.
 5. Be on display only for a period which includes:
 - a. 30 days ahead of an event.
 - b. The duration of the event.
 - c. Up to, but not exceeding, seven (7) days after the event.
- B. *Portable Signs- Sandwich Board and A-Frames.*
1. There shall be only one (1) portable sign allowed per business.
 2. Portable signs are prohibited in the public right-of-way unless permitted by the Village and/or Michigan Department of Transportation. If permitted, signs must be perpendicular to the building edge and shall not impede pedestrian movement. Liability waiver/indemnification shall be submitted to the Village.
 3. Portable signs shall only be displayed during the hours of operation of the advertised business.
 4. Portable signs shall be at least 36 inches in height and 20 inches in width and no greater than 48 inches in height and 30 inches in width, and cannot exceed 10 square feet in sign face area.
 5. Shall be constructed of durable materials and be clearly portable in terms of size, weight, and placements.
 6. Portable signs are to be located on private property if space is available.
 7. Illumination is prohibited.

Section 12-10 Illumination

- A. *Prohibited Illumination.* Electronic changeable message signs, neon, LED, digital signs and internally lit signs are prohibited.
- B. *Backlit Illumination.* This type of sign illumination projects light against the surface behind the sign lettering or graphic producing a halo lighting effect around the letter or graphic, commonly referred to as backlit channel lettering or halo lighting. This type of lighting is permitted in the Mixed Use, Commercial and Industrial, and PUD zoning districts. Individual bulbs and light sources shall not be visible.

- C. *Illuminated Window Signs.* Notwithstanding section 12-10 A, window signs may be illuminated by electronic and neon, subject to the following conditions:
1. Number. One (1) electronically illuminated window sign is permitted within commercial buildings per street frontage, per building. Multi-tenant buildings are permitted to have one (1) illuminated window sign per tenant.
 2. Size. Each electronically illuminated window sign is limited to four (4) square feet in size and count against the total square footage for window signs.
 3. Applicability. Electronically illuminated window signs intended to be viewed from the outside that are more than six (6) inches away from the window shall also count against the total square footage for window signs.
 4. Restrictions. Sign illumination shall be static and shall not move, flash, be animated, digital, or electronic changeable.
- D. *External Illumination.* This type of lighting is located away from the sign and may or may not be visible to persons viewing the sign from any street, sidewalk, or adjacent property. In Mixed Use, Commercial and Industrial and PUD zoning districts, external lighting of signs may be by means of a downward facing light source, and/or shall be shielded so the direct rays of light are confined to the surface of the sign (Figure 12-3).

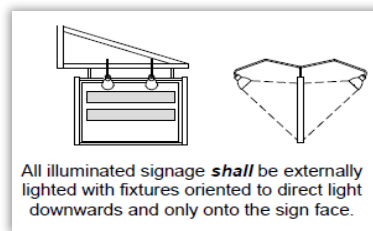


Figure 12-3

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Special Land Uses

Article
13

Section 13-1 Intent and Purpose

- A. *Intent.* Special land uses are generally consistent with the purpose of the zoning district in which they are allowed but, due to unique operational characteristics or specific circumstances surrounding the use, may not be desirable or compatible in all locations. Factors such as traffic, hours of operation, noise, odor or similar potential effects require that the special use be evaluated relative to its appropriateness on a case-by-case basis.
- B. *Purpose.* Special land uses may be permitted within a zoning district, with Planning Commission approval, following a review of the use and its potential impact on its surroundings. This article establishes the review procedures for special uses and the general standards that must be met for all special uses.
- C. *Permit.* Special land uses may be established through a special land use permit.
- D. *Standards and Requirements.* This article establishes the review procedures for special land uses and the general standards that must be met for all special land uses. Some specific uses are also subject to additional standards and requirements outlined in Article 9 to mitigate the potential for negative impacts.

Section 13-2 Application Procedures

- A. *Application and Fee.* Application for any special land use permit permissible under the provisions of this ordinance shall be made to the Administrator by filling in the official special land use permit application form, submitting required data, exhibits and information, and depositing the required minimum fee, in accordance with Section 14-2.
- B. *Information Required in Application.* An application for special land use permit shall include:
1. Application Form. An application form which includes, at a minimum:
 - a. The applicant's name and address.
 - b. Signature of land owner and the applicant, if different than the landowner.
 - c. The address and legal description of the property.
 - d. A specific statement and supporting information demonstrating that compliance with the standards for special land use permit approved as provided in Section 13-3.
 - e. A complete description of the proposed development including the following assessments and statements, as applicable:
 - (1) Expected demands on community services, and how these services are to be provided, to specifically include: school classroom needs, volume of sewage for treatment, volume of water consumption related to community system capacity, change in traffic volume on adjacent streets and other factors that may apply to the particular development.
 - (2) Statements relative to the impact of the proposed development on soil erosion, shoreline protection, wildlife habitat, air pollution, water pollution (ground and surface), noise and the scale of development in terms of the surrounding environment.

2. Plan: A site plan review as specified in Article 14 of this ordinance.
- C. *Review for Completeness*. Upon receipt of the special land use permit application, the Administrator shall review the application to ensure it is complete.
1. Incomplete Application. If the application is not complete, the Administrator shall return the application to the applicant with a letter that specifies the additional material required.
 2. Public Hearing. If the application is complete, the Administrator shall establish a date to hold a public hearing on the special use permit application.
- D. *Notice of Public Hearing*. The notices for all public hearings before the Planning Commission concerning requests for special use permits shall comply with the requirements set forth in Section 15-4.

Section 13-3 General Standards of Approval

- A. *Special Land Use Permit Standards*. The Planning Commission shall review the particular circumstances and facts applicable to each proposed special land use with respect to the following standards and requirements and the proposed site plan:
1. It will be in accordance with the general objectives, intent and purposes of this ordinance.
 2. It will be in accordance with the goals and objectives of the Master Plan.
 3. It will be designed, constructed, operated and maintained in harmony with the existing or intended character of the general vicinity and will not change the essential character of the area in which it is proposed.
 4. It will not be hazardous or disturbing to existing or future uses in the same general vicinity and in the community as a whole.
 5. It will be adequately served by essential infrastructure, such as highways, roads, stormwater drainage, refuse disposal, water and sewage facilities.
 6. It will not create excessive additional requirements at public cost for infrastructure and will not be detrimental to the economic welfare of the community.
 7. It will not involve uses, activities, processes, materials and equipment, or conditions of operation that will be detrimental to persons, property or general welfare by reason of excessive traffic, noise, vibration, smoke, fumes, glare or odors.
 8. It will ensure that the environment shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal and topographic modifications, which result in maximum harmony with adjacent areas.
 9. It will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.
 10. The use complies with other general and specific standards of this ordinance, the respective area, and general provisions of this ordinance.
- B. *Approval*. If the Planning Commission finds that all standards have been met, the permit shall be issued.

Section 13-4 Conditions of Approval

- A. *Special Use Permit Conditions.* The Planning Commission may attach reasonable conditions with the approval of a special land use permit. Conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed shall meet all of the following requirements:
1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be necessary to meet the intent and purpose of this ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
- B. *Amendment of Conditions.* The conditions imposed, with respect to the approval of a special land use, shall be recorded in the approval action and shall remain unchanged, except upon the mutual consent of the property owner and Planning Commission following the same procedures as the original approval, including public hearing.

Section 13-5 Validity and Expiration

- A. *Validity.* A special land use permit shall be valid for as long as the approved special land use continues in accordance with the terms and conditions of the approved permit.
- B. *Transfer of Ownership.* A special land use permit, with any and all associated benefits, conditions and required security shall run with the land. Transfer of ownership shall not affect the validity of a special land use permit as long as compliance with all requirements and conditions of approval are maintained.
- C. *Expiration.* The special land use permit shall expire on the occurrence of one (1) or more of the following conditions:
1. If replaced or superseded by a subsequent special land use permit.
 2. If replaced or superseded by a permitted use.
 3. If the applicant requests the rescinding of the special land use permit in writing.

Section 13-6 Amendments

Amendments to an approved special land use permit shall be permitted only under the following circumstances:

- A. *Amendments in General.* The site plan approved in conjunction with the special land use shall become part of the approval record. Any improvements relative to the authorized use shall be consistent with the approved site plan, unless a change is approved, in accordance with this article. Any change in use shall be subject to the applicable requirements of the zoning district in which the property is located and site plan review in accordance with Article 14.

- B. *Minor Changes.* The owner of property for which a special land use has been approved shall notify the Administrator of any desired change to the approved special use permit. Minor changes may be approved by the Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the special land use, nor any specified conditions imposed as part of the original approval imposed by Section 13-4. Minor changes shall include the conditions listed in Section 14-10.
- C. *Site Plan.* All amendments to a special land use permit approved by the Administrator shall be in writing. After approval by the Administrator, the applicant shall prepare a revised site plan showing the approved amendment. The revised site plan shall contain a list of all approved amendments and a place for the Administrator to sign and date all approved amendments.
- D. *Amendments Not Meeting Conditions.* An amendment to an approved special use permit that cannot be processed by the Administrator under subsection B above shall be processed in the same manner as a new special land use permit application.
- E. *Amendments of Reclassified Uses.* Any use lawfully established by right but subsequently reclassified as a special land use on or after the effective date of this ordinance remains a permitted use. Amendments are subject to all zoning regulations, including any applicable specific use requirements and special use standards, and shall be processed in accordance with this article.

Section 13-7 Revocation

The Planning Commission shall have the authority to revoke a special land use permit when the applicant has failed to comply with any of the applicable requirements of this article, other applicable sections of this ordinance, or the conditions of approval. The Planning Commission may revoke a previous approval if it finds that a violation exists and has not been remedied. The special land use permit may be suspended or revoked according to the following procedures:

- A. *Conditions for Revocation.* Conditions that may result in a suspension or revocation include, but are not limited to, the following:
 - 1. The special land use was not constructed in conformance with the approved plans, or the property is not being used in conformance with the approved special use.
 - 2. Compliance with the special land use permit and any conditions have not been consistently demonstrated, and administrative attempts to secure compliance have been unsuccessful.
 - 3. The special land use permit has been issued erroneously based on incorrect or misleading information supplied by the applicant and/or his/her agents.
 - 4. The operation of the use granted by the special use permit has created a risk or danger to the public health, safety or welfare.
 - 5. The special land use violates any provision of this ordinance or other Village, county, state or federal regulations.
- B. *Procedure.*
 - 1. If the Administrator determines that a special use permit should be suspended or revoked he/she shall prepare a report specifying the factual details of the violation and the reasons to suspend or revoke the permit.
 - 2. The Administrator shall file the report with the Planning Commission and provide a copy to the owner, authorized agent or employee by certified mail, return receipt requested.

3. Within 30 days of filing the report with the Planning Commission, a hearing date will be set for the Planning Commission to consider the alleged violation(s) to determine if the special land use permit should be suspended or revoked. The owner or authorized agent shall be notified personally or by certified mail, return receipt requested, not less than 15 days before the scheduled hearing.
 4. The owner shall have an opportunity to respond to any allegations made by: questioning adverse witnesses; presenting witnesses on his/her behalf; and presenting arguments, personally or through a representative in his/her own behalf.
 5. The Planning Commission shall prepare a written report of its findings within 30 days of completing all hearings and provide them to the owner either personally or by certified mail, return receipt requested. If the Planning Commission concludes that the special land use permit must be suspended or revoked, the owner shall immediately cease to conduct, operate or carry on the business or use for which the special land use permit was granted.
- C. *Prosecution.* Nothing herein shall be interpreted to limit or impair the right of the Village to prosecute a violation of a special land use permit as otherwise permitted by law.

Section 13-8 Appeals

The Planning Commission's decision regarding approval or denial of a special use application may not be appealed to the Zoning Board of Appeals. However, prior to consideration of a special land use, a variance to a dimensional requirement related to the building or property in question may be filed with the Zoning Board of Appeals.

Section 13-9 Restrictions on Resubmittal

A special land use application that has been denied may not be re-submitted for one (1) year from the date of denial, except when there has been a material change in circumstances deemed sufficient by the Administrator to justify an earlier re-application.

General Review Procedures

Article
14

Section 14-1 Intent and Purpose

The purpose of this article is to establish uniform requirements of procedure for all developments in the Village so the provisions of this ordinance can be equitably and fairly applied to all persons, to accomplish safe and convenient movement, encouraging a harmonious relationship of land uses within the site and adjacent lands, and conserving natural resources.

Section 14-2 Application Submission, Contents, and Fees

- A. *Applications.* Information concerning submittal requirements, contents, and fees are available at the Village offices and all applications required by the Zoning Ordinance shall be submitted at the same location. An application shall be officially submitted when a hand-submitted or delivered to the Administrator during normal office hours.
- B. *Authority to File Applications.* The person having legal authority to take action according to the approval sought shall file an application for development review or approval under the Zoning Ordinance. The person is presumed to be the record owner, purchaser under a sale or option to purchase, or the duly authorized agent of the record owner. Agents may only submit applications where the owner indicates consent in writing.
- C. *Deadline.* For requests that require public hearings per Section 15-4, complete applications for Planning Commission or Zoning Board of Appeals review shall be submitted at least 30 days prior to the scheduled meeting; for requests that do not require public hearings, 21 days.
- D. *Contact Person.*
1. Contact. The applicant shall designate one person on the application as the primary contact person. The Administrator will communicate with the contact person about the application and review procedures.
 2. Changes. The applicant shall notify the Administrator in writing if there is to be a change in the contact person. The Administrator will continue to communicate with the designated contact person until the notice of change has been received.
- E. *Application Contents.*
1. The Administrator is authorized to establish submittal requirements for all land use development applications required by the Zoning Ordinance and to update and amend those requirements as necessary to ensure uniform and efficient review. Applicants shall refer to the submittal requirements for each type of land use development application. The applicant shall provide any additional information, documents, or other material relevant to the application that the Administrator reasonably believes is necessary to evaluate, analyze, and understand the subject matter of the application.
 2. The Administrator may waive, or recommend that certain submittal requirements are waived, to reduce the burden on the applicant and to tailor the requirements to the information necessary to review a particular application. The Administrator may waive, or recommend waivers, in cases where the projected size, complexity, anticipated impacts, or other factors associated with the proposed development or subdivision clearly justify such waiver.

F. *Fees.*

1. Fee Schedule. A non-refundable fee as determined by the Village Council shall be required at the time of the filing of any development application. Fees are intended to defray the costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending notices to property owners, postage, photocopying, mileage, time spent by zoning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals.
2. Administrative Fee. Fees shall be paid to the Administrator, who shall remit the same to the Village Treasurer. An application shall not be deemed as complete until required fees are paid.
3. Professional Review Fees. In addition to regularly established fees, the Administrator may require an applicant to submit an amount of money determined to be a reasonable estimate of the fees and costs which may be incurred by the Village in reviewing and acting upon the review of development proposals, in accordance with an escrow policy adopted by resolution by the Village Council.
 - a. Subject to the purposes and terms of any adopted policy of the Village Council, the fund shall cover reasonable costs and expenses incurred by the Village during and in connection with the review process, such as outside planning, legal, and engineering fees.
 - b. The estimated fee shall be submitted prior to any Village review of a site plan, PUD, private street, subdivision, condominium, or special land use application. Fees shall be placed in escrow and drawn upon for costs associated with review of the application.
 - c. The applicant shall maintain a minimum amount in this fund as determined by the Administrator. Any unused balance shall be refunded to the applicant upon final approval or satisfaction of any conditions of approval.
 - d. If the amount held in escrow becomes less than 10 percent of the initial escrow deposit or less than 10 percent of the latest additional escrow deposit and review of the application or decision on the appeal has not been completed, then the Administrator shall require the applicant to deposit additional fees into escrow in an amount equal to the estimated costs to complete the review or decide the appeal.
 - e. Failure of the applicant to make any escrow deposit required under this ordinance shall be deemed to render the application incomplete or the appeal procedurally defective. No further review or action may be taken by the Planning Commission or Village Council until a review escrow fund account is at a minimum required level.
 - f. Unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal, including subsequent review of conditions of approval. Any actual costs incurred by the Village in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

Section 14-3 Zoning, Development, and Building Permits

A. General Requirements.

1. Permits. No land shall be occupied or used and no building or structure shall hereafter be erected, altered or relocated under the provisions of this ordinance until a permit authorizing the use is issued by the Administrator.
2. Activity Prior to Permit. No site excavation, clearing, landscaping, or activity associated with a development shall occur until after a permit is issued.

B. Zoning Permit- Building Compliance. All structural alterations (except for wholly interior alterations), single-family dwellings, two-family dwellings, and residential accessory buildings must be issued a zoning permit for building compliance by the Administrator. A permit issued by the Administrator is nontransferable and must be obtained before any work, excavations, erection, alteration or movement is commenced.**C. Zoning Permit- Use Compliance.** A change of use or establishment of a new use, is subject to use compliance review. A use shall not be changed or established without a zoning permit for use compliance.**D. Development Permit- Site Plans (Type "A" Review) and Site Plans (Type "B" Review).** A site plan shall be required for any permitted use involving site development and any special land use, other than a single-family or two-family residential dwelling or residential accessory building. Site plans are shall be reviewed in accordance with this article. Upon approval of a plan, a development permit is issued.**E. Building Permits.** No building permit shall be issued until a zoning or development permit is issued and any required performance guarantees have been received or conditions satisfied.**F. Soil Erosion and Sedimentation Control (SESC).** All construction and land disturbance activities shall require a SESC permit from the Leelanau Conservation District, except for fences, mailboxes, flagpoles, and all other activities listed in subsection G, as well as other structures and activities determined by the Administrator to be minor in nature and similar in scale and impact to those listed as exempt.**G. Exemptions.** The following are exempt from permit requirements.

1. Exterior or interior improvement or repair which does not structurally alter the premises or change the exterior shape or form of any building in any manner, and the use of the land remains one of those listed as permitted in the respective zoning district.
2. Relocation or replacement of machinery or equipment within a building located in a commercial or industrial zone, conforming to the provisions of this ordinance and used for commercial or industrial purposes, nor for any modification to such building in connection with such relocation or replacement, unless the modification structurally alters the premises or changes the exterior shape or form in any manner.
3. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of above ground or underground gas, electrical, water, communication, or sewer systems, for the local distribution and/or collection systems via pipes, drains, sewers, wires, cables, traffic signals, hydrants, and similar equipment and accessories in connection therewith reasonably necessary for furnishing adequate service to individual customers/clients, but not including towers, pools, electrical substations, gas regulation stations, regional, long distance, interstate distribution or collection systems.

4. Open Space.
5. Landscaping, including hedges, arbors, trees, gardens, plants, shrubs.
6. Private walkways to any residential use.
7. Domestic animal shelter for one's own pets (not including shelters for any livestock, or dog kennel).
8. Accessory structures to dwellings constructed for purposes of play by the minors and children including, but not limited to, playhouses, dollhouses, treehouses, forts and hideouts.
9. Detached accessory structures used for storage not more than one floor, less than 120 square feet, and not over 10 feet high; provided, such accessory structures adhere to setback and parcel coverage requirements of this ordinance.
10. Personal property sales.

Section 14-4 Site Plan Levels

Site plan review shall be required, as applicable, under the following conditions, unless exempted by Section 14-3

- A. *Level "A" Review.* The Administrator shall review site plans in connection with the creation of a use or the erection of a building or structure in any of the following circumstances:
 1. Buildings less than 5,000 square feet that will accommodate a use permitted by right.
 2. Additions to existing buildings or parking areas in any zoning district, less than 5,000 square feet.
 3. Exceptions:
 - a. When, in the opinion of the Administrator, a project which otherwise qualifies for level "A" site plan review may have a negative impact on surrounding properties, the Administrator may, at their discretion, submit the site plan to the Planning Commission for review and approval. In such cases, the Planning Commission shall follow the review procedure for level "B" site plans and may require any additional information necessary to make an informed decision.
 - b. When, in the opinion of the Administrator and Planning Commission Chairperson, a project which otherwise qualifies as level "B" for site plan review, does not necessitate additional stormwater management, major site preparation, landscaping or major utility expansion, the plan may be reviewed and approved administratively.
- B. *Level "B" Review.* The Planning Commission shall act upon all site plans, other than those provided for as level "A" review, in connection with the creation of a use or the erection of a building or structure in any of the following circumstances:
 1. Buildings 5,000 square feet or more.
 2. Any special land use in any district.
 3. Any Planned Unit Development.

- C. *Site Condominiums.* Site condominiums in any district shall be reviewed in the same manner as Level “B” reviews, except that the Village Council have final review authority. The Planning Commission will provide a recommendation prior to Village Council review.

Section 14-5 Pre-Application Plan Review

Prior to submitting an application, or site plan, an applicant may choose to submit a sketch plan or draft plan for review by the Administrator and/or Planning Commission. The review shall be informal and advisory only, and shall not constitute any form of approval or authorization of granting any type of permit. The review shall be done without cost to the applicant, and shall be scheduled as an item of business on the Planning Commission's agenda.

Section 14-6 Completeness Review

- A. *Administrative Review.* The Administrator shall review the site plan application submittal to certify that it contains all the elements required by this ordinance.
1. Incomplete Submittal. If the site plan is not found to be complete, the Administrator shall return the site plan to the applicant with a checklist of outstanding items. If found incomplete by the Planning Commission, no action shall be taken until the application is deemed complete.
 2. Complete Submittal. If the site plan is found to be complete, the Village shall proceed with a Level “A” or Level “B” review process, as outlined in Section 14-7 or Section 14-8.
- B. *Waivers.* Applications shall contain the information required in the applicable checklist, unless waived by Administrator during Level “A” reviews or if the Administrator determines the information submitted is sufficient for reviews conducted by the Planning Commission. In the determination and decision to process the application and route it to the Planning Commission, the Administrator shall find that information for which a waiver is sought is not applicable to the site plan. For Level “B” reviews, the Planning Commission shall provide a final determination concerning completeness and information applicable to the review.

Section 14-7 Level “A” Site Plan Review Procedure

- A. *Submittal.* Three (3) copies of a complete site plan and application materials and an electronic version, in a format specified by the Village, shall be submitted to the Administrator along with an application for that purpose and a fee, as established by the Village Council.
- B. *Completeness and Review.* The Administrator shall review the site plan for completeness in accordance with Section 14-6, and shall obtain comments from Village departments or other relevant review agencies or consultants.
- C. *Decision.*
1. The Administrator shall consider the site plan, any comments received, and the applicable standards of this ordinance, and shall either approve the site plan, as submitted, if all applicable requirements and standards have been met; approve the site plan with conditions; or deny approval of the site plan, if applicable requirements and standards have not been met.
 2. The reasons for the Administrator's action, along with any conditions that may be attached, shall be stated in writing and provided to the applicant.

- D. *Approval.* If approved, three (3) copies of the site plan shall be signed and dated by the Administrator and the applicant. Two (2) copies shall be kept on file with the Village and one (1) copy shall be returned to the applicant or his/her designated representative. If the plan is approved with conditions, three (3) copies of the revised site plan shall be resubmitted reflecting those conditions and shall be signed and dated by the applicant and Administrator, two (2) copies shall be kept on file with the Village and one (1) copy shall be returned to the applicant prior to issuance of any permits.

Section 14-8 Level “B” Site Plan Review Procedure

- A. *Submittal.*
1. Copies. Thirteen (13) copies of a complete site plan and an electronic version, in a format specified by the Village, shall be submitted to the Administrator along with an application for that purpose and a fee, as established by the Village Council.
 2. Groundwater Protection Plans. All businesses and facilities which use or generate hazardous substances in quantities greater than 220 pounds per month or 25 gallons per month, whichever is less, or store hazardous substances in quantities greater than 220 pounds per month or 25 gallons per month, whichever is less, shall submit a groundwater protection plan. Provided, however, the groundwater protection plans are not required for fuel stored in a fuel tank which is part of the motor vehicle for purposes of use by that vehicle’s motor and shall not apply to materials in a five (5) gallon, or smaller, pre-packaged sealed container.
- B. *Completeness and Review.* The Administrator shall review the site plan for completeness, and shall obtain comments from the Village departments or other relevant review agencies or consultants.
- C. *Distribution.* Once the Administrator determines that the site plan is complete in accordance with Section 14-6, the site plan shall be transmitted to the Planning Commission for consideration at its next meeting. Comments, if any, from Village departments or others shall be transmitted to the Planning Commission prior to its review of the site plan.
- D. *Planning Commission Review.* The Planning Commission shall consider the site plan and shall either approve the site plan, as submitted, if all applicable requirements and standards have been met; approve the site plan with conditions; or deny approval of the site plan if applicable requirements and standards have not been met. The Planning Commission review shall be based on the requirements of this article, comments received from Village departments and others, and, specifically, the standards of approval in Section 14-9.
- E. *Decision.*
1. Approval. If approved, three (3) copies of the site plan shall be signed and dated by the chairperson of the Planning Commission and the applicant. Two (2) copies shall be kept on file with the Village and one (1) copy shall be returned to the applicant or his designated representative. If the plan is approved with conditions, three (3) copies of the revised site plan shall be resubmitted reflecting those conditions and shall be signed and dated by the applicant and the Planning Commission chairperson, two (2) copies shall be kept on file with the Village and one (1) copy shall be returned to the applicant prior to issuance of any permits.
 2. Denial. If rejected, the Planning Commission shall notify the applicant in writing of its decision, citing the reasons for rejection. If approval is possible, the requirements for approval shall be given to the applicant, in writing, attached to the rejection notification.

Section 14-9 Standards for Plan Approval

The following general standards of approval shall be considered during site plan reviews and during the application of conditions of approval (Section 14-10):

- A. *Standards.* The site plan must comply with all applicable requirements of this ordinance and all other applicable laws and regulations.
- B. *General Site Design.* The site should be designed in a manner that is harmonious, to the greatest extent possible, with the character of the surrounding area.
- C. *Impact.* The site should be designed to minimize impact to adjacent property, and to reduce the negative effects of traffic, noise, smoke, fumes and glare to the maximum extent reasonably possible.
- D. *Traffic Circulation.* The number, location, size of access and entry points, internal vehicular and pedestrian circulation routes, and bike parking facilities should be designed to promote safe and efficient access to and from the site, and circulation within the site. In reviewing traffic features, the number, spacing, and alignment of existing and proposed access points should be considered relative to their impact on traffic movement on abutting streets and adjacent properties.
- E. *Stormwater.* Stormwater detention and drainage systems should be designed so the removal of surface waters will not adversely affect neighboring properties or public stormwater drainage systems. Unless impractical, stormwater should be removed from all roofs, canopies and paved areas by underground surface drainage systems. There shall exist sufficient protection to ensure no additional storm water run-off will be created by the project, or that adequate measures have been taken to accommodate such storm water run-off from the site. For purposes of this standard, the storm water run-off shall be determined from a 25-year storm event, unless a future stormwater ordinance states a different design requirement. All development of land shall be subject to future Village ordinances, as applicable.
- F. *Landscaping.* The landscape should be preserved in its natural state, insofar as practicable, by minimizing unnecessary tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Provision or preservation of landscaping, buffers, or greenbelts may be required to ensure that the proposed uses will be adequately buffered from one another and from surrounding property.
- G. *Screening.* Where commercial uses abut residential uses, appropriate screening consisting of attractively designed, opaque fencing or equivalent landscaping should shield residential properties from noise, headlights, and glare.
- H. *Lighting.* Lighting should be designed to minimize glare on adjacent properties and public streets. As a condition of plan approval, reduction of lighting during non-business hours may be required.
- I. *Utility Service.* Water lines, sewer lines, and all provisions for surface water drainage shall be approved by the Village and designed in compliance with any applicable federal and state statute, and Village and county ordinances. All utility easements shall be in a form and of a type reasonably satisfactory to the appropriate governmental agency and shall be located on site in a manner that is least harmful to surrounding properties.
- J. *Buried Cables and Lines.* Electric, telephone, coaxial cable and other lines shall be located underground.
- K. *Emergency Access.* All buildings and structures shall be readily accessible to emergency vehicles.

Section 14-10 Conditions of Approval

- A. *Conditions.* The Planning Commission may attach reasonable conditions with the approval of a site plan. These conditions may include those necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed shall meet all of the following requirements:
1. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 2. Be related to the valid exercise of the police power, and purposes that are affected by the proposed use or activity.
 3. Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.

Section 14-11 Plan Amendments

Amendments to an approved site plan shall be permitted only under the following circumstances:

- A. *Application.* The owner of property for which a site plan has been approved shall notify the Administrator of any desired change to the approved site plan. The revised site plan shall contain a list of all proposed amendments and changes shall be shown on the plans.
- B. *Level "A" Site Plan.* Changes to a Level "A" site plan may be approved by the Administrator in writing.
- C. *Minor Changes to Level "B" Site Plan or PUD Final Site Plan.* Minor changes may be approved by the Administrator upon determining that the proposed revision(s) will not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval. Minor changes shall include the following:
1. Reduction of the size of any building and/or sign.
 2. Movement of buildings and/or signs by no more than 10 feet.
 3. Landscaping approved on the site plan that is replaced by similar landscaping to an equal or greater extent.
 4. Changes in floor plans that do not exceed five (5) percent of the total floor area and which do not alter the character of the use or increase the amount of required parking.
 5. Internal re-arrangement of a parking lot that does not affect the number of parking spaces or alter access locations or circulation.
 6. Changes related to subsections C. 1-5 above, required or requested by state or federal regulatory agencies in order to conform to other laws or regulations; provided the extent of such changes does not alter the basic design and character of the site plan, nor any specified conditions imposed as part of the original approval.

- D. *Major Changes to Level "B" Site Plan.* A proposed change to a Level "B" site plan, not determined by the Administrator to be a minor change, shall be submitted to the Planning Commission as a site plan amendment and shall be reviewed in the same manner as the original application.

Section 14-12 As-Built Site Plan

- A. *As-Built.* When a project is nearly complete and subject to a final inspection for an occupancy certificate, the Administrator shall be provided with an as-built site plan prepared to the same standard as the approved site plan. The as-built plan shall be provided at least three (3) days prior to the desired final inspection. The Administrator shall use this as-built site plan as a comparison to the approved site plan, and the actual construction on the ground to ensure compliance with the conditions and other requirements, as applicable, of the site plan, Planned Unit Development, private street, special use permit, or provisions of this ordinance.
- B. *Compliance.* If the as-built site plan does not show compliance with the conditions, and other applicable requirements of the site plan, Planned Unit Development, special use permit, or requirements of this ordinance, the deviation shall be handled as a violation, an amendment to the site plan, or as a variance as determined by the Administrator following consultation with the applicant.

Section 14-13 Expiration, Extension, and Completion

- A. *Site Plan Approval.* Construction shall commence within one (1) year after the date of approval of the site plan. If not commenced within this timeframe, the site plan approval shall become null and void.
- B. *Completion.* Site improvements associated with an approval site plan shall be completed within 12 months of site plan approval. If improvements are not completed within this timeframe, the site plan approval shall become null and void.
- C. *Extension.* The Administrator or Planning Commission may, for good cause, approve one (1) extension of up to six (6) months, if requested in writing by the applicant prior to the expiration date of the original approval or prior to the timeframe for completion. The extension shall be approved if the applicant presents reasonable evidence to the effect that the development has encountered unforeseen difficulties beyond the control of the applicant, and the project will commence, or be completed, within the extension period. If the above provisions are not fulfilled or the extension has expired prior to construction, the site plan approval shall become null and void. The Administrator or Planning Commission may require the posting of a performance guarantee as a condition to granting an extension.
- D. *Occupancy or Change of Use.* A certificate of occupancy shall not be issued without full completion of the building and all site improvements associated with the development permit. The Planning Commission may defer landscaping installation up to six (6) months depending on seasonal limitations.
- E. *Void Permits.*
1. Violations. A violation of any condition or specification in a permit issued under this article shall void the permit and constitute a violation of this ordinance.
 2. Incorrect Information. Any improper or incorrect information contained in the application for permit issued under this article shall void the permit until properly corrected upon the

permit application; provided that, as corrected, the applicant continues to meet all requirements for a permit.

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Administration and Enforcement

Article
15

Section 15-1 Intent and Purpose

It is the purpose of this article to provide the procedures for the administration of the ordinance, issuance of permits, inspection of properties, collection of fees, prosecuting of violations and enforcement of the provisions of this ordinance.

Section 15-2 Administrator

- A. *General.* The provisions of this ordinance shall be administered and enforced by the Administrator appointed by the Village Council.
- B. *Eligibility.* Elected officials of Suttons Bay Village and/or members of the Planning Commission and Appeals Board shall be ineligible for appointment to the office of Administrator or interim Administrator.
- C. *Interim Administrator.* In the event of the resignation, death, disability, vacation, or disqualification of the Administrator, an interim Administrator designated by the Village Council shall serve until a new Administrator is appointed by the Village Council, or until the existing Administrator returns.

Section 15-3 Violations and Penalties

- A. *Nuisance Per Se.* Any land, dwellings, buildings, or structures, including tents and trailer coaches, used, erected, altered, razed or converted in violation of this ordinance or in violation of any regulations, conditions, permits or other rights granted, adopted or issued pursuant to this ordinance are hereby declared to be a nuisance per se.
- B. *Violations.* Any person, partnership, corporation, association, or other legal entity who creates or maintains a nuisance per se as defined in subsection A above or who violates or fails to comply with this ordinance or any terms and conditions of a permit issued pursuant to this ordinance shall be responsible for a municipal civil infraction as defined by law, and shall be subject to a fine of not more than \$500. Every day that such violation continues shall constitute a separate and distinct offense under the provisions of this ordinance. Nothing in this section shall exempt the violator from compliance with the provisions of this ordinance.
- C. *Enforcement.* The Administrator, Village law enforcement officers, and other officials designated by the Village Council are hereby designated as the authorized officials to issue municipal civil infraction citations directing alleged violators of this ordinance to appear in court. In addition to enforcing this ordinance through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the circuit court to abate or eliminate the nuisance per se or any other violation of this ordinance.
- D. *Cumulative Remedies.* The rights and remedies provided in this section are cumulative and in addition to all other remedies provided by law. The issuance of a municipal civil infraction citation and a finding or admission of responsibility for violation of this ordinance in a municipal civil infraction proceeding shall not bar a civil action seeking equitable relief beyond the jurisdiction of the district court under this section, arising from the same violation.

Section 15-4 Noticing

- A. *Public Notices.* All reviews requiring a public hearing or public notice shall comply with the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and the other provisions of this section with regard to public notification.
- B. *Responsibility.* When the provisions of this ordinance or state law require that notice be published, the Administrator or Clerk shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the Village of Suttons Bay and deposited during normal business hours for delivery with the U.S. Postal Service or other public or private delivery service, or personally delivered.
- C. *Content.* All mail, personal and newspaper notices for public hearings shall:
1. Describe the nature of the request.
 2. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 3. State when and where the request will be considered.
 4. Indicate when and where written comments will be received concerning the request.
- D. *Personal and Mailed Notice.*
1. General. When the provisions of this ordinance or state law require that personal or mailed notice be provided, notice shall be provided to:
 - a. The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - b. Except for a zoning amendment or rezoning requests involving 11 or more adjacent properties or an ordinance interpretation request that does not involve a specific property; to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Village of Suttons Bay. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice shall be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 - c. Other persons which have requested to receive notice.
 2. Notice by mail/affidavit. Notice shall be deemed given by its deposit with the U.S. Postal Service, or other public or private delivery service, or personally delivered during normal business hours.

3. **Record of Notice.** The Administrator shall maintain a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered
- E. **Timing of Notice.** Unless otherwise provided in the Michigan Zoning Enabling Act (Act 110 of 2006), as amended, or this ordinance where applicable, notice of a public hearing shall be provided as follows: For a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation: not less than 15 days before the date the application will be considered for approval.

Section 15-5 Security Requirements

- A. **Performance Guarantee.** In connection with the construction of site or public improvements, the Village may require the applicant to furnish the Village with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village in an amount equal to the estimated costs associated with the construction of public and site improvements. Public improvements mean, by way of example and not limitation, roads, parking lots, and water and sewer systems located within the development or which the applicant has otherwise agreed to construct. Site improvements mean, without limitation, landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development.
- B. **Costs.** For purposes of this section, the costs covered by the performance guarantee shall include all of the following:
 1. The purchase, construction, and/or installation of the improvements.
 2. Architectural and engineering design and testing fees and related professional costs.
 3. An amount for contingencies consistent with generally accepted engineering and/or planning practice.
- C. **Deposit.** The performance guarantee shall be deposited with the Village clerk at or before the time the Village issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the Village clerk prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Village.
- D. **Phased Development; Third-Parties.** Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements. If a development is to be completed in phases, then the Village may require the applicant to furnish a performance guarantee as provided in this section for each phase of the development. If an applicant has contracted with a third-party to construct the public or site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the Village as a third-party beneficiary of the bond, then the Village may accept that bond as meeting all or a portion of the performance guarantee required by this section.

Planning Commission and Village
Council

Article
16

Section 16-1 Planning Commission Established

The Planning Commission is established in accordance with Section 11 of the Michigan Planning Enabling Act.

Section 16-2 Planning Commission Powers and Duties

In addition to the powers and duties granted by state statute and the Village Charter, the Planning Commission shall have the following powers and duties:

- A. The Planning Commission and Village staff shall carry on a continuous review of the effectiveness and appropriateness of this ordinance and recommend to Village Council any appropriate changes or amendments in accordance with Section 18-3.
- B. The Planning Commission shall hear and make recommendations to the Village Council regarding amendments to this ordinance, including PUD and rezoning requests, following the procedure outlined in Sections 18-2 and 18-4.
- C. The Planning Commission shall render decisions on Certificates of Appropriateness, Special Land Uses and Site Plans, unless otherwise specifically provided.
- D. The Planning Commission shall keep minutes of its proceedings showing the official action of the Commission and the vote of each member upon each question or, if absent or failing to vote, indicating as such. Minutes and the records of all official actions shall be filed with the Village Clerk.
- E. The concurring vote of the majority of Planning Commission members present shall be necessary to take any action authorized by the Zoning Ordinance.
- F. The Planning Commission shall adopt rules and procedures governing its activities.

Section 16-3 Powers and Duties of the Village Council

Upon receipt of a recommendation by the Planning Commission, the Village Council shall decide upon amendments to the Zoning Ordinance and amendments to the Zoning Map (rezoning), according to the procedures in Article 18. The Village Council shall review and decide upon approvals to site condominium developments.

Zoning Board of Appeals

Article
17

Section 17-1 Intent and Purpose

In order that the objectives of this ordinance may be fully and equitably achieved, that a means shall be provided for final interpretation of this ordinance, that the health, safety and welfare of the public be secured, and that justice be done, there is hereby established a Village Zoning Board of Appeals, which shall perform its duties and exercise its powers as provided in the Zoning Enabling Act.

Section 17-2 Creation and Membership

- A. *Membership, Terms of Office.* The Village President nominates and the Council shall appoint five (5) members of the Zoning Board of Appeals. The first member shall be a member of the Village Planning Commission for the term of his or her office. The remaining members shall be selected from the electors of the Village and shall be representative of the population distribution and of the various interests present in the Village. One (1) member of the Zoning Board of Appeals may be a member of the Village Council for the term of his or her office. However, an elected officer of the Village shall not serve as Chairperson of the board. An employee or contractor of the Village may not serve as a member of the Board. Except for members serving on the Board because of their membership on the Village Planning Commission or Village Council, each member of the Board shall serve for a term of three (3) years. Members appointed and serving at the time of the adoption of this ordinance shall continue in office until their successors are appointed consistent with the terms of this section.
- B. *Alternates.* The Village Council may appoint to the Board not more than two (2) alternate members for the same term as regular members. An alternate member may be called to serve as a 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. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the Board has the same voting rights as a regular member.
- C. *Removal.* The Village Council may remove a regular or alternate member of the Board for nonperformance of duty or malfeasance in office following written charges and a public hearing before the Village Council. A regular member shall disqualify himself or herself from a vote and an alternate member shall not sit as a regular member in which the member has a conflict of interest. Failure of a regular or alternate member to disqualify himself or herself from participating in a case in which the member has a conflict of interest constitutes malfeasance in office.

Section 17-3 Meetings and Public Hearings

- A. *Meetings and Records.* All Board meetings shall be called by the Chairperson and at such times as determined by the Board. All meetings shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall also keep records of its hearings and other official actions.
- B. *Testimony and Evidence.* The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and to produce books, papers, files and other pertinent evidence.

Section 17-4 Powers and Decisions

- A. *Powers.* The Zoning Board of Appeals shall have the following powers:
1. Administrative Appeals. To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by the Administrator or the Planning Commission in the enforcement of this ordinance.
 2. Variances. To approve dimensional variances in circumstances involving a practical difficulty and the other conditions required for the approval of a dimensional variance, as stated in Section 17-6.
 3. Interpretations. To interpret the provisions of the ordinance.
 4. Other Matters. To hear and decide on all matters referred to it, based on this Zoning Ordinance, including review of nonconforming uses (Section 17-8).
- B. *Decisions.*
1. Majority Vote of Members. The concurring vote of a majority of the Board membership shall be necessary to reverse any order, requirement, decision or determination by the Administrator or other administrative body, or to decide in favor of the applicant on any matter upon which it is authorized by this ordinance to render a decision.
 2. Certification of Decision. The decision of the Board shall become final upon certification of the decision in writing, signed by the Chairperson, or the approval of the minutes for the meeting at which the decision was reached, whichever occurs first.
 3. Effect on Permitting. A zoning compliance permit or building permit for a project that is reliant on the decision of the Board shall not be issued until the decision is final.

Section 17-5 Administrative Appeals

- A. *Filing Deadline and Distribution.* An appeal from any decision or action shall be filed no later than 30 calendar days after the decision or action being appealed. Where an appeal has been filed, the Administrator shall transmit to the Board all papers constituting the record upon which the action being appealed was made.
- B. *Stay of Proceedings.* An appeal shall place on hold all proceedings to implement the action being appealed, unless the Administrator certifies to the Zoning Board of Appeals, after notice of the appeal has been filed, that given the facts, a stay of executing the action would, in the opinion of the Administrator, cause imminent peril to life or property. In such cases the proceedings shall not be placed on hold, except by a restraining order, which may be granted by a court of record.
- C. *Decision.* In exercising this power, the Board may reverse or affirm, wholly or partly, or may modify an order, requirement, decision or a determination being appealed and may make an order, requirement, decision or determination as it should be made. The Board may reverse an order of an administrative official or the Planning Commission only if it finds that the action or decision appealed meets one (1) or more of the following requirements:
1. Was arbitrary or capricious.
 2. Was based on an erroneous finding of a material fact.
 3. Constituted an abuse of discretion.
 4. Was based on erroneous interpretation of the zoning ordinance or state law.

Section 17-6 Variances

A request for a dimensional variance may be made by the owner of the property on which the variance would apply or by a person authorized in writing by the owner to request the variance. The person requesting the variance shall file with the Administrator a completed application form furnished by the Village specifying the zoning ordinance provision from which the variance is being requested. The Administrator shall then transmit to the Zoning Board of Appeals the completed application concerning the variance request.

- A. *Dimensional Variances.* The Zoning Board of Appeals shall have the power to authorize specific dimensional variances from the requirements of this ordinance if it finds based upon competent, material, and substantial evidence following a public hearing that all of the applicable standards provided in this section have been met.
1. Standards for Dimensional Variances. To obtain a variance from the dimensional requirements of this ordinance (area, setback, frontage, height, bulk, density or other dimensional requirements) the applicant must demonstrate that a practical difficulty exists by showing all of the following:
 - a. The need for the requested variance is due to unique circumstances or physical conditions of the property involved, such as narrowness, shallowness, shape, water, or topography and not due to applicant's personal or economic hardship.
 - b. That the need for the requested variance is not the result of actions of the property owner.
 - c. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other dimensional requirements will unreasonably prevent the property owner from using the property for a permitted purpose, or will render conformity with those regulations unnecessarily burdensome.
 - d. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give substantial relief to the property owner and be more consistent with justice to other property owners.
 - e. That the requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood or zoning district.
 2. Use Variances. The Board may not grant a use variance.

Section 17-7 Interpretations

The Zoning Board of Appeals shall have the power to hear and decide the following interpretation matters:

- A. *Ambiguity.* To determine the meaning of ordinance provisions when ambiguity is found to exist.
- B. *District Boundaries.* To determine the precise location of the boundary lines between zoning districts.
- C. *Other.* To determine such other matters as may arise under this ordinance.

Section 17-8 Review of Nonconforming Uses

The Zoning Board of Appeals shall have the power to approve the following:

- A. *Expansion of Nonconforming Uses.* The expansion of a nonconforming use under the terms of Section 19-4 B of this ordinance.
- B. *Change of One Nonconforming Use to Another.* A change in the use of a nonconforming building to another nonconforming use of equal or lesser nonconformity, under the terms of Section 19-4 D of this ordinance.

Section 17-9 Official Record and Findings of Fact

- A. *Official Record.* The Zoning Board of Appeals shall record all relevant findings, conditions, facts and other relevant factors, including the vote of member upon each question and all of its official actions. To this end, the Board shall prepare an official record for all appeals and shall base its decision on this record. The official record shall, at a minimum, include the following items:
 - 1. The relevant administrative records and orders issued relating to the appeal, variance or interpretation;
 - 2. The notice of the appeal, variance, or interpretation, if required;
 - 3. Documents, exhibits, photographs or written reports, as may be submitted to the Board for its consideration.
 - 4. The findings of the Board, stating the facts of the application, the decision, any conditions of the decision and the reasons for reaching such a decision, including any applicable standards of review.
- B. *Certification.* A decision of the Zoning Board of Appeals shall also be certified in writing, either by a certification denoting the decision for a specific request, signed by the Chair, or by approval, by majority vote of the Board, of the official minutes of the meeting at which the decision was made.

Section 17-10 Rehearing and Reapplication

- A. *Rehearing.* A rehearing on an application denied by the Zoning Board of Appeals shall not be considered, except upon the grounds of newly discovered evidence, a falsehood previously relied upon that is discovered to be valid by the Board, or a material change in circumstances as found to exist by the Board. A rehearing shall be processed in the same manner as the original application, including payment of the required fee.
- B. *Reapplication.* An application for a variance, interpretation or appeal that has been denied, wholly or in part, by the Board shall not be resubmitted for a period of one year from the date of the last denial, except on proof of changed material conditions, found by the Board to be valid.

Section 17-11 Appeals to Circuit Court

- A. *Timeframe for Appeal.* The decision of the Zoning Board of Appeals is final. However, a person having an interest affected by this ordinance may appeal that decision to the circuit court. Any such appeal shall be filed within 21 days of the approval of the Board minutes at which the

decision was made.

- B. *Stay of Proceedings.* An appeal of a decision by the Zoning Board of Appeals to circuit court stays all proceedings of the action appealed from, including the effectiveness of any zoning permit issued, unless the Administrator certifies to the Board after such appeal has been filed that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed, unless ordered stayed by the Board or the circuit court. Provided, however, this section shall not apply to an administrative decision to take enforcement action for alleged violations of this ordinance.

Amendments and Validity

Article
18

Section 18-1 Intent and Purpose

The Village Council may from time to time, on recommendation from the Commission, amend, modify, supplement, or revise the district boundaries or the provisions and regulations herein established whenever the public necessity and convenience and the general welfare require such amendment.

Section 18-2 Zoning Map Amendments

- A. *Initiation.* Zoning Map amendments may be initiated by the Village Council, the Planning Commission, Village Staff, or by petition of a Village property owner.
- B. *Process and Notice.* Zoning Map amendments shall be processed as provided for in the Michigan Zoning Enabling Act, including notification to adjoining property owners and occupants, where applicable, and public hearings. The notices for all public hearings before the Planning Commission concerning amendments shall comply with all of the requirements set forth in Section 15-4.
- C. *Application and Fee.* If an amendment is requested by a property owner, the request shall be filed on a form provided for that purpose and accompanied by an application fee, as set by the Village Council.
- D. *Criteria for Map Amendments.* The following guidelines shall be used by the Planning Commission, and may be used by the Village Council, in consideration of amendments to the Zoning Map:
 - 1. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the master plan; or, if conditions have changed significantly since the master plan was adopted, and the map change would be consistency with recent development trends in the area.
 - 2. Whether the proposed district and the uses allowed are compatible with the physical, geological, hydrological and other environmental features of the site. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
 - 3. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.
 - 4. Other factors deemed appropriate by the Planning Commission or Village Council.

Section 18-3 Zoning Ordinance Amendments

- A. *Initiation.* Zoning text amendments may be initiated by the Village Council, the Planning Commission, or Village Staff.
- B. *Process and Notice.* Zoning text amendments shall be processed as provided for in the Michigan Zoning Enabling Act, including public hearings. The notices for all public hearings before the Planning Commission concerning amendments shall comply with all of the requirements set forth in Section 15-4.
- C. *Criteria for Text Amendments.* The following guidelines shall be used by the Planning Commission, and may be used by the Village Council, in consideration of amendments to the Zoning Map:

1. The proposed text amendment would clarify the intent of the ordinance.
2. The proposed text amendment would correct an error or oversight in the ordinance.
3. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan.
4. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations.
5. In the event the amendment will add a use to a district, that use shall be fully consistent with the intent of the district and the character of the range of uses provided for within the district.
6. The amendment will not create incompatible land uses within a zoning district, or between adjacent districts.
7. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items.
8. As applicable, the proposed change shall be consistent with the Village's ability to provide adequate public facilities and services.
9. The proposed change shall be consistent with the Village's desire to protect the public health, safety, and welfare of the community.

Section 18-4 Conditional Rezoning

It is recognized that there are certain instances where it may be in the best interests of the Village as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions proposed by the property owner could be approved as part of a rezoning request. Therefore, a conditional rezoning request may be considered by the Village Planning Commission and Council, in accordance with the following:

- A. *Materials.* All materials required for Zoning Map amendments shall also be required for conditional rezoning offers.
- B. *Offer.* A voluntarily offer of use and development restrictions on the land, as a condition of rezoning, must be submitted in writing by the property owner. It is the intent of this section to permit a process consistent with the provisions of the Michigan Zoning Enabling Act, by which an owner seeking a rezoning may voluntarily offer conditions regarding the use and development of land as part of the Zoning Map amendment request.
- C. *Compliance.* The conditions pertaining to Conditional Rezoning, as stated in the Michigan Zoning Enabling Act, shall be met.
- D. *Considerations.* The Village Council may consider voluntarily offered conditions in addition to the minimum considerations listed in Section 18-2, if offered conditions protect the best interests of the public and community.
- E. *Recording.* If approved, the conditions shall be recorded in a format satisfactory to the property owner and the Village.

Section 18-5 Repeal of Ordinance

The Suttons Bay Village Zoning Ordinance adopted on November 20, 2006, and effective December 30, 2006, and all amendments thereto are hereby repealed effective coincident with the effective date of this ordinance.

Section 18-6 Savings Clause

The repeal of ordinance sections, as provided, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder or actions involving any of the provisions of said ordinance or parts thereof. Said ordinance or ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 18-7 Pending Zoning Applications

All applications for permits, appeals and variance requests pending before the Administrator, the Planning Commission, or the Zoning Board of Appeals on the effective date of this ordinance shall be acted upon only in conformance with the zoning ordinance in effect at the time the application, appeal, or variance was found complete.

Section 18-8 Validity and Severability Clause

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

Nonconformities

Article
19

Section 19-1 Intent and Purpose

It is the intent of this ordinance to permit legal nonconforming lots, structures or uses to continue subject to the terms of this article. It is recognized that there exist within the districts established by this ordinance and subsequent amendments, lots, structures and uses of land and structures which were lawful before this ordinance was passed or amended which would be prohibited, regulated or restricted under the terms of this ordinance or future amendments. It is further the intent of this ordinance that such nonconformities shall not be enlarged, expanded or extended except as provided herein.

Section 19-2 Change in Tenancy or Ownership

There may be a change of tenancy, ownership or management of any existing nonconforming use, building or structure which does not alter the nonconforming status, provided there is no change in the nature or character of such nonconforming use, building or structure.

Section 19-3 Completion

Nothing in this ordinance shall require any change in the construction or intended use of a building or structure, the construction of which shall have been diligently prosecuted prior to the passage of this ordinance or any amendment thereto, and the construction of which shall have been completed within 12 months after said date of adoption.

Section 19-4 Nonconforming Use

A lawful use existing on the effective date of the adoption or the amendment of this ordinance, which would not be permitted under this ordinance can continue subject to the following regulations:

- A. *Continuance after Damage.* Continuance of a Nonconforming Use in a Building or Structure damaged by fire, act of God, or other causes may occur in the same size, shape and footprint that existed at the time of destruction except as abandoned as described herein.
- B. *Expansion of Nonconforming Uses.* Nonconforming use shall not be increased to occupy a greater land area than the existing nonconforming use, unless approved by the Zoning Board of Appeals if the following findings are made:
 1. There will be no danger to the safety, health, or welfare of the persons residing in the vicinity;
 2. The expansion will be done in such a manner as to safeguard the character of the zoning district in which the land, building or structure is located;
 3. There is a reasonable need for the extension of the nonconforming use; and
 4. That permitting the expansion will not be contrary to the intent and purposes of this ordinance.
- C. *Movement of a Nonconforming Use.* No part of any non-conforming use shall be moved, unless such movement eliminates the non-conformity.
- D. *Change of Use.* The Zoning Board of Appeals may permit the change of a non-conforming use to another non-conforming use, provided the proposed change meets the following standards:
 1. Existing use was lawful at the time of its inception (i.e. legal nonconforming use);
 2. Will not adversely affect surrounding properties;

3. Will not change the character of the area in which it is located;
 4. Will not adversely affect the natural environment, especially any creek, stream pond, lake, wetland area, floodplain or groundwater;
 5. Will not be enlarged, increased or extended;
 6. Will be less nonconforming by reason of traffic, noise, hours of operation, and general compatibility with the surroundings; and
 7. Shall comply with any conditions imposed by the Board that are necessary to ensure that the proposed change in use will not prove detrimental to the adjacent properties, the neighborhood, or the community.
- E. *Reclassification.* The foregoing provisions of this section shall also apply to buildings, land or uses that become nonconforming due to any reclassification of zoning districts or any subsequent change in the regulations of this ordinance.

Section 19-5 Nonconforming Structures

A lawful structure existing on the effective date of adoption or amendments of this ordinance which could not be built under the current requirements of this ordinance by reason of restriction in area, lot coverage, height, setbacks, its location on the lot, bulk, or other requirements concerning the structure can continue subject to the following regulations:

- A. *Maintenance and Repair.* Nothing in this ordinance shall prevent maintenance and repair of nonconforming buildings, structures, or parts thereof existing at the effective date of this ordinance or any applicable amendments, rendered necessary by wear and tear, deterioration or depreciation; nor prevent compliance with the applicable building codes relative to the maintenance of buildings or structures. Replacement of a building or structure damaged by fire, act of God, removal or replacement by the property owner, or other causes may occur in the size, shape and footprint of the structure being replaced.
- B. *Expansion of Nonconforming Buildings.*
1. Enlargement and Alteration. A nonconforming building or structure may not be enlarged or altered in a way that increases its nonconformity, except as noted in 19-5 B-2 below;
 2. Setbacks. A nonconforming building or structure may be expanded within the existing setback area, provided it meets the following:
 - a. The expansion is located no closer to the applicable lot line than two-thirds (2/3) of the setback area, as measured from the lot line, and no closer to the lot line than the current building line.
 - b. Structures, after any enlargement or alteration, shall meet the lot coverage standards for the zoning area.

Section 19-6 Nonconforming Lots

- A. *Building on Nonconforming Lots.* In any district, a permitted use may be established on a legally nonconforming lot or lots of record in existence as of the effective date of this ordinance, or the effective date of any subsequent amendment that makes the lot nonconforming. However, required minimum setbacks and building height limitations shall be met.

- B. *Single Ownership.* If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this article, and if all or part of the lots do not meet the requirements stated in this ordinance for lot width or area for conforming lots in the zone district in which the lots are located, then all of the following conditions apply, unless a variance is granted by the Zoning Board of Appeals:
1. The combined land involved shall be considered to be an undivided parcel for zoning purposes.
 2. No portion of the parcel which does not meet the lot width and area requirements stated in this ordinance for a conforming lot in the zoning district in which the land is located shall be separately used or occupied.
 3. No division of the parcel shall be made which leaves any remaining lot width or area below the requirements stated in this ordinance for a conforming lot in the zoning district in which the parcel is located, unless a lot is divided and legally combined with an adjacent lot or lots in accordance with the provisions of the Village Land Division Ordinance.

Section 19-7 Abandonment

If a property owner has intent to abandon a nonconforming use or structure and in fact abandons this nonconforming use or structure for a period of one (1) year or more, any subsequent use of the property or structure shall conform to the requirements of this ordinance. When determining the intent of the property owner to abandon a nonconforming use or structure, the Administrator shall consider the following factors:

- A. *Disconnected Utilities.* Whether utilities, such as water, gas, and electricity to the property have been disconnected.
- B. *Disrepair.* Whether the property, buildings, and grounds have fallen into disrepair.
- C. *Removed.* Whether signs or other indications of the existence of the nonconforming use have been removed.
- D. *Removed Equipment.* Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.
- E. *Mailing Address.* Whether U.S. mail deliveries have been terminated or forwarded to another address.
- F. *Tax Classification.* Whether the classification of the property for tax purposes has been changed to reflect another use.
- G. *Other.* Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.
- H. *Obtained Permits.* Whether permits have been obtained to repair a nonconforming structure or use.
- I. *Action.* Action to find a nonconforming use was intended to be discontinued by the owner may be delayed if any of the following is ongoing:
 1. Property held in probate.
 2. Insurance settlement in dispute.
 3. Criminal investigation.

Definitions

Article
20

Section 20-1 Construction of Language

- A. *Words, terms and phrases.* The following words, terms and phrases, when used in the Zoning Ordinance, shall have the meanings assigned to them in this article, except where the context clearly indicates a different meaning.
- B. *Rules of Construction.* The following rules of construction apply to this article:
1. The particular shall control the general and the use of a general term shall not be taken to have the same meaning as another specific term. For example, a “dry cleaning retail establishment” shall not be interpreted to be the same as a “retail business supplying commodities on the premises,” if each term is listed as a separate and distinct use.
 2. In case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
 3. A building or structure includes any and all of its parts.
 4. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
 5. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
 6. The word “person” includes any individual, corporation, partnership, incorporated association, limited liability company or any other similar entity.
 7. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunctions "and," "or" or "either . . . or," the conjunction shall be interpreted as follows:
 - a. "And" indicates that the connected items, conditions, provisions or events apply.
 - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 - c. "Either . . . or" indicates that the connected items, conditions, provisions or events apply singly but not in combination.
 8. Terms not defined in this article shall have the meaning customarily assigned to them.

Section 20-2 Definitions: A - B

ACCESSORY BUILDING means a detached subordinate building, the use of which is incidental to, customarily associated with, and related to the principal building or use of the land and which is located on the same lot as the principal building or use.

ACCESSORY STRUCTURE means a detached subordinate structure, the use of which is incidental to, customarily associated with, and related to the principal building or use of the land and which is located on the same lot as the principal building or use.

ADDITION means any construction which increases the size of a building or facility in terms of site coverage, height, length, width or gross floor area, such as a porch, attached garage or carport, or a new room or wing.

ADMINISTRATOR means the Sutttons Bay Village Zoning Administrator.

ALLEY means a secondary right-of-way that provides a means of access to the rear of a lot and/or building.

ALTERED/ALTERATIONS means any construction, modification, remodeling, repair, improvement, relocation, and a replacement of a structure, building, dwelling, accessory building or structure which needs a permit and any changes in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls.

AMATEUR RADIO means any combination of materials or equipment used exclusively for the purpose of sending and/or receiving electromagnetic waves for amateur radio service communications.

AWNING means a permanent shelter constructed on a supporting framework, projecting from and supported by the exterior wall of a building generally made of canvas or plastic, mounted above a storefront, window or door and projects from the building wall as an architectural detail and provides shelter from sun and rain.

BANNER means a sign made of non-rigid material; however, not including pennants, streamers or flags.

BASEMENT means a story, all or partly underground, having at least one-half of its height below the average level of the adjoining ground.

BERM means an earth mound covered with grasses, trees, and other plants; designed to provide visual interest, screen undesirable views and impacts and help separate incompatible uses.

BUFFER means a strip of land which provides visual separation and aesthetic relief between potentially incompatible uses or provides protection to natural resources through the use of landscaping, preservation of existing vegetation, berms, or screening, or a combination of thereof.

BUILDING means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattel, or property of any kind. Buildings shall include awnings; eaves to the drip line; attached above-grade decks and porches with or without a roof; and manufactured homes.

BUILDING COVERAGE means the area of a parcel covered by a principal and accessory buildings and above grade and at grade porches and decks.

BUILDING ENVELOPE means the maximum three-dimensional volume on a lot within which a structure can be built, as permitted by applicable height and setback requirements.

BUILDING, PRINCIPAL means a building in which is conducted the main or principal use of the lot on which the building is located.

Section 20-3 Definitions: C - D

CANOPY means a rigid, permanent cover over a walkway, attached to a building.

CONDITIONAL REZONING means a rezoning that is conditioned by a specific use and/or other restrictions, voluntarily offered by the applicant and recorded with the property.

CONDOMINIUM ACT means Public Act 59 of 1978, as amended.

CONDOMINIUM PROJECT means a plan or project consisting of not less than two condominium units, established in conformance with the Condominium Act.

CONDOMINIUM, SITE CONDOMINIUM DEVELOPMENT PLAN means the plans, drawings and information prepared for a site condominium development, as required by Section 66 of the Condominium Act and this ordinance.

CUL-DE-SAC means a circular vehicle turn-around area constituting the terminus of a street that has only one outlet to another street.

CUPOLA means a small ornamental structure placed on top of a larger roof, sometimes used as a lookout or to provide light and air (also called a Belfry).

DECK, ABOVE GRADE means structure, which may be directly attached to a dwelling, without a roof or walls, except for railings, that is used as an outdoor living area is constructed on piers or an above-grade foundation wall more than one foot or more above the existing or proposed grade.

DECK, AT GRADE means a deck that shall not exceed one foot above existing or proposed grade at any level.

DENSITY, GROSS means the number of dwelling units meeting the minimum area requirements of the district to be located on a parcel of property, divided by the total acreage of that property.

DEVELOPMENT means the act of making some area of land or water more profitable, productive or useful by improving, expanding, enlarging or refining.

DRIVE THROUGH means any commercial use that by the way of site layout or building design encourages or permits patrons to remain in their vehicle while receiving goods or services.

DRIVEWAY means a privately controlled and maintained easement, right-of-way or other interest in land, located and constructed in accordance with the requirements of this ordinance, providing vehicular access from a public or private street to a lot.

DWELLING UNIT means a building or portion of a building, designed for use and occupancy by one family, having permanent provisions for living, sleeping, cooking and sanitation. A recreational vehicle, portable building, tent or other transient residential use, such as hotels/motels and bed and breakfasts, are not considered a dwelling.

Section 20-4 Definitions: E - F

EASEMENT means the legal right for a person, government, agency or public utility company to use public or private land owned by another for a specific purpose.

ENCLOSED, LOCKED FACILITY a term as defined in Initiated Law 1 of 2008, as amended (Michigan Medical Marijuana Act).

EXISTING BUILDING means a building existing in whole or whose foundations are complete, and whose construction is being diligently pursued on the effective date of this ordinance.

FAMILY means either of the following:

A. 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, domestic, housekeeping unit in a dwelling unit; or B. A collective number of individuals, domiciled together in one dwelling unit whose relationship is of a continuing, non-transient domestic character, and who cook and live as a single nonprofit, noncommercial housekeeping unit. This does not include a society, club, fraternity, sorority, association, half-way house, lodge, organization, group of students or other individuals whose domestic relationship is of a transitory or seasonal nature, such as a school term, or a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

FENCE means a constructed or planted barrier which is designed to do any one, or more, of the following:

- A. restrict passage through it regardless if the fence has a gate(s) or not;
- B. prevent viewing through it, and/or;
- C. be decorative

FLAG means a symbol, standard, signal or emblem made of non-rigid material and usually rectangular in shape.

FLOOR AREA, GROSS means the sum of the horizontal area of all building floors, excluding basements, measured from the interior faces of exterior walls.

FLOOR AREA, LIVABLE means the total area of all floors whose height is more than half above finished grade, having a minimum floor to ceiling height of seven and a half feet, located on a permanent foundation, wired for electrical service and heated for year-round use.

FLOOR AREA, USABLE means the sum of the total horizontal area of all building floors that are used or intended to be used for the sale of merchandise, or to serve clients or customers, and all areas devoted to employee work space. Floor area is measured from the interior faces of exterior walls. Excluded from usable floor area are those parts of a building principally used, or intended to be used to store or process merchandise, and hallways, elevators, stairs, bulkheads, or utility or sanitary facilities.

Section 20-5 Definitions: G - H

GARAGE means a detached accessory building or portion of a principal building for the parking or temporary storage of automobiles, recreational vehicles and/or incidental personal property of the occupants of the premises.

GARAGE, FRONTLOADED means an accessory building constructed for parking of motor vehicles where the doors for the entry and exit of a motor vehicle faces the street, or front yard.

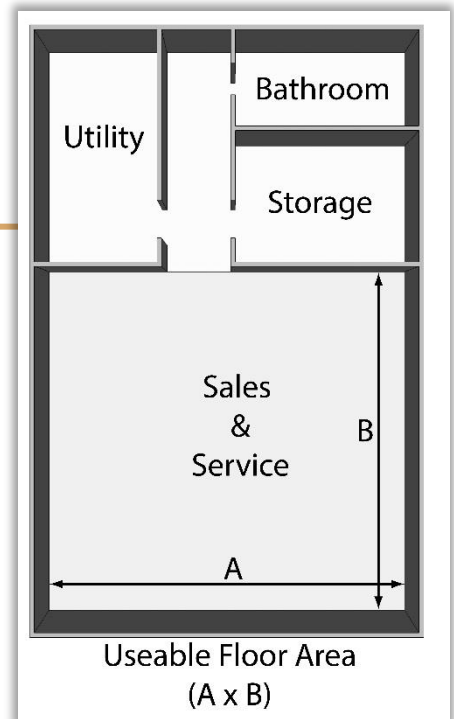
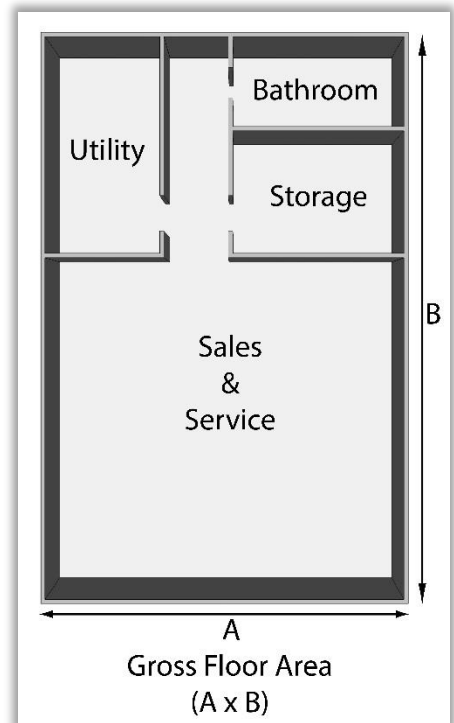
GRADE, AVERAGE means the arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure.

GRADE, FINISHED means the lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

GRADE, NATURAL means the elevation of the ground surface in its natural state, before man-made alterations.

GREENBELT means a landscaped or natural area for purposes of aesthetics, screening and buffering.

HAZARDOUS SUBSTANCES includes, but is not limited to:



- A. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment;
- B. "Hazardous substance or material" as defined by law;
- C. "Hazardous waste" as defined by the Natural Resources and Environmental Protection Act, No. 451 of 1994 as amended; and
- D. "Regulated substance" as defined by the Natural Resources and Environmental Protection Act, No. 451 of 1994 as amended.

HOUSEHOLD means all persons occupying a house, apartment, group of rooms or a single room occupied as separate living quarters, regardless of their relationship to one another.

Section 20-6 Definitions: I - J

IMPERVIOUS SURFACE means any material that substantially reduces or prevents the infiltration of storm water into the earth, including but not limited to any cover on or over the ground which is a building, structure, driveway, patio, paved or gravel street/drive/parking parcel surface, lined pond, swimming pool.

JUNK means any motor vehicles, machinery, appliances, products or merchandise with parts missing; or scrap metals or materials that are damaged or deteriorated; or vehicles or machines in a condition which precludes their lawful use for the purpose for which they were manufactured.

Section 20-7 Definitions: K - L

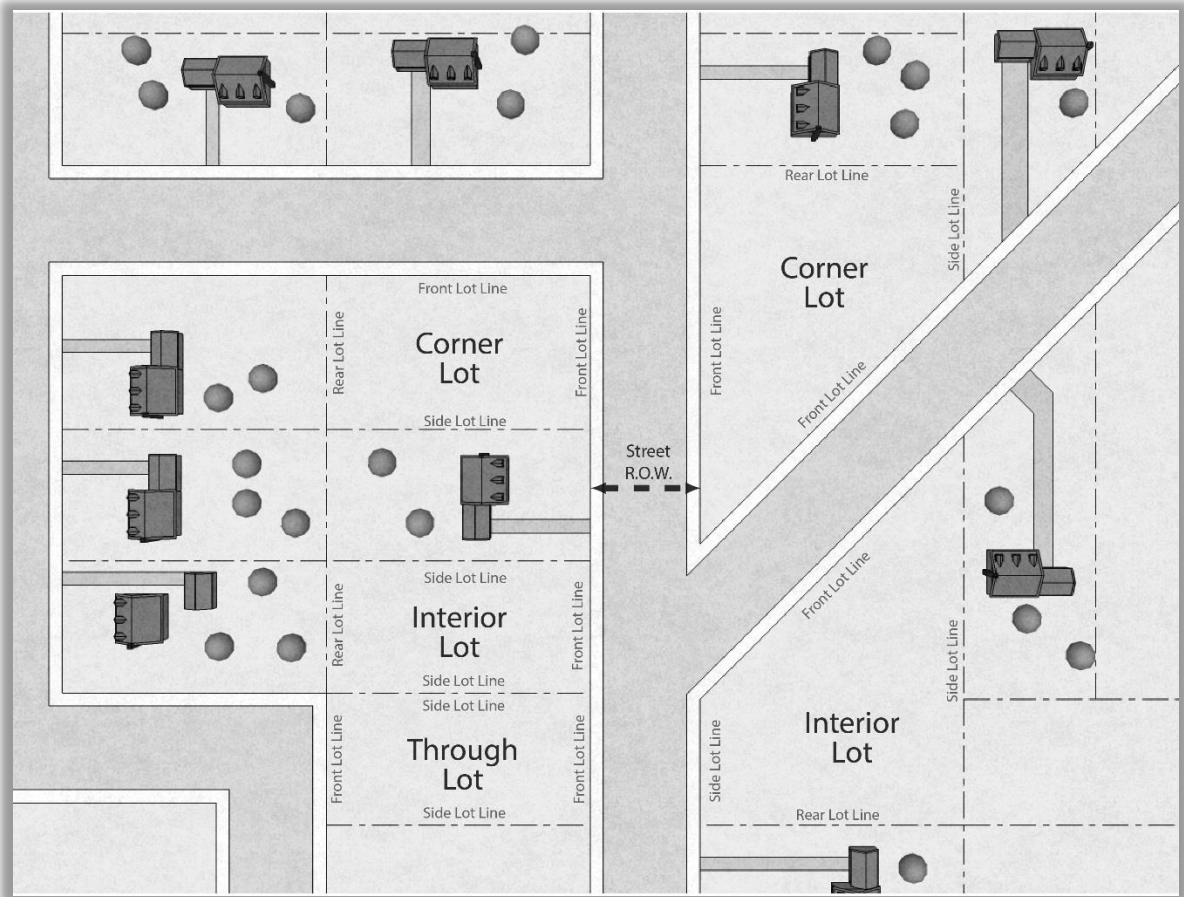
KENNEL means any premises used to board, breed, sell, train or treat more than three dogs, cats or other domestic pets who are more than six months old.

LOADING SPACE means an off-street portion of a parcel or lot designated for the temporary parking of commercial vehicles while loading or unloading materials used, sold or made on the premises.

LOT means a parcel of land intended for individual ownership and use, separately described on a deed or other instrument recorded in the office of the County Register of Deeds, whether by metes and bounds, as part of a platted subdivision or site condominium.

- A. **LOT AREA** means the area of land included within a lot as defined by lot lines, but excluding any public rights-of-way.
- B. **LOT COVERAGE** means the lot area, stated as a percentage of the total, covered by all buildings and areas under roof.
- C. **LOT, CORNER** means a lot with at least two contiguous sides abutting two intersecting streets, and where the interior angle of the intersecting streets is less than 135 degrees. Also, a lot located on a curved street or streets if tangents of the curve, at the points of beginning with the lot or the points of intersection of the side lot lines with the street line, intersect at an interior angle of less than 135 degrees.
- D. **LOT, DEPTH** means the distance between the midpoints of straight lines connecting the foremost points of the front property line and rearmost points of the rear property line.
- E. **LOT, INTERIOR** means a lot bordered by one street or easement or with at least two contiguous sides abutting two intersecting streets and where the interior angle of the intersecting streets is 135 degrees or greater.
- F. **LOT, MULTI-FRONTAGE** means a lot bordered by streets on three sides.

- G. **LOT, THROUGH** means an interior lot bordered by two, more or less parallel streets. For the purposes of this definition, if one side of the lot is bordered by an alley opposite of a street the lot is not considered a through lot.
- H. **LOT FRONTAGE** means the length of the front lot line measured at the street right-of-way.
- I. **LOT WIDTH** means the horizontal distance between side lot lines measured at the two points where the required front setback intersects the side lot lines.



LOT LINES mean the lines bounding a lot, as defined below:

- A. **LOT LINE, FRONT** means, in the case of an interior lot, the line separating the lot from the street right-of-way or road easement. Through lots shall have two front lot lines and corner lots shall have a primary and secondary front lot lines.
- B. **LOT LINE, REAR** means the lot line opposite and most distant from the front lot line. On a corner lot, the rear lot line is opposite the shorter of the two front lot lines. In the case of a triangular lot, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying furthest from the front lot line and wholly within the lot. A through lot has no rear lot line.
- C. **LOT LINE, SIDE** means the lot lines connecting the front and rear lot lines of an interior or corner lot or connecting the front lot lines of a through lot.

Section 20-8 Definitions: M - N

MANUFACTURED HOME means a factory-built, single-family dwelling that is manufactured under the National Manufactured Home Construction and Safety Standards Act. It is transportable in one or more sections, built on a permanent chassis or foundation and used as a dwelling. It is not constructed with a permanent hitch or other device allowing its transport, other than for its delivery to a permanent site and does not have wheels or axles permanently attached to its body or frame.

MASTER PLAN means the plan adopted by the Village of Suttons Bay in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended.

MARIJUANA or **MARIHUANA** That term as defined in Act No. 368 of the Public Acts of 1978, as amended.

MASTER PARCEL means a parcel of land or adjacent parcels of land under a single ownership as of the date of adoption of this ordinance.

MEDICAL USE a term as defined in Initiated Law 1 of 2008, as amended.

NONCONFORMING BUILDING, STRUCTURE means a structure or building lawfully constructed that does not conform to the requirements of the zoning district in which it is located and existed prior to the effective date of this ordinance.

NONCONFORMING LOT means a lot lawfully existing on the effective date of this ordinance, or its subsequent amendment, that does not meet the current area and/or dimensional requirements of the zoning district in which it is located.

NONCONFORMING USE means a use that does not conform to the regulations of the zoning district in which it is located and lawfully existed on the effective date of this ordinance.

Section 20-9 Definitions: O - P

OUTDOOR STORAGE means the outdoor placement of goods such as, building or construction materials, equipment, vehicles, trailers and other supplies, for future use, production, assembly, preservation or disposal.

OVER-THE-AIR RECEPTION DEVICE means antennas and dish antennas designed to receive direct broadcast satellite service, including direct-to-home satellite service, to receive or transmit fixed wireless signals via satellite, receive video programming services via broadband radio service (wireless cable), receive or transmit fixed wireless signals other than via satellite, or receive local television broadcast signals.

OWNERSHIP means the proprietor of the land who is a natural person, or his heirs, executors, administrator, legal representatives, successors, assigns, firm, association, partnership, corporation, or other legal entity, or government, or combination of any of them.

PARCEL means a tract of land or one or more parcels having a single tax identification number or a condominium unit of land space and directly associated limited common element, except that if two or more parcels meeting the foregoing definition are contiguous and under common ownership, then all of such parcels shall be deemed a single parcel for purposes of this ordinance on which one (1) principal building and its accessory buildings are placed, together with the open spaces required by this ordinance.

PARCEL AREA means the total land area encompassed within the various property lines including any combination of parcels or parcels of record or portions thereof.

PARKING LOT means an open area, outside a public right-of-way, used for the parking of motor vehicles and accessory conveyances for a fee or as an accommodation for clients, customers, residents or employees.

OFF-STREET PARKING SPACE means an area of required size, exclusive of necessary driveways, aisles or maneuvering areas suitable to accommodate one motor vehicle and having direct unobstructed access to a street or alley, but located totally outside of any street or alley right-of-way.

PENNANT means a small, often triangular, flag used in multiples as a device to call attention to a land use or activity.

PERMITTED USE means a use by right that is specifically authorized in a particular zoning district.

PERSON means an individual, partnership, firm, corporation, association, organization, trust, company, or other legal entity, or local unit of government or other political subdivision of the state, or a state or state agency as well as an individual.

PLANNED UNIT DEVELOPMENT (PUD) means a tract or parcel of land developed as a unit under single ownership or unified control that is unique and incorporates one or more of the following: a variety of uses, varied density of development, dedicated open space, preservation of significant natural features, reduced lot sizes or similar attributes that typically would not be easily achieved under conventional zoning districts.

PLANNING COMMISSION means the Planning Commission of the Village of Suttons Bay.

PLAT means a map of a subdivision of land, recorded with the County Register of Deeds, pursuant to the Subdivision Control Act, Act No. 288 of 1967, Land Division Act, Act No. 591 of 1996, as amended.

PRIMARY CAREGIVER That term as defined in Initiated Law 1 of 2008, as amended, who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marijuana Act.

PRINCIPAL USE means the primary use to which a premises is devoted.

PUBLIC UTILITY means any person, firm, corporation, municipal department or board fully authorized to furnish, under federal, state, or municipal regulations, electricity, gas, steam, communications, telegraph, transportation, water or sanitary or storm water sewerage facilities to the public. (For the purposes of this ordinance, communication tower facilities are not included in the definition of a *Public Utility*)

Section 20-10 Definitions: Q - R

QUALIFYING PATIENT a term as defined in Initiated Law 1 of 2008, as amended, who has registered with the Bureau of Health Professions, Michigan Department of Licensing and Regulatory Affairs or any successor agency under the Michigan Medical Marijuana Act.

RECREATIONAL EQUIPMENT means any of the following: recreation camper, boat, boat trailer, snowmobile, snowmobile trailer, motorcycle or motorcycle trailer, all-terrain vehicle ATV, ATV Trailer, or similar vehicles or equipment.

REDEVELOPMENT see **DEVELOPMENT**.

RIGHT-OF-WAY means a public or private way for street purposes.

Section 20-11 Definitions: S - T

SETBACK means the minimum required horizontal distance measured from the lot lines to a building as designated by the applicable zoning district, or a structure, as applicable elsewhere in the ordinance.

SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude modeling studio, sexual encounter center, or massage parlor; provided, "massage parlor" shall not include a spa, medical facility, athletic club or similar business where physical therapy and/or massages are offered by a massage therapist licensed to practice in the State of Michigan.

- A. **ADULT ARCADE** means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration an electronically, electrically, or mechanically controlled still or motion picture machine, projector, video or disc player, or other image producing device is maintained to show images to five or fewer persons per machine at any one time, and where the image is so displayed or distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."
- B. **ADULT BOOKSTORE, ADULT NOVELTY STORE, OR ADULT VIDEO STORE** means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration, any one or more of the following:
1. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, discs or other video reproduction, slides, or other visual representations which are distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" or
 2. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities."
- C. **ADULT CABARET** means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:
1. Persons who appear live in a state of nudity or semi-nudity; or
 2. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or
 3. Films, motion pictures, video cassettes or discs, slides or other video or photographic reproductions which are distinguished or characterized by the depiction of "specified sexual activities" or "specified anatomical areas."
- D. **ADULT MOTEL** means a hotel, motel or similar commercial establishment which:
1. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;" and has a sign visible from the public right-of-way which advertises the availability of this type of photographic reproduction; or
 2. Regularly offers a sleeping room for rent for a period of time that is less than 10 hours; or
 3. Regularly allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- E. **ADULT MOTION PICTURE THEATER** means a commercial establishment where, for any form of consideration, films, motion pictures, videos, slides, or other similar photographic

reproduction are regularly shown which are consistently distinguished or characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

F. **SPECIFIED ANATOMICAL AREA** means either:

1. The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
2. Less than completely and opaquely covered human genitals, attached pubic hair, buttocks or a female breast below a point immediately above the top of the areola.

G. **SPECIFIED SEXUAL ACTIVITY** means any one of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or
3. Excretory functions as a part of or in connection with any of the activities set forth in G 1. or 2. above.

SCREENING means the method by which a view is shielded, concealed or hidden. Techniques include fences, hedges, walls, berms or other such features.

SHALL means a mandatory directive. The word "shall" is always mandatory and not merely permissive.

SIGN means a structure, including its base, foundation and supports upon which a message or image is afforded public visibility.

- A. **ABANDONED SIGN** means a sign that no longer correctly advertises or directs a person to a bona fide business, person, goods, product, activity or service.
- B. **AWNING SIGN** means a sign painted, printed, attached flat against, or integrated within the surface of an awning.
- C. **BILLBOARD SIGN** means a freestanding sign elevated by a single pole or pylons which generally advertises an establishment, service, merchandise, use, entertainment, activity, product or message which is not conducted, sold, produced, manufactured, or furnished upon the parcel or lot on which the sign is located.
- D. **BUSINESS CENTER SIGN** means a freestanding sign identifying the name of a business center and/or one or more individual businesses, offices and other permitted business uses within the center.
- E. **FREESTANDING SIGN** means a sign supported by permanent uprights or braces in the ground.
- F. **GROUND SIGN** means a freestanding sign that is supported by one or more short uprights, less than six (6) feet, a standard, or upon the ground.
- G. **INFLATABLE SIGN** means a sign supported by aerodynamic forces, including but not limited to air filled balloons, signs animated by forced air, and lighter than air signs.
- H. **MOBILE SIGN** means a sign not permanently attached to the ground or other permanent structure that is designed to be transported. This includes, but is not limited to signs designed to be transported by means of wheels or signs mounted on A-frames or T-frames.
- I. **NONCONFORMING SIGN** means any sign that was legally established prior to the time this ordinance, or subsequent amendment, was adopted but no longer conforms to the requirements of this ordinance.

- J. **POLE SIGN** means a sign having a sign face that is elevated above the ground by one or more uprights, pylons or poles.
- K. **PORTABLE SIGN** means a freestanding sign not permanently anchored or secured to either a building or the ground.
- L. **PROJECTING SIGN** means a sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.
- M. **PUBLIC AND GOVERNMENTAL SIGN** means a temporary or permanent sign erected by the Village of Suttons Bay, Leelanau County, or the state or federal governments or public utility.
- N. **ROOF SIGN** means a sign that is erected, constructed and maintained upon or above the roof of a building, or parapet wall and that is wholly or partially supported by such building.
- O. **SANDWICH BOARD SIGN** means a temporary sign structure placed on the ground that consists of two (2) back-to-back sign faces that are hinged together at the top and separated at the base a sufficient distance to solidly support the structure in an upright position.
- P. **TEMPORARY SIGN** means a sign that is intended to be displayed for a limited period of time and is not permanently affixed to the ground.

SPECIAL EVENT means a temporary and non-commercial community event, such as a festival, fundraiser, or recreational activity.

STATE LICENSED RESIDENTIAL FACILITIES means a use which is a structure constructed for residential purposes that is licensed by the state, pursuant to Act No. 218 of 1979, as amended, or Act No. 116 of 1973, as amended, or for the care of six (6) or fewer elderly (senior) citizens.

STORY means that portion of a building included between the surface of any above floor grade and the surface of the floor next above it, or if there is no floor above it then the space between any floor and the ceiling next above it. A story shall have vertical walls.

STORY, HALF means the uppermost habitable story under a sloped roof with a usable floor area that does not exceed 50 percent of the floor area of the story immediately below; provided, the area contains at least 200 square feet with a clear height of at least seven and a half feet.

STOOP or **PORCH** means a platform, entrance stairway or small veranda at a building door.

STREAMERS means a long narrow strip resembling or suggesting a banner floating in the wind.

STREET means a public or private thoroughfare, used or intended to be used for passage or travel by motor vehicles. "Street" also includes the term "Road."

- A. **STREET, PRIVATE** means a privately owned and maintained street constructed on a privately owned easement.
- B. **STREET, PUBLIC** means an easement, right-of-way or other interest that has been conveyed to and accepted by a governmental body for the purpose of providing access to abutting land.

STRUCTURE means anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, except, structure shall not include automobiles, trucks, trailer, hunting blinds, fences, hedges, sidewalks, driveways, gardens, shore stabilization devices, or similar items.

SUBDIVISION means a legal division of a tract of land into two or more lots, all fronting on a public or private street, and offered for sale as individual lots.

- A. The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the

division or partition of land into parcels more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall not be considered a subdivision for purposes of this code; or

- B. The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets except private streets serving industrial structures, and the division or allocation of land as open spaces for common use by owners, occupants or lease holders, or as easements for the extension and maintenance.

TEMPORARY STRUCTURE means a structure erected for a period of time not to exceed eighteen months for such use as construction offices or storage buildings at a construction site.

TRAILER (see “Recreational Vehicle”)

TREE, CANOPY means a deciduous shade tree.

TREE, EVERGREEN means a tree with foliage that persists and remains green throughout the year.

TREE, ORNAMENTAL means a small deciduous tree grown for its foliage and/or flowers.

Section 20-12 Definitions: U - V

USE

- A. **ACCESSORY USE** means a use naturally and normally incidental to, subordinate to, and devoted exclusively to the principal use of the land or buildings located on the same lot.
1. **ACCESSORY DWELLING** means an attached or detached dwelling subordinate to the principal single-family dwelling that contains an independent living area, including sleeping quarters, a bathroom, living area and kitchen facilities.
 2. **HOME OCCUPATION** means a use which includes any activity which is clearly secondary to a residential use and carried out for economic gain. It is conducted within a dwelling, carried out by its occupants utilizing equipment typically found in a home and is not evident from the outside.
 3. **PRIMARY CAREGIVER FACILITY** means a building in which the activities of a primary caregiver are conducted.
 4. **TEMPORARY OUTDOOR ACCESSORY SALES** means sales associated with a permanent, principal use of a property, for temporary durations and in temporary locations.
- B. **ACCOMMODATIONS, HOSPITALITY, ENTERTAINMENT**
1. **BANQUET HALL** means a use which provides rental space for such functions as, but not limited to: wedding parties, conferences, service club meetings and other similar gatherings, along with the catering of food services off the premises.
 2. **BED AND BREAKFAST INN** means a house, or portion thereof, where short-term lodging rooms and breakfast and light snacks are provided to overnight guests and where the operator lives on the premises or in adjacent premises.
 3. **ECOTOURISM** means organized, educational and mainly outdoor recreation with or without lodging that invites participants to learn about and promote ecological

preservation, conservation, and sustainability. This use shall include at least two of the following characteristics:

- a. Located near or within a wilderness setting, park, or protected area;
 - b. Interpretive educational program with or without guides;
 - c. Outdoor activities; or
 - d. Cultural experiences.
4. **HOTEL/MOTEL** means a building under single management that provides rooms or suites intended primarily as sleeping accommodations for public rental on a daily basis for registered guests. A hotel (as distinct from a motel) contains a central interior lobby and provides daily room cleaning and linen changes. Other supportive facilities may also be included such as, but not limited to, meeting rooms, incidental retail sales, restaurants, lounges, swimming pools, recreational and fitness facilities and similar facilities/services intended principally to serve registered guests.
5. **OFF PREMISE TASTING ROOM** means a State of Michigan licensed facility affiliated with a wine maker or small wine maker license, distillery or small distillery license or similar use that serves samples for the purpose of selling the product manufactured at the facility at an offsite location.
6. **ON PREMISE TASTING ROOM** means a State of Michigan licensed facility affiliated with a wine maker or small wine maker license, distillery or small distillery license or similar use that serves samples for the purpose of selling the product manufactured at the facility.
7. **RECREATION FACILITY: COMMERCIAL INDOOR** means an establishment providing indoor amusement and entertainment services, often for a fee or admission charge, including, but not limited to: bowling alleys, coin-operated amusement arcades, movie theaters, electronic game arcades (video games, pinball, etc.), indoor ice skating and roller skating rinks, pool and billiard rooms as primary uses. Does not include adult-oriented businesses. May include bars and restaurants as accessory uses. Any establishment with four or more electronic games or amusement devices (e.g., pool or billiard tables, pinball machines, etc.) or a premise where 50 percent or more of the floor area is occupied by electronic games or amusement devices is considered an indoor recreation facility; three or fewer machines or devices are not considered a use separate from the primary use of the site.
8. **RECREATION FACILITY: COMMERCIAL OUTDOOR** means a facility for outdoor recreational activities where a fee is often charged for use. Examples include, but are not limited to, amusement and theme parks; go-cart tracks; golf driving ranges; miniature golf courses; marinas; watercraft rentals; and water parks. May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc. Marinas may include marine-related retail (bait and tackle, boat supplies), fuel sales, minor boat repair, and boat storage. This use does not include golf courses or campgrounds.
9. **RESTAURANT** means a business establishment whose method of operation involves either the delivery of prepared food by servers to customers seated at indoor or outdoor areas, or prepared food is acquired by customers at a counter or cafeteria line and consumed at tables within a completely enclosed building, but does not include drive-through services, which are separately defined and regulated.
- a. **RESTAURANT WITH MICRO-BREWERY** means a restaurant, as defined in this ordinance, that includes a facility that brews ales, beers, meads, and/or

similar beverages that is duly licensed by the State of Michigan Liquor Control Commission (MLCC) as a micro brewer and sells to wholesalers, consumers for on-premises consumption and/or off-premises consumption and may offer free samples to consumers.

- b. **RESTAURANT WITH OUTDOOR SEATING** means a restaurant with seating on a sidewalk, patio, deck or other on-site outdoor location.
- 10. **SHORT-TERM RENTAL** means a dwelling unit that is rented or leased to one person, family or entity on a daily or weekly basis, but no more than 30 days.
- 11. **TAVERN** means a bar, lounge, beer parlor, night club or similar establishment principally operated for the sale of alcoholic beverages to be served on the premises.
- 12. **THEATER** means a building or part of a building use to show motion pictures or a facility used for drama, dance, musicals or other live performances.

C. INDUSTRIAL, MANUFACTURING, ASSEMBLY

- 1. **BREWERY** means a facility that brews ales, beers, meads, and/or similar beverages that is operated by a brewer duly licensed by the State of Michigan Liquor Control Commission (MLCC) which manufactures and sells beer to licensed wholesalers or to consumers for on-premises consumption and/or off-premises consumption and may offer free samples to consumers.
- 2. **DISTILLERY** means a facility operated by a distiller duly licensed by the State of Michigan Liquor Control Commission (MLCC) to manufacture spirits.
- 3. **DISTILLERY, SMALL** means a facility operated by a distiller duly licensed by the State of Michigan Liquor Control Commission (MLCC) to manufacture spirits within the limits established by the State of Michigan for a Small Distiller.
- 4. **MANUFACTURING, PROCESSING, AND PACKAGING – LIGHT** means a facility accommodating manufacturing processes involving less intense levels of fabrication and/or production such as the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. The premises may include secondary retail or wholesale sales. Examples of light manufacturing uses include: artisan / craft product manufacturing; clothing and fabric product manufacturing; furniture and fixtures manufacturing, cabinet shop, media production, photo/film processing lab not accessory to a retail business, printing & publishing, food preparation and packaging, winery, micro-brewery.
- 5. **MANUFACTURING, PROCESSING, AND PACKAGING – HEAVY** means a facility accommodating manufacturing processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment, where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community. Examples of heavy manufacturing uses include the following: chemical product manufacturing; concrete, gypsum, and plaster product manufacturing; glass product manufacturing; paving and roofing materials manufacturing; petroleum refining and related industries; plastics, other synthetics, and rubber product manufacturing; primary metal industries; pulp and pulp product manufacturing; textile and leather product manufacturing; food products manufacturing.
- 6. **MICRO-BREWERY** means a facility that brews ales, beers, meads, and/or similar beverages that is duly licensed by the State of Michigan Liquor Control Commission

(MLCC) as a micro brewer and sells to wholesalers, consumers for on-premises consumption and/or off-premises consumption and may offer free samples to consumers.

7. **MINI-WAREHOUSE** means a building or group of buildings in a controlled access and/or fenced compound that contains varying sizes of individualized, compartmentalized and controlled access rooms, stalls or lockers for the storage of customer's goods or wares.
8. **SALVAGE OPERATIONS** means any land or structure used for storing, dismantling, reconditioning, collecting, purchasing or selling of scrap metal or other discarded goods and materials, including the collection, dismantlement and salvage of two or more inoperative vehicles, boats, trucks, or other types of machinery or equipment.
9. **WAREHOUSING** means facilities for the storage of furniture, household goods, or other commercial goods of any nature. May include an outdoor storage component, provided that the outdoor storage is not the primary use. Does not include mini-storage facilities offered for rent or lease to the general public (see "Mini-Warehouse") or warehouse facilities primarily used for wholesaling and distribution (see "Wholesaling and Distribution").
10. **WHOLESALE AND DISTRIBUTION** means an establishment engaged in selling merchandise in bulk quantities to retailers; to contractors, industrial, commercial, agricultural, institutional, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.
11. **WINERY** means an operation where wine is manufactured and sold at wholesale or retail.
12. **WINERY, SMALL** means an operation where wine is manufactured and sold at wholesale or retail, duly licensed by the State of Michigan Liquor Control Commission (MLCC) as a Small Wine Maker, which manufactures or bottles wine within the limits established by the State of Michigan for a Small Wine Maker.

D. **INFRASTRUCTURE, TRANSPORTATION, COMMUNICATIONS.** This category encompasses land uses that provide the underlying infrastructure, utilities, and systems that allow a community to function.

1. **ESSENTIAL SERVICES** means the erection, construction, alteration, or maintenance by a public utility, or municipal department, of underground, surface or overhead gas, communication, telephone, electrical, steam, fuel or water, transmission, distribution collection, supply, or disposal systems. This includes related poles, wires, pipes, conduit, cables, public safety alarm and communication equipment, traffic signals, hydrants and similar accessories that are necessary to furnish adequate service, addressing general public health, safety, convenience, or welfare. These do not include wireless telecommunication towers (unless located on public property and used as part of a municipal emergency communications network); wind energy conversion systems (WECS); offices, utility buildings, substations, or structures that are enclosures or shelters for service equipment; or maintenance depots.
2. **INFRASTRUCTURE AND UTILITIES: REGIONAL** means utility facilities that provide County-wide or regional service. Examples include public utility substations; water towers; waste treatment plants; and electrical substations.

3. **PARKING FACILITY, PUBLIC OR COMMERCIAL** means a public or commercial parking lot or structure providing parking either for free or for a fee. Does not include towing impound and storage facilities.
 4. **WASTE MANAGEMENT FACILITY** means a site used for collecting waste and recyclables, sorting and transferring materials.
 5. **WIRELESS COMMUNICATIONS**
 - a. **WIRELESS COMMUNICATIONS FACILITY** means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennas, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer wireless communications services.
 - b. **WIRELESS COMMUNICATION TOWER** means any structure, such as a mast, pole, monopole, guyed tower, or lattice tower which is designed and constructed primarily for the purpose of supporting one or more antennas.
- E. **INSTITUTIONAL/CIVIC.** This category includes not-for-profit and for-profit recreation, education, safety, and public assembly functions that benefit the citizens of the community used or operated by government, quasi-governmental and service organizations.
1. **COMMUNITY ORIENTED CULTURAL FACILITY** means a public or non-profit facilities that provide educational and cultural experiences for the general public, examples of which include: aquariums, arboretums, art galleries, botanical gardens, libraries, museums, planetariums, civic centers and theaters predominantly used for live performances, and zoos. May also include accessory retail uses such as a gift/book shop, restaurant, etc.
 2. **COMMUNITY PUBLIC SAFETY FACILITY** means a public safety facility operated by a public agency including fire stations, other fire preventive and fire fighting facilities, police and sheriff substations and headquarters, including interim holding facilities. May include ambulance dispatch on the same site.
 3. **MEETING FACILITY** means a facility for public or private meetings, including: community centers, meeting halls for clubs and other membership organizations, etc.
 4. **PARKS, PLAYGROUNDS, OUTDOOR RECREATION AREAS** means an outdoor recreation facility that may provide a variety of recreational opportunities including playground equipment, playing fields, outdoor tennis and basketball courts, outdoor swimming pools, boat ramps and fishing piers; and areas for passive recreation such as hiking trails, picnic areas and bird blinds.
 5. **PLACE OF WORSHIP** means a building or structure or group of buildings or structures that, by design and construction, are primarily intended for conducting organized religious worship services. Associated accessory uses may include, but are not limited to, classrooms, meeting halls, indoor and outdoor recreational facilities, day care, counseling and kitchens.
 6. **RECREATION FACILITY: COMMUNITY-BASED** means a community recreation center that may include one or more of the following: gymnasium; indoor swimming pool; indoor tennis, racquetball, and/or handball courts, and other indoor sports activities. This use includes all not-for-profit organizations chartered to provide community-based recreation services. Does not include commercial health/fitness facilities, which are included under "General Offices and Services."
 7. **SCHOOL: COLLEGE OR UNIVERSITY** means a facility for post-secondary education that grants associates, bachelors, masters, or doctoral degrees, and may include

research functions. Includes professional schools (law, medicine, etc.) and technical colleges.

8. **SCHOOL: PUBLIC OR PRIVATE** means a public or private academic educational institution, including elementary (kindergarten through 6th grade), middle and junior high schools (7th and 8th grades), secondary and high schools (9th through 12th grades), and facilities that provide any combination of those levels. May also include any of these schools that also provide room and board.
9. **SCHOOL: SPECIALIZED TRAINING/STUDIOS** means small-scale facilities that provide individual and group instruction, education and/or training, including tutoring and vocational training in limited subjects, including, but not limited to: the arts, dance, photography, martial arts training, gymnastics instruction, production studios for individual musicians, painters, sculptors, photographers, and other artists, business and vocational schools, and driver education schools.

F. **OFFICES AND SERVICES** encompass activities, without outdoor storage needs, that are primarily oriented towards office and service functions.

1. **ANIMAL SERVICES: ANIMAL CLINIC / HOSPITAL** means an establishment used by a veterinarian where animals are treated. This use may include boarding and grooming as accessory uses.
2. **ANIMAL SERVICES: KENNEL** means a commercial facility for the boarding, breeding, and/or maintaining of animals for a fee that are not owned by the operator. This use includes pet day care facilities, animal training facilities, and may include grooming as an accessory use. This use includes the breeding of animals in outdoor structures, cages or pens for sale, but does not include animals for sale in pet shops (see "General Retail").
3. **BODY BRANDING, PIERCING AND TATTOO FACILITIES** means an establishment whose principal business is the one or more of the following: any invasive procedure in which a permanent mark is burned into or onto the skin using either temperature, mechanical or chemical means; creation of an opening in the body for the purpose of inserting jewelry or other decorations (not including ear piercing); and/or placing designs, letters, figures, symbols or other marks upon or under the skin of any person using ink or other permanent coloration.
4. **CHILD CARE CENTER** means a facility other than a private residence in which one or more preschool or school age children are given care and supervision for periods of less than twenty 24 hours per day, and where the parents or guardians are not immediately available to the child. A child care center or day care center includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program or drop-in center.
5. **GENERAL OFFICES AND SERVICES**
 - a. **BANK/FINANCIAL SERVICES** means financial institutions, including, but not limited to: banks, credit agencies, investment companies, security and commodity exchanges, ATM facilities.
 - b. **BUSINESS SERVICES** means establishments providing direct services to consumers, including, but not limited to: employment agencies, insurance agent offices, real estate offices, travel agencies, landscaping and tree removal

- companies, exterminators, carpet cleaners, and contractors' offices without exterior storage.
- c. **BUSINESS SUPPORT SERVICES** means establishments providing services to other businesses, including, but not limited to: computer rental and repair, copying, quick printing, mailing and mailbox services.
 - d. **PERSONAL SERVICES** means establishments providing non-medical services to individuals, including, but not limited to: barber and beauty shops, dry cleaners, small appliance repair, laundromats, massage therapists, pet grooming with no boarding, shoe repair shops, tanning salons, funeral homes. These uses may include incidental retail sales related to the services they provide.
 - e. **PROFESSIONAL AND ADMINISTRATIVE SERVICES** means office-type facilities occupied by businesses or agencies that provide professional or government services, or are engaged in the production of intellectual property.
6. **GENERAL OFFICES & SERVICES: WITH A DRIVE THROUGH FACILITY** means facilities where services may be obtained by motorists without leaving their vehicles. Examples of drive-through services include bank teller windows and drive-up ATMs, dry cleaners, etc.
7. **MEDICAL SERVICES: CLINICS AND MEDICAL OFFICES**
- a. **CLINIC** means facility other than a hospital where medical, mental health, surgical and other personal health services are provided on an outpatient basis. Examples of these uses include: Medical offices with five or more licensed practitioners and/or medical specialties, outpatient care facilities, urgent care facilities, other allied health services. These facilities may also include incidental medical laboratories and/or pharmacies. Counseling services by other than medical doctors or psychiatrists are included under "General Services - Professional/Administrative."
 - b. **MEDICAL OFFICE** means a facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates no more than four licensed primary practitioners (for example, chiropractors, medical doctors, psychiatrists, etc., other than nursing staff) within an individual office suite. A facility with five or more licensed practitioners is classified under "Medical Services – Clinic." Counseling services by other than medical doctors or psychiatrists are included under "General Services – Professional /Administrative."
 - c. **HOSPITAL** means an institution licensed by the State, where people, including inpatients, receive medical, surgical or psychiatric treatment and nursing care.
8. **VEHICLE REPAIR, MAJOR** means the repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning.
9. **VEHICLE REPAIR, MINOR** means a building or premises used primarily to provide general maintenance on automobiles such as oil changes and lubrication; servicing an repair of spark plugs, batteries, pumps, belts, hoses, air filters, windshield wipers and distributors; replacement of mufflers and exhaust systems, brakes and shock absorbers; radiator cleaning and flushing; sale and installation of automobile accessories such as tires, radios and air conditioners; wheel alignment and balancing; but, excluding tire recapping or grooving or any major mechanical repairs, collision work or painting.

10. **VEHICLE WASH** means a building or portion of a building with machine or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.

G. **RESIDENTIAL**

1. **DAY CARE (CHILDREN)**

- a. **FAMILY DAY CARE HOME** means a private home in which one, but fewer than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Family day care homes include a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.
- b. **GROUP DAY CARE HOME** means private home in which more than six, but not more than twelve minor children are given care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. A group day care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

2. **DWELLING**

- a. **DWELLING, MULTI-FAMILY** means a structure containing three or more dwelling units on a single lot designed for occupancy by three or more families living independently of one another.
- b. **DWELLING, SINGLE-FAMILY DETACHED** means a freestanding dwelling unit that is physically separate from any other dwelling.
- c. **DWELLING, TWO-FAMILY** means a structure containing two dwelling units on a single lot designed for or used by two families living independently of one another, may also be referred to as a duplex.

3. **FOSTER CARE FACILITY (ADULT)** means facility defined by the Adult Foster Care Facility Licensing Act (PA 218 of 1979) as an establishment providing foster care to adults. Included are foster care facilities, but not family homes, for adults who are aged, mentally ill, developmentally disabled or physically disabled, and who require supervision on an ongoing basis, but who do not require continuous nursing care.

4. **FOSTER CARE HOME (ADULT)**

- a. **ADULT FOSTER CARE FAMILY HOME** means a private residence with an approved capacity of six or fewer adults, where foster care is provided 24 hours per day, five or more days per week, and for two or more consecutive weeks. It is licensed and regulated under the Adult Foster Care Facility Licensing Act, Act No. 218 of 1979, as amended. The person issued the adult foster care family home license is a member of the household and an occupant of the residence.
- b. **ADULT FOSTER CARE SMALL GROUP HOME** means private residence where adults are provided with foster care 24 hours a day, five or more days per week, and for two or more consecutive weeks, with an approved capacity of at least 13, but not more than 20 adults. An adult foster care facility is licensed under the Adult Foster Care Facility Licensing Act, Act No. 218, as amended, and the person issued the adult foster care group home license is a member of the household and an occupant of the residence.

- c. **ADULT FOSTER CARE LARGE GROUP HOME** means private residence where adults are provided with foster care 24 hours a day, five or more days per week, and for two or more consecutive weeks, with an approved capacity of at least 13, but not more than 20 adults. An adult foster care facility is licensed under the Adult Foster Care Facility Licensing Act, Act No. 218 as amended, and the person issued the adult foster care group home license is a member of the household and an occupant of the residence.
5. **FOSTER FAMILY HOME (CHILDREN)**
- a. **FOSTER FAMILY HOME** means a private home, licensed under Act No. 116 of the Public Acts of 1973, as amended, in which at least one, but not more than four minor children who are not related to an adult member of the house by blood or marriage, or who are not placed in the household pursuant to the Adoption Code (Act No. 288 of 1939, as amended), are given care and supervision 24 hours per day, four or more days per week for two or more consecutive weeks, unattended by a parent or guardian. The person issued the license is a permanent resident of the home.
- b. **FOSTER FAMILY GROUP HOME** means a private home, licensed under Act 116 of the Public Acts of 1973, as amended, in which more than four, but fewer than seven minor children, who are not related to an adult member of the house by blood or marriage, or who are not placed in the household pursuant to the Adoption Code (Act No. 288 of 1939, as amended), are given care and supervisions 24 hours per day, four or more days per week for two or more consecutive weeks, unattended by a parent or guardian. The person issued the license is a permanent resident of the home.
6. **HOME, CONVALESCENT OR NURSING HOME** means a facility licensed as a “nursing home” by the State Department of Public Health under the Public Health Code, Act No. 368 of 1978, as amended. A “nursing home” shall include an extended care facility, hospice and convalescent home.
7. **HOUSING, INDEPENDENT LIVING AND ASSISTED LIVING** means a building or buildings containing individual dwelling units designed for and restricted to occupancy by persons of a specified age who are retired or are nearing retirement and wish to live in a community environment, but do not require nursing or medical supervision. Group dining facilities and non-medical personal care services may also be provided. Such housing does not include a nursing or convalescent home.
8. **MANUFACTURED HOME COMMUNITY** means a single parcel of land that contains two or more manufactured homes for use as dwelling units where home sites are leased to individuals who retain customary leasehold rights.
- H. **RETAIL, GENERAL** means stores and shops that sell and/or rent goods and merchandise to the general public.
1. **GAS STATION/FUEL SALES** means an establishment where petroleum products are dispensed for retail sale. This use may include a retail convenience store and/or a single bay carwash. It does not include towing, vehicle body or engine repair (see “Vehicle Repair”), or overnight vehicle storage.
2. **GENERAL RETAIL WITH A DRIVE THROUGH FACILITY** means stores and shops where products may be purchased by motorists without leaving their vehicles.
3. **GENERAL RETAIL (OUTDOOR)** means a retail sales establishment operated substantially in the open air including, but not limited to: flea markets, monument sales,

beach recreation rentals, and the like. Does not include "Vehicle Sales and Rental", agricultural equipment sales and rental, plant nurseries, or roadside stands and farmers markets.

4. **VEHICLE SALES AND RENTAL: AUTOMOBILES, LIGHT TRUCKS, BOATS** means a retail or wholesale establishment selling and/or renting automobiles, light trucks (less than 2-ton load capacity), vans, trailers, boats, and/or any other motorized or non-motorized vehicles (e.g. scooters, jet skis, golf carts, motorcycles) that includes outdoor display. May also include repair shops and the sales of parts and accessories incidental to vehicle dealerships. Does not include businesses dealing exclusively in selling used parts, auto wrecking and/or salvage (see "Salvage Operations"); the sale of auto parts/accessories separate from a vehicle dealership (see "General Retail"); or service stations (see "Vehicle Services").
5. **VEHICLE SALES AND RENTAL: HEAVY EQUIPMENT, HEAVY TRUCKS, RVS, MOBILE HOMES** means a retail or wholesale establishment selling and/or renting heavy equipment and/or trucks, RVs, or mobile homes. May also include accessory repair shops.

USED or OCCUPIED means the physical presence of a person to use a structure and includes the words "intended", "designed", or "arranged" to be used or occupied.

VARIANCE means a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary hardship or practical difficulty.

VILLAGE means the Village of Suttons Bay, a Michigan municipal corporation.

VILLAGE COUNCIL means the Suttons Bay Village Council.

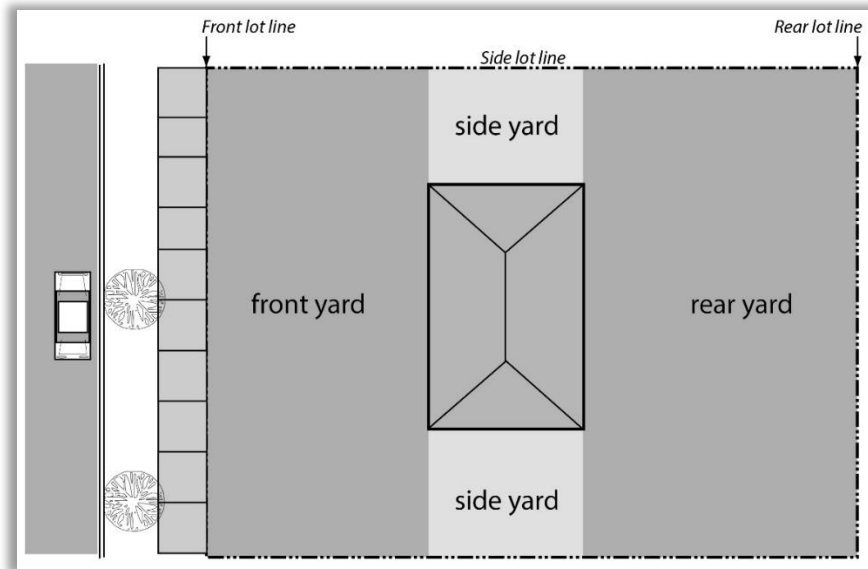
Section 20-13 Definitions: W - Z

WATER'S EDGE means the line where the water and shore meet when the water level is static. For fluctuating water bodies other than Lake Michigan, it shall be the line where the water and shore meet when the water is at its annual high level.

WETLAND means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life.

YARD means an open space on the same lot with a building or structure, unoccupied and unobstructed between the building and the nearest lot line, except as otherwise provided

- A. **YARD, FRONT** means the space extending the full width of the lot between the nearest edge of a building and the front lot line.
- B. **YARD, REAR** means the space extending the full width of the lot between the nearest edge of a building and the rear lot line.
- C. **YARD, SIDE** means an open space extending from the front yard to the rear yard between the nearest edge of a building and the nearest side lot line.



ZONING DISTRICT means a section of the Village in which requirements for the use and dimensions of the land and buildings are prescribed.

ZONING PERMIT means a written authorization issued by the Administrator verifying that proposed buildings, structures or uses are consistent with the terms of this zoning code for the district in which the building, structure or use will be located.

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