

ARTICLE I  
**Title, Purpose, and Scope**

**§ 390-1. Title.**

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

**§ 390-2. Purpose.**

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

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

**§ 390-3. Scope.**

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

- A. This chapter shall not abrogate or annul any easement, covenant, or private agreement. Where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.
- B. Zoning applies to every building, structure, or use. No building, structure, or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in

conformity with this chapter.

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

**§ 390-4. Effective date.**

This chapter was adopted by the Village Council on August 17, 2020, and is ordered to take effect upon the expiration of eight days following publication of adoption in the Grand Haven Tribune, a newspaper having general circulation in the Village, under the provisions of 2006 Public Act 110,<sup>1</sup> except as may be extended under the provisions of such Act.

**§ 390-5. Legislative authority.**

This chapter is enacted in accordance with the Zoning Enabling Act, P.A. 110 of 2006 (MCLA § 125.3101 et seq.), as amended.

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1. Editor's Note: See the Zoning Enabling Act, MCLA § 125.3101 et seq.



ARTICLE II  
**Definitions**

**§ 390-6. Construction of language.**

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

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

M. The "Village Council," "Zoning Board of Appeals," and "Planning Commission" are respectively the Village Council, Zoning Boards of Appeals, and Planning Commission of the Village of Spring Lake.

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

### **§ 390-7. Definitions.**

For the purpose of this chapter, the following terms and words are hereinafter defined.

#### **§ 390-7.1. "A" definitions.**

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

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

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

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

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

**ADULT FOSTER CARE FACILITY** — An establishment having as its principal function the receiving of adults for foster care as defined<sup>2</sup> in Act 218 of 1979 (MCLA § 400.701 et seq.). It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

A. Nursing homes licensed under Part 217 of Act 368 of the Public Acts of 1978,<sup>3</sup> as amended;

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2. Editor's Note: The term "adult foster care facility" is defined in MCLA § 400.703.

3. Editor's Note: See MCLA § 333.21711, Licensure of nursing home.

- B. Hospitals for persons with mental disabilities or a facility for the developmentally disabled operated by the Department of Mental Health under Act 258 of the Public Acts of 1974,<sup>4</sup> as amended;
- C. County infirmary operated by a County Department of Social Services under Section 55 of Act 280 of the Public Acts of 1939,<sup>5</sup> as amended;
- D. A child-care institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973,<sup>6</sup> as amended, if the number of residents who become 18 years of age while residents, does not exceed statutory limits;
- E. Homes for the aged licensed under Part 213 of Act 368 of the Public Acts of 1978,<sup>7</sup> as amended;
- F. Hospitals licensed under Part 215 of Act 368 of the Public Acts of 1978,<sup>8</sup> as amended;
- G. Foster family homes licensed or approved under Act 116 of the Public Acts of 1973<sup>9</sup> if a person 18 years of age or older is placed therein;
- H. Areas excluded by Section 17(3) of Act 448 of the Public Acts of 2014<sup>10</sup>;
- I. Private residences with the capacity to receive at least one but not more than four adults;
- J. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
- K. A veteran's facility created by Act 152 of the Public Acts of 1885,<sup>11</sup> as amended.

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

**ADULT FOSTER CARE LARGE GROUP HOME** — An adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided

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4. Editor's Note: See the Mental Health Code, MCLA § 330.1001 et seq.

5. Editor's Note: See the Social Welfare Act, MCLA § 400.1 et seq.

6. Editor's Note: See MCLA § 722.111 et seq.

7. Editor's Note: See MCLA § 333.21301 et seq.

8. Editor's Note: See MCLA § 333.21501 et seq.

9. Editor's Note: See MCLA § 722.111 et seq.

10. Editor's Note: See MCLA § 554.917(3).

11. Editor's Note: See the Veterans Facility Act, MCLA § 36.1 et seq.



supervision, personal care, and protection in addition to room and board, 24 hours a day, five or more days a week and for two or more consecutive weeks.

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

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

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

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

**AUTOMOBILE REPAIR, MINOR** — A building and premises engaged in the general mechanical repair and maintenance of passenger automobiles and trucks weighing less than 7,000 pounds, where minor services may be rendered, including, but not limited to, oil change and general lubrication services, tire services, muffler repair, suspension and brake repair, retail and installation of batteries or other automobile supplies and accessories, and where other minor services may be rendered, not to include the following:

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

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

### **§ 390-7.2. "B" definitions.**

**BASEMENT** — That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the

vertical distance from the average grade to the ceiling. A basement shall not be counted as a story (Figure 390-7.2B).

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

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

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

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

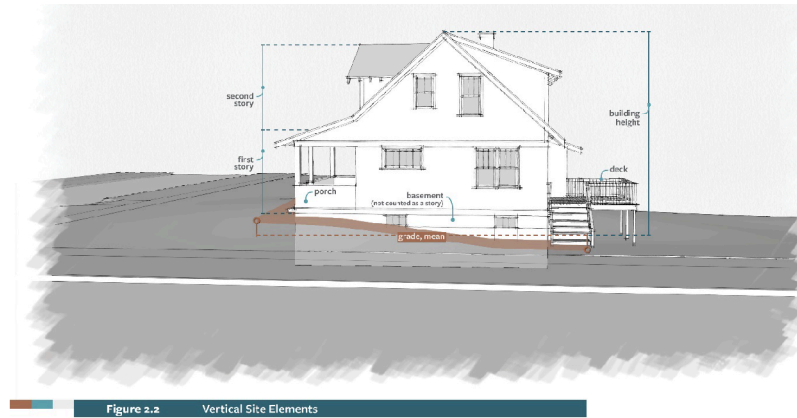
**BUILDING** — Any structure, either temporary or permanent, which is erected having a roof supported by columns or walls, which is used or erected for the shelter or enclosure of persons, animals, or personal property or for carrying on business activities or other similar uses.

**BUILDING FOOTPRINT** — The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios, decks, and steps, and of awnings and nonpermanent canopies (Figure 390-7.2A).



**BUILDING FRONTAGE** — That façade of the building that abuts the required front yard or corner front yard as stipulated in this chapter.

**BUILDING HEIGHT** — The vertical distance from the average level of the highest and lowest point of that portion of a lot covered by the building to the highest point of the roof surface, parapet wall, or other uppermost part. The highest and lowest point of the lot shall be measured from the existing natural grade prior to any site alteration, grading, or filling (Figure 390-7.2B).



**BUILDING OFFICIAL** — The person designated by the Village Council to administer and enforce the Building Code.

**§ 390-7.3. "C" definitions.**

**CERTIFICATE OF ZONING COMPLIANCE** — A permit issued by the Zoning Administrator pursuant to § 390-152 of this chapter.

**CHURCH** — See "place of public assembly."

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

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

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

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

**CURB CUT** — The opening along a curblin at which point vehicles may enter or leave the street.

**§ 390-7.4. "D" definitions.**

**DAY CARE, ADULT** — A facility, other than a private residence, that provides temporary care for periods less than 24 hours for adults, over 18 years of age, who for reasons of age or physical and/or cognitive limitations are in need of supervised care. An

adult day care facility does not include adult foster care, nursing care facilities, or other facilities which require licensing from the State of Michigan.

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

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

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

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

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

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

**DENSITY** — The number of dwellings per unit of land.

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

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

**DRIVE-THROUGH BUSINESS** — A principal use or accessory use of a business

establishment so developed that its retail or service character is wholly or partially dependent on providing a driveway approach and service windows or facilities for vehicles in order to serve patrons while in the vehicle.

**DRIVEWAY** — A private roadway providing access to a street.

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

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

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

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

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

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

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

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

### **§ 390-7.5. "E" definitions.**

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

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

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

**ESSENTIAL PUBLIC SERVICES** — The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, communication, electrical, steam, or water transmission or distribution systems; and collection, supply or waste disposal systems,

including mains, drains, sewers, pipes, water pump stations, sewer lift stations, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment; and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions, but not including buildings. Electric substations, natural gas regulator stations, radio broadcasting and receiving towers and equipment, or structures used in cellular telephone systems are specifically excluded from the definition of "essential public services."

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

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

### **§ 390-7.6. "F" definitions.**

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

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

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

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

FLOODPLAIN — That area mapped by the National Flood Insurance Program having a flood elevation that has a 1% chance of being equaled or exceeded each year, and as determined by the Federal Emergency Management Agency.

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

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

FLOOR AREA, RESIDENTIAL — The sum of the horizontal areas of each story of a residential dwelling, measured from the interior faces of the exterior walls or from

the center line of walls separating two dwellings, but excluding areas of basements, unfinished attics, garages, carports, breezeways and enclosed or unenclosed porches.

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

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

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

#### **§ 390-7.7. "G" definitions.**

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

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

**GRADE, MEAN** — The arithmetic mean of the lowest and highest grade elevations in an area within five feet of the foundation line of a building or structure, or in the area between the foundation line and the lot line in the case where the foundation line is less than five feet from the lot line (Figure 390-7.2B).

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

#### **§ 390-7.8. "H" definitions.**

**HAZARDOUS SUBSTANCES** — One or more of the following:

- A. A chemical, toxic substance, or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980.<sup>12</sup>
- C. "Hazardous waste" as defined in Article II, Chapter 3, Part 111 of P.A. 451 of 1994,

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12. Editor's Note: See 42 U.S.C. § 9601 et seq.

as amended, being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act.<sup>13</sup>

- D. "Petroleum" as defined in Article II, Chapter 8, Part 213 of P.A. 451 of 1994, as amended, being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act.<sup>14</sup>

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

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

#### **§ 390-7.9. "I" definitions.**

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

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

#### **§ 390-7.10. "J" definitions.**

(Reserved)

#### **§ 390-7.11. "K" definitions.**

(Reserved)

#### **§ 390-7.12. "L" definitions.**

LAND DIVISION — A land division as defined in the Land Division Act of the State of Michigan, being Public Act 288 of 1967,<sup>15</sup> as amended.

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

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13. Editor's Note: See MCLA § 324.11101 et seq.

14. Editor's Note: See MCLA § 324.21301a et seq.

15. Editor's Note: See MCLA § 560.101 et seq.



sale.

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

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

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

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

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

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

**LOT LINES** —

A. The lines bounding a lot as defined herein:

- (1) **FRONT LOT LINE** — In the case of an interior lot, that line separating the lot from the public or private street. In the case of a corner lot or a through lot, that line separating the lot from either street. In the case of a waterfront lot, the lot line along the water shall be the front lot line (Figure 390-7.12A).
- (2) **REAR LOT LINE** — That lot line which is opposite and most distant from the front lot line. In the case of an irregular or triangular shaped lot, the rear lot line shall be an imaginary line parallel to the front lot line, at least 10 feet in length, lying farthest from the front lot line and wholly within the lot. In the case of a corner lot, there shall be no rear lot line. In the case of a waterfront lot, the lot line separating the lot from the public or private street shall be the rear lot line (Figure 390-7.12A).
- (3) **SIDE LOT LINE** — Any lot line not a front or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line (Figure 390-7.12A). In the case of a corner lot, the two lot lines opposite the front lot lines shall be considered side lot lines.

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

- (1) Location and orientation of existing or proposed buildings on the lot in question, in relation to existing buildings on properties in the same general neighborhood.

- (2) Location and effect of vegetation, water, or other natural features affecting location of buildings or structures on the lot in question.
- (3) Traffic patterns and volumes on each street.



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

**LOT WIDTH** — The horizontal straight-line distance between side lot lines, measured between the two points where the minimum front setback line intersects the side lot lines (Figure 390-7.12A).

**LOT, CORNER** — A lot where the interior angle of two adjacent sides at the intersection of two streets is less than  $135^\circ$ . A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the side lot lines meet the curve or the straight street line extended, form an interior angle of less than  $135^\circ$  (Figure 390-7.12B).

**LOT, WATERFRONT** — A lot or parcel that has frontage on the Grand River, Spring Lake, or another navigable body of water (Figure 390-7.12B).



**§ 390-7.13. "M" definitions.**

**MANUFACTURED HOME** — A factory-built, single-family structure that is manufactured or constructed under the authority of the National Manufactured Home Construction and Safety Standards Act,<sup>16</sup> is wholly or substantially constructed at an off-site location, transportable in one or more sections, and is built on a permanent chassis, but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

**MARIHUANA (ALSO KNOWN AS MARIJUANA, ALSO KNOWN AS CANNABIS)** — The term shall have the meaning given to it in Section 7106 of the Michigan Public Health Code, 1978 P.A. 368, MCLA § 333.7106, as referred to in Section 3(d) of the Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCLA § 333.26423(d). Any other term pertaining to marihuana used in this chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or the General Rules of the Michigan Department of Community Health issued in connection with that Act.

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

**MASTER PLAN** — The comprehensive, long-range master plan intended to guide growth and development in the Village of Spring Lake, which includes recommendations on future land use, economic development, housing, recreation, transportation, open space, and community facilities.

**MEDICAL CLINIC** — A facility for the medical or dental care, diagnosis, or treatment of sick, ailing, infirm and injured persons and those who are in need of medical, dental, or minor surgical care attention, but who are not kept on the premises for more than eight

16. Editor's Note: See 42 U.S.C.A. §§ 5401 to 5424, 5426.

hours, but not including the operation of a licensed primary caregiver pursuant to the Michigan Medical Marihuana Act.<sup>17</sup>

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

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

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

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

#### **§ 390-7.14. "N" definitions.**

**NATURAL FEATURE** — Physical characteristics of the subject property that are not man-made, such as woodlands, wetlands, or streams.

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

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

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

**NURSING HOME** — A residential care facility providing long-term care for elderly, infirm, terminally ill, physically, emotionally and/or developmentally disabled persons, licensed in accord with Article 17 of Act 368 of 1978,<sup>18</sup> as amended.

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17. Editor's Note: See MCLA § 333.26421 et seq.

18. Editor's Note: See MCLA § 333.21701 et seq.

**§ 390-7.15. "O" definitions.**

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

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

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

**OPEN SPACE** — Any property or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for active or passive public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space, excluding easements for streets or private roads.

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

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

**§ 390-7.16. "P" definitions.**

**PARAPET ARTICULATION** — A low wall or railing with architectural design which projects above the roof line (Figure 390-7.16).



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

**PARKING LOT** — See "off-street parking lot."

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

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

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

**PET** — See "domesticated animal."

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

- A. **SMALL PLACES OF PUBLIC ASSEMBLY** — A place of public assembly shall be considered a small facility if it has less than 2,000 square feet in gross floor area, and total seating capacity of no more than 100 in the largest room or space intended for public assembly, and no capacity to expand to meet either of the preceding standards.
- B. **LARGE PLACES OF PUBLIC ASSEMBLY** — A place of public assembly shall be considered a large facility if it has either 2,000 square feet or more in gross floor area, total seating capacity of more than 100 in the largest room or space

intended for public assembly, or the capability to expand to meet these standards in the future.

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

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

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

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

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

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

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

**PRIVATE ROAD** — A privately owned and maintained right-of-way which affords traffic circulation and principal means of access for more than one lot or site condominium unit; such a privately owned and maintained right-of-way shall be considered one private road, regardless of any turns or changes in direction, until it intersects with a street.

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

**PUBLIC PLACE** — Any real property or a building or structure that is owned or leased by the State of Michigan, any local unit of government of the State of Michigan, a public agency, or a college or university of the State of Michigan, including a court, mall, park, or other area, feature, or element; shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed by any agency of government or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

**§ 390-7.17. "Q" definitions.**

(Reserved)

**§ 390-7.18. "R" definitions.**

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

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

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

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

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

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

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

**§ 390-7.19. "S" definitions.**

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

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



residential.

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

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

**SETBACK, WATERFRONT** — The measurement from the ordinary high water mark of the Grand River, Spring Lake, or other navigable body of water to the nearest point of the main wall of the building or structure, subject to certain yard encroachments.

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

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

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

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

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

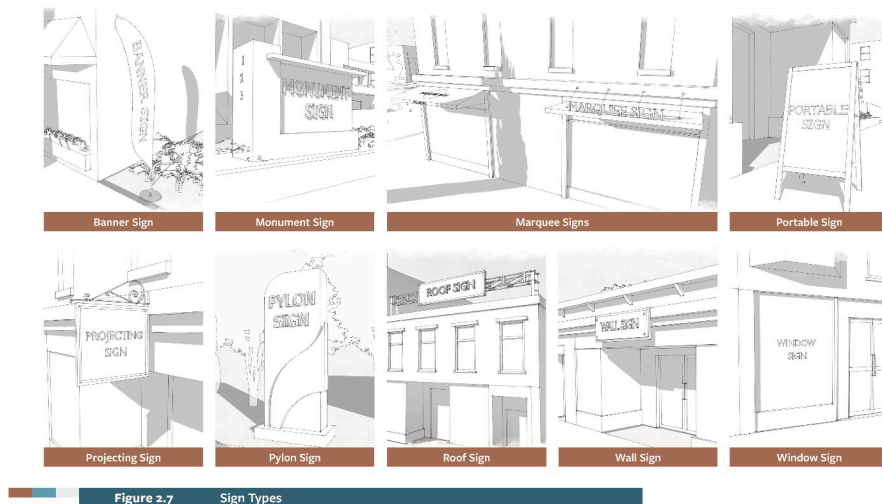
- A. **ABANDONED SIGN** — A sign pertaining to or associated with an event, business, or purpose which is no longer ongoing and which has been inactive or out of business for a period of 90 consecutive days or longer; or a sign which contains structural components but no display for a period of 90 consecutive days or longer.
- B. **BANNER SIGN** — A temporary sign constructed of cloth, fabric, plastic, or other durable, flexible material of professional quality, with or without a structural frame. The term "banner" does not include pennants (Figure 390-7.19A).
- C. (Reserved)
- D. **ELECTRONIC MESSAGE BOARD** — A sign on which a fixed or changing display/message composed of a series of lights may be changed through electronic

means.

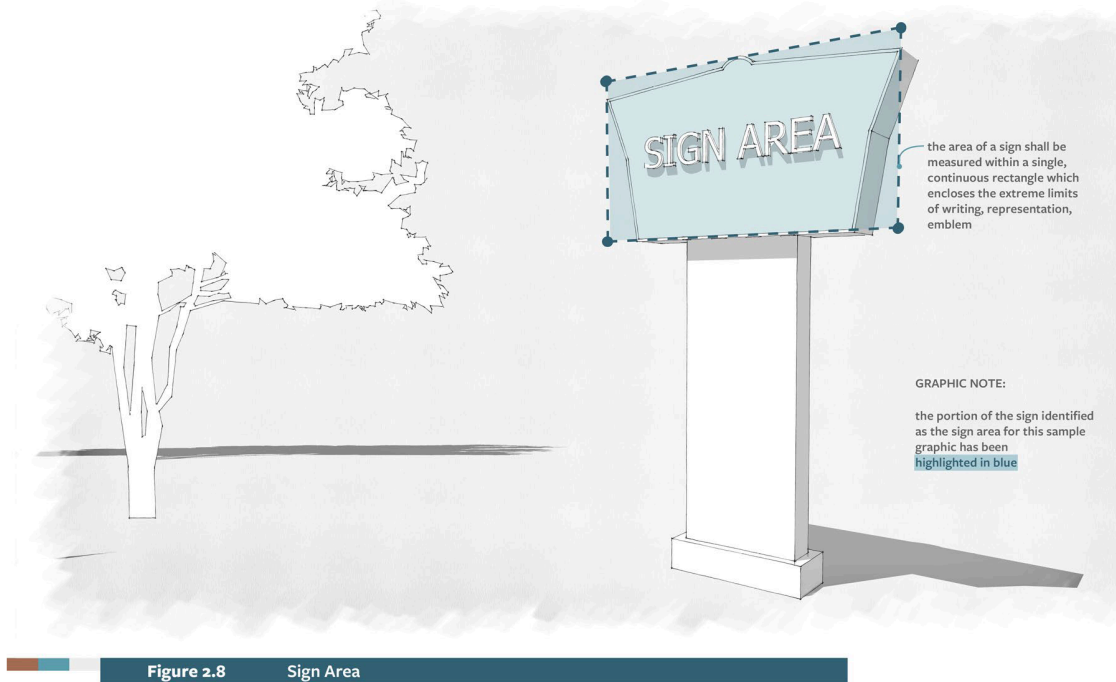
- E. **FLAG SIGN** — A flag sign communicates information by means of a flag but does not include the flag of the United States of America, the State of Michigan Flag, or the Village of Spring Lake Flag.
- F. **FREESTANDING SIGN** — A sign structurally separate from and not attached to any building, which is attached directly to the ground surface in a permanent manner, or supported by one or more uprights, poles or braces attached to the ground surface in a permanent manner.
- G. **GOVERNMENT SIGN** — A sign that is constructed, placed, or maintained by the federal, state, or local government, or a sign that is required by the federal, state, or local government.
- H. **MONUMENT SIGN** — A freestanding sign which is placed directly on the ground surface, without the use of uprights, poles or any other structure to elevate the sign face above the surrounding grade and which is up to six feet in height (Figure 390-7.19A).
- I. **PENNANT** — A series of small, often triangular, tapering flags made of lightweight plastic, fabric, or other similar material, suspended from a rope, wire, or string, often designed to move in the wind.
- J. **ILLEGAL SIGN** — A sign which does not meet the requirements of this chapter and which does not have a legal nonconforming status.
- K. **MARQUEE SIGN** — A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by this chapter (Figure 390-7.19A).
- L. **OFF-PREMISES SIGN** — A sign pertaining to entities, activities, services, events, or other such matters occurring on another lot other than the lot where the sign is located.
- M. **PORTABLE SIGN** — A temporary sign which is designed to be moved easily from place to place, that is not permanently attached to the ground or to a building or other structure, that may be supported by wheels, a portable stand, or a chassis, and may have provision for towing behind a vehicle (Figure 390-7.19A).
- N. **PROJECTING SIGN** — A sign attached to the wall of a building, with the face of the sign bearing a message in plane approximately perpendicular to the plane of such wall and which projects more than 12 inches from such building (Figure 390-7.19A).
- O. **ROOF SIGN** — A sign attached to and projecting from the roof surface of a building (Figure 390-7.19A).
- P. **SANDWICH BOARD SIGN** — A movable sign not secured or attached to the ground surface, constructed in such a manner as to form an "A" or tent-like shape.
- Q. **TEMPORARY SIGN** — A sign that is not permanently affixed to the ground and

is designed, constructed, or intended for use for a limited period of time.

- R. **VEHICULAR SIGN** — Any sign attached or applied to or painted on a vehicle for the primary purpose of directing attention of viewers, but does not include words, graphics, or other communication that serves to identify the vehicle as one ordinarily and routinely used and operated in the course of the operations or activities conducted by the owner or operator of the vehicle.
- S. **WALL SIGN** — A sign attached to or painted on the wall of a building or structure, with the face of the sign bearing a message in a plane approximately parallel to the plane of such wall and not projecting from the wall more than six inches. A sign attached to or displayed upon an awning, marquee or canopy is also considered to be a wall sign, except that an entity's logo or name not exceeding six square feet in area attached to or displayed upon such awning, marquee or canopy shall not be considered a sign (Figure 390-7.19A).
- T. **WAYFINDING SIGN** — An off-premises sign that is part of a Village-sponsored and coordinated program for the purpose of facilitating pedestrian and vehicular transit to local destinations as designated and recognized by the Village's wayfinding sign program.
- U. **WINDOW SIGN** — A sign which is applied or attached to, or located within, three feet of the interior of a window on a structure which can be seen through or from the window of the structure (Figure 390-7.19A).
- V. **YARD SIGN** — A sign of relatively impermanent construction, intended for temporary use, manually placed in a yard.



**SIGN AREA** — The entire face of a sign, including the advertising surface and any framing, trim, or molding, but not including the supporting structure (Figure 390-7.19B).



**SITE CONDOMINIUM** — A method of subdivision where the sale and ownership of sites is regulated by the Condominium Act (P.A. 59 of 1978),<sup>19</sup> as amended.

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

**STORY** — That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. A basement shall not be counted as a story (Figure 390-7.2B).

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

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

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

**SUBSTANTIAL CONSTRUCTION** — The placing of construction materials in a permanent position and fastened in a permanent manner; except that where demolition

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19. Editor's Note: See MCLA § 559.101 et seq.

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

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

**§ 390-7.20. "T" definitions.**

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

**§ 390-7.21. "U" definitions.**

(Reserved)

**§ 390-7.22. "V" definitions.**

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

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

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

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

**§ 390-7.23. "W" definitions.**

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

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

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

**WETLAND** — Land characterized by the presence of water at a frequency and duration sufficient to support, and that, under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh.

**WHOLESALE FACILITY** — An establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and

buying merchandise for, or selling merchandise to, such individuals or companies.

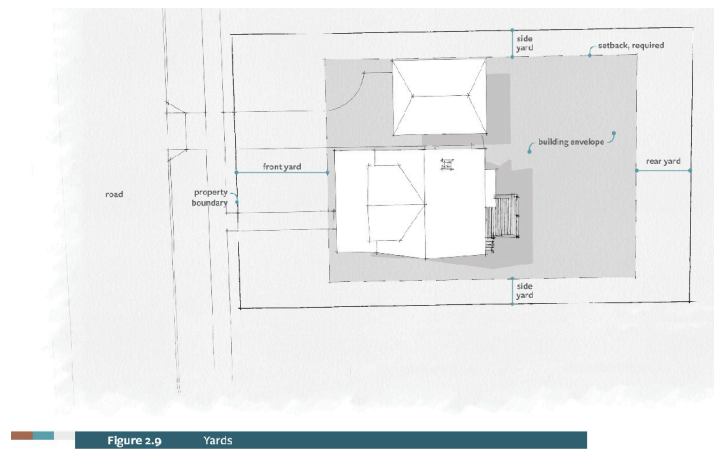
**§ 390-7.24. "X" definitions.**

(Reserved)

**§ 390-7.25. "Y" definitions.**

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

- A. **FRONT YARD** — An open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building (Figure 390-7.25).
- B. **REAR YARD** — An open space extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the principal building (Figure 390-7.25).
- C. **SIDE YARD** — An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the principal building (Figure 390-7.25).
- D. **WATERFRONT YARD** — In the case of a waterfront lot, the yard on the street side shall be the rear yard and the waterfront yard shall be the front yard (Figure 390-7.12B).



**§ 390-7.26. "Z" definitions.**

**ZONING ADMINISTRATOR** — The Village of Spring Lake Zoning Administrator as established in § 390-149 of this chapter.

**ZONING ENABLING ACT** — The Michigan Zoning Enabling Act, P.A. 110 of 2006

§ 390-7.26

§ 390-7.26

(MCLA § 125.3101 et seq.), as amended.





ARTICLE IV  
**Sexually Oriented Business**

**§ 390-37.1. Purpose.**

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

**§ 390-38. Definitions.**

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

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

**ADULT BOOKSTORE or ADULT VIDEO STORE** — A commercial establishment that has as a substantial or significant portion of its stock-in-trade, and as one of its principal business purposes offers for sale or rental for any form of consideration, any one or more of the items set forth in Subsection A or B of this definition.

- A. Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides, or any other visual representations or media which depict or describe specified anatomical areas or specified sexual activities; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.
- C. A commercial establishment may have other principal business purposes that do not involve offering for sale or rental the material identified in Subsections A and B, above, and still be categorized as an adult bookstore or adult video store.

**ADULT CABARET** — A nightclub, bar, restaurant, or similar commercial

establishment that regularly features:

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

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

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

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

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

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

**DATING SERVICE** — A business engaged in for financial remuneration, either directly or indirectly, where arrangements are made to match a person of the same or opposite sex to a patron or patrons, for social or entertainment purposes, either on or off the premises of the dating service.

**ESCORT** — A person who, for consideration, agrees or offers to act as a companion,

guide, or date for another person, who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

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

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

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

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

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

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

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

- A. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding;
- B. Material as defined in Section 2 of Michigan Act 343 of 1984,<sup>20</sup> as amended, or any similar successor statute; or
- C. Sexually explicit visual material as defined in Section 3 of Michigan Act 33 of 1978,<sup>21</sup> as amended, or any similar successor statute.

PUBLIC PLACE — Any real property or an appurtenance to real property that is owned or leased by the State of Michigan, any local unit of government of the State of Michigan, a public agency, or by a college or university of the State of Michigan and may include a structure, enclosure, facility, or complex, including a court, mall, park,

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20. Editor's Note: See MCLA § 752.362.

21. Editor's Note: See MCLA § 722.673.

or other area, feature, or element; a "public place" shall also mean a business or an educational, refreshment, entertainment, recreation, health, or transportation facility, or institution of any kind, whether licensed by any agency of government or not, whose goods, services, facilities, privileges, advantages, or accommodations are extended, offered, sold, or otherwise made available to the public.

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

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

**SEXUALLY ORIENTED BUSINESS** — Any of the following:

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

**SPECIFIED ANATOMICAL AREAS** — Are defined as follows:

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

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

- A. The erotic fondling or erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

- B. Sex acts, normal or perverted, actual or simulated, including, but not limited to, intercourse, oral copulation, sodomy, and/or masturbation;
- C. Sexual arousal or gratification using animals or violence, actual or simulated;
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections A through C of this definition, above.

**§ 390-39. Zoning district.**

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

**§ 390-40. Special land use approval requirements.**

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

- A. No sexually oriented businesses shall be located on a parcel that is within 500 feet of another sexually oriented business.
- B. No sexually oriented business shall be located on a parcel that is within 350 feet of the boundary of any land zoned residential, or approved as a planned unit development for residential purposes.
- C. No sexually oriented business shall be located on a parcel that is within 350 feet of any single- or multiple-family residence, any Village, county or state park, any school, library, licensed child-care facility, playground, church or place of worship.
- D. For purposes of Subsections A through C above, the distance shall be measured in a straight line from the nearest property line of the parcel of land upon which the proposed sexually oriented business is to be located to the nearest property line of the existing sensitive use.
- E. No sexually oriented business shall be located within any principal or accessory building or structure already containing a sexually oriented business.
- F. The proposed use shall conform to all requirements of the zoning district in which it is located.
- G. The proposed use shall be in compliance with all other ordinances of the Village and with all statutes, laws, rules and regulations of the county, state and federal government and, to the extent required, all governmental approvals have been obtained.
- H. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from the neighboring properties or the adjacent right-of-way of a public street or private road.

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

**§ 390-41. Application for special land use approval.**

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

- A. An application for a special land use permit provided under this article for a sexually oriented business shall be filed with the Zoning Administrator on the proper forms supplied by the Village. An application shall not be deemed complete until all required information and necessary documentation have been provided to the Village by the applicant or the applicant's agents and representatives.
- B. The application shall be accompanied by 12 copies of a site plan as required by and provided for in Article XVII, Site Plan Review, and any other data required by the Zoning Administrator indicating how the proposed sexually oriented business will conform with this article.
- C. The application shall be accompanied by a legal description of the property, either by metes and bounds or by subdivision lot and block, and a street address.
- D. The application shall be accompanied by a fee to be established by resolution of the Village Council to cover the expense of considering and making a decision on the application.

**§ 390-42. Hearing required.**

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

**§ 390-43. Decision.**

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



- C. The Planning Commission shall incorporate its decision in a written statement containing the conclusions that specify the basis of the decision and any conditions imposed.

**§ 390-44. Appeals.**

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



ARTICLE VI  
**Zoning Districts and Map**

**§ 390-50. Zoning districts.**

For the purposes of this chapter, the Village of Spring Lake is hereby divided into the following zoning districts as shown on the Official Zoning Map:

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

SFR	Single-Family Residential
MFR	Multiple-Family Residential

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

C	Community Commercial
CBD	Central Business District
WOD	Waterfront Overlay District

**§ 390-51. Zoning Map and boundaries.**

- A. The locations and boundaries of the above zoning districts are hereby established as shown on the Zoning Map, as the same may be amended from time to time, and shall be as much a part of this chapter as if fully described herein.<sup>22</sup>
- B. The Zoning Map shall be kept on display in the Village Hall and descriptions accompanying enacted amendments to the Zoning Map shall be displayed adjacent to the map until such time as the map is corrected. The Zoning Map shall be the final authority as to the current zoning status in the Village.

**§ 390-52. Interpretation of Zoning Map.**

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

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

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22. Editor's Note: Said map is included as an attachment to this chapter.

as following the center line of the railroad right-of-way.

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

#### **§ 390-53. Zoning of vacated areas.**

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

#### **§ 390-54. Zoning of filled lands; uses on or over water.**

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

#### **§ 390-55. Summary tables.**

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

of this chapter. In the event of a discrepancy between the table and the text of the chapter, the text shall prevail.

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

<b>Table 390-55.01. Permitted and Special Land Uses</b>				
<b>Land Use</b>	<b>SFR</b>	<b>MFR</b>	<b>CC</b>	<b>CBD</b>
Accessory dwellings	S	S		
Adult foster care congregate facilities		S	S	
Adult foster care family homes	R	R		
Adult foster care small or large group homes	S	S		
Assembly operations			S	
Automobile gasoline stations			S	
Automobile repairs, major			S	S
Automobile repairs, minor			R	S
Automobile wash			S	S
Bed-and-breakfast establishments	S	S	S	
Clubs or lodges			R	
Community support facilities	S			

<b>Table 390-55.01. Permitted and Special Land Uses</b>				
<b>Land Use</b>	<b>SFR</b>	<b>MFR</b>	<b>CC</b>	<b>CBD</b>
Convenience stores			R	R
Day care, adult	S			
Day care, commercial			S	
Day care, family	R	R		
Day care, group	S	S		
Educational institutions	R			
Farmer's markets				S
Financial institutions with drive-through facilities			S	S
Financial institutions, without drive-through facilities			R	R
Funeral homes	S		S	S
Home occupations	R	R		
Hotels and motels				S
Indoor recreation facilities			S	S
Large places of public assembly	S			
Live/work			R	
Marinas	S			S
Medical clinics			R	R

<b>Table 390-55.01. Permitted and Special Land Uses</b>				
<b>Land Use</b>	<b>SFR</b>	<b>MFR</b>	<b>CC</b>	<b>CBD</b>
Motels and hotels			S	
Office buildings	S		R	R
Open air business			S	S
Parks and public facilities	R	R	R	R
Personal service establishments			R	R
Professional service establishments			R	R
Residential above retail or offices			R	R
Restaurants with drive-through facilities			S	
Restaurants without drive-through facilities			R	R
Retail businesses			R	R
Senior assisted living facilities		S	S	
Short-term rentals	S	S	S	
Single-family dwellings, excluding manufactured homes		R		



<b>Land Use</b>	<b>SFR</b>	<b>MFR</b>	<b>CC</b>	<b>CBD</b>
Single-family dwellings, including manufactured homes	R			
Small places of public assembly	R			
Tattoo or piercing parlor				S
Two-family dwellings		R		
Two-family dwellings, only on corner lots	R			
Veterinary hospitals			S	S
Wholesale establishments and warehouses			S	

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

**NOTES:**

- A. For complete dimensional standards for the SFR District, see § 390-57C.
- B. For complete dimensional standards for the MFR District, see § 390-59C.

- C. For complete dimensional standards for the C District, see § 390-61C.
- D. For complete dimensional standards for the CBD District, see § 390-70C.

ARTICLE XIX  
**Zoning Board of Appeals**

**§ 390-138. Creation and membership.**

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

**§ 390-139. Composition.****A. Membership.**

- (1) The Zoning Board of Appeals shall consist of five members appointed by the Village Council. One member of the Village Council shall be appointed a member of the Zoning Board of Appeals. One member of the Planning Commission may be appointed a member of the Zoning Board of Appeals. In addition, not more than two alternate members may be appointed by the Village Council.
- (2) Each member and each alternate member shall serve a term of three years from the effective date of his or her appointment; provided, regular and alternate members of the Zoning Board of Appeals serving in such position on the effective date of this chapter may continue their term.

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

**§ 390-140. Jurisdiction.**

The Zoning Board of Appeals shall have all jurisdiction and powers granted by the Michigan Zoning Enabling Act,<sup>23</sup> all jurisdiction and powers prescribed in other articles of this chapter and the following specific jurisdiction and powers:

**A.** To hear and decide appeals from and review any order, requirements, decision or determination made by an administrative official or body charged with the enforcement of this chapter, excluding, however, decisions regarding the authorization of special land uses, rezoning of property, zoning amendments, and planned unit developments which are made by the Village Council or Planning Commission. The Zoning Board of Appeals may reverse or affirm, wholly or in

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23. Editor's Note: See MCLA § 125.3101 et seq.

part, or may modify the order, requirement, permit, decision, or determination as in the Board's opinion ought to be made in the premises, and to that end shall have all the powers of the administrative official from whom the appeal is taken.

- B. The jurisdiction and power to act upon all questions as they may arise in the administration and enforcement of this chapter, including interpretation of the Zoning Map and text of this chapter;
- C. To hear and decide matters referred to the Zoning Board of Appeals or upon which the Zoning Board of Appeals is required to pass under this chapter; and
- D. If there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the Zoning Board of Appeal is empowered to grant variances from any of the rules or provisions of this chapter relating to the construction of, or structural changes in, or alteration of, buildings or structures, or to any other nonuse-related standards in this chapter, so that the spirit of this chapter shall be observed, public safety secured, and substantial justice done.

**§ 390-141. Granting of variances.**

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

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

which is not permitted within that zone district, or any use for which a special land use permit is required.

**§ 390-142. Application and hearing procedures.**

- A. Application. The following materials shall be filed with the Zoning Administrator at least 30 days in advance of the next regular meeting of the Zoning Board of Appeals:
- (1) A completed application form signed by the applicant or his/her agent. Applicants other than the owner of the property must submit evidence that the owner of the property is aware and approves of the application.
  - (2) Payment of a fee which shall be established by resolution of the Village Council, and which shall be nonrefundable.
  - (3) A legal description of the property involved in the request.
  - (4) An application or appeal shall be filed not later than 30 days after the order, decision or determination as to which the application or appeal is taken.
  - (5) A site plan, drawn to scale, sufficient to show the nature and extent of the requested variance.
- B. After an application for an appeal, a variance, or other authorized relief is complete, has been filed in proper form, and the application fee has been paid, the Zoning Administrator shall transmit to the Zoning Board of Appeals all of the application materials and other evidence relevant to the application.
- C. The Zoning Administrator shall schedule the application for a public meeting within a reasonable time. Notice of hearing shall be given in accordance with § 390-151 of this chapter.
- D. Applicants shall be required to appear before the Board or be represented by a representative who can speak for and make commitments on behalf of the applicant.
- E. The concurring vote of a majority of the full membership of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of an administrative official or body, or to decide in favor of the applicant a matter upon which the Zoning Board of Appeals is required to pass under a provision of this chapter, or to grant a variance from the requirements of this chapter.

**§ 390-143. Conditions of variance appeals.**

In granting a variance or in making any decision referred to it by this chapter, the Zoning Board of Appeals may impose and attach such conditions upon an affirmative decision in conformance with the provisions of the Zoning Enabling Act<sup>24</sup> as it shall determine

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24. Editor's Note: See MCLA § 125.3101 et seq.

are necessary and/or appropriate.

**§ 390-144. Official record; findings of fact.**

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

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

**§ 390-145. Decisions of Zoning Board of Appeals.**

- A. The decision and orders of the Zoning Board of Appeals shall be entered in the official record after they have been signed by the Chairman and after written notice of the decision has been served either in person or by mail, upon the parties to the appeal, the Village Zoning Administrator, and the Village Clerk. The Chairman shall sign the decision within 10 days after the Zoning Board of Appeals reaches its final decision.
- B. The decision and orders of the Zoning Board of Appeals shall become effective five days after the decision and orders are entered on the official record unless the Board shall find immediate effect is necessary to preserve property or personal rights and shall so certify on the record.
- C. A copy of the official record of the appeal shall be made available to the parties to any appeal upon request and after payment of a reasonable fee, as set by the Village Council, sufficient to recover the costs of duplicating such material.
- D. If the Zoning Board of Appeals grants a variance to the appellant, such variance shall be exercised (construction commenced and actively continued) within six months from the date of such action, unless more time is specifically granted by the Zoning Board of Appeals. If the variance is not exercised within six months or any other time frame established by the Zoning Board of Appeals, the variance will be lost unless the failure to exercise is because of an appeal filed with a court of competent jurisdiction, in which case the variance must be exercised within six months of the conclusion of the appeal and any subsequent appeals.

**§ 390-146. Stay of proceedings.**

An appeal to the Zoning Board of Appeals shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Zoning Board of Appeals after notice of appeal shall have been filed that by reason of facts stated in

the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Zoning Board of Appeals or by the Circuit Court on application, after notice to the Zoning Administrator.

**§ 390-147. Appeal of decisions.**

The decision of the Zoning Board of Appeals shall be final, provided that the Board may, in its sole discretion, grant a rehearing. In such case, notice of the rehearing shall be given in accordance with the Zoning Enabling Act. Any person having an interest affected by a final decision on the appeal shall have the right of appeal to the Circuit Court as provided by the Zoning Enabling Act.<sup>25</sup>

**§ 390-148. (Reserved)**

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25. Editor's Note: See MCLA § 125.3101 et seq.



ARTICLE XX  
**Administration and Enforcement**

**§ 390-149. Zoning Administrator.**

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

**§ 390-150. Amendments.**

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

dimensioned map showing the land which would be affected by the requested amendment, a legal description of such land, the present zoning district of such land, the zoning district(s) of all abutting lands, and all public and private rights-of-way and easements bounding and intersecting the land to be rezoned;

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

- (i) Whether the rezoning would support a rational and sequential development pattern keeping potential development near existing development and infrastructure, avoiding "leap frog" type development.
- C. Conditions. It is recognized that there are certain instances where it would be in the best interest of the Village, as well as advantageous to property owners seeking an amendment to zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. Therefore, an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request, in accordance with the Michigan Zoning Enabling Act,<sup>26</sup> as amended.
- (1) The offer of conditions or restrictions shall be received in writing with the rezoning application, prior to the Planning Commission public hearing on the rezoning request. Provided, if an offer of conditions is proposed at a Planning Commission public hearing on the rezoning request, the public hearing may be adjourned or recessed to provide the Village time to consider the offer; and if an offer of conditions is proposed at a Village Council meeting, the rezoning request and such conditions shall be remanded back to the Planning Commission for consideration.
  - (2) The Village of Spring Lake shall not add to, alter, or augment the offer of conditions or restrictions.
  - (3) The Planning Commission or Village Council may table a request to give residents of the Village of Spring Lake more time to fully understand the offer of conditions.
  - (4) Offers of conditions or restrictions shall not be approved if such conditions or restrictions would have the effect of departing from the standards of the zoning ordinance or other regulations or ordinances promulgated by, or applicable in, the Village of Spring Lake.
  - (5) When considering an offer of conditions or restrictions, the Village shall determine whether the conditions or restrictions offered would address or mitigate impacts that might otherwise be reasonably expected to result from the rezoning request.
- D. Expiration of agreement, reversion, and extensions of conditions.
- (1) In approving the conditions, the Village Council may establish a time period during which the conditions apply to the land. Except for an extension under Subsection D(3) hereof, if the conditions are not satisfied within the time specified, the land shall revert back to its former zoning classification, as set forth in Subsection D(4) hereof.
  - (2) Neither the applicant nor the Village Council shall add to or alter the approved conditions during the time period specified in Subsection D(1) except by

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26. Editor's Note: See MCLA § 125.3101 et seq.

mutual agreement.

- (3) The time period specified in Subsection D(1) may be extended upon the request of the applicant and with the approval of the Village Council in accordance with the following standards:
  - (a) The applicant shall submit in writing a request to the Zoning Administrator, who will forward the written request and the Zoning Administrator's recommendation on the request to the Planning Commission. The written request shall include reasons why the extension is being sought.
  - (b) Upon recommendation of the Planning Commission, the Village Council may extend the time period specified under Subsection D(1). In the event such request is approved, if the conditions are not satisfied within the time specified under the extension, the land shall revert back to its former zoning classification, as set forth in Subsection D(4).
- (4) If the conditions are not satisfied or the restrictions are not established within the specified time period, the Zoning Administrator shall initiate the reversion process, in which the land reverts back to its former zoning classification, in accordance with this subsection. At a public hearing, the Planning Commission shall determine whether the applicant has failed to satisfy the approved conditions, shall state what specific conditions were not met, shall note all comments and reports requested or the absence of such, and shall recommend to the Village Council whether to rezone the land back to its former zoning classification. The Village Council shall make a decision as to the rezoning of the property.

E. Coordination and performance bonds.

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

F. Recording.

- (1) If the Village Council finds the rezoning request and offer of conditions

acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the Village Council to accomplish the requested rezoning.

- (2) The statement of conditions shall:
    - (a) Be in a form acceptable to the Village Attorney and recordable with the Register of Deeds of Ottawa County;
    - (b) Contain a legal description of the land to which it pertains;
    - (c) Contain a statement acknowledging that the statement of conditions runs with the land and is binding upon successive owners of the land;
    - (d) Incorporate, by attachment, any diagrams, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the statement of conditions; and
    - (e) Contain the notarized signature of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the statement of conditions.
  - (3) Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The Village Clerk shall maintain a listing of all lands rezoned with a statement of conditions.
- G. Failure to offer conditions. The Village shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.
- H. Notices and hearing. Rezoning or zoning reversion of land shall require notice of public hearing in accord with § 390-151 hereof.

### **§ 390-151. Hearing and notice procedures.**

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

- A. The notice shall be published once, at least 15 days prior to the date of the public hearing, in a newspaper of general circulation in the Village.
- B. Except as provided in Subsection D of this section, a notice of public hearing shall also be mailed or be delivered to the following persons, at least 15 days prior to the date of the public hearing:
  - (1) The applicant;

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

**§ 390-152. Certificate of zoning compliance.**

- A. No building permit shall be issued for the construction, erection, alteration, expansion, moving or repair of any building or other structure until a certificate of zoning compliance has been issued therefor. Issuance of such a certificate shall indicate that the use and plans for which the permit is requested comply with this chapter.
- B. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure or premises, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure, as permitted under the terms of this chapter, until a certificate of zoning compliance shall have been issued hereunder by the Zoning Administrator. The certificate shall state that the building, structure, and lot and use thereof, conform to the requirements of this chapter.
- C. The Zoning Administrator shall maintain a record of all certificates of zoning compliance.

- D. Certificates of zoning compliance authorize only the use, arrangement and construction set forth in the application and any appended plans, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and is punishable as provided by § 390-154. Any change in approved plans shall occur only as provided for in this chapter and shall require the issuance of an amended certificate of zoning compliance.

**§ 390-153. Performance guarantee.**

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



100% of the cost of installing the required improvements, plus the cost of necessary engineering and a reasonable amount for contingencies.

- (3) The required performance guarantee may be in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Village.
- (4) Upon receipt of the required performance guarantee, the Zoning Administrator shall issue a certificate of zoning compliance for the subject development or activity.
- (5) The Zoning Administrator, upon written request of the obligor, shall rebate portions of the performance guarantee upon determination that the improvements for which the rebate has been requested have been satisfactorily completed. The portion of the performance guarantee to be rebated shall be in the same amount as stated in the itemized cost estimate for the applicable improvement.
- (6) When all of the required improvements have been completed, the obligor shall send written notice to the Village Clerk of completion of said improvements.
  - (a) Thereupon, the Zoning Administrator shall inspect all of the improvements and shall recommend to the Council approval, partial approval, or rejection of the improvements with a statement of the reasons for any rejections. If partial approval is recommended, the cost of the improvement rejected shall be set forth.
  - (b) The Council shall either approve, partially approve or reject the improvements. The Zoning Administrator shall notify the obligor in writing of the action of the Council within 30 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from liability pursuant to relevant portions of the performance guarantee, except for that portion sufficient to secure completion of the improvements not yet approved.
- (7) A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

**§ 390-154. Violations and penalties; enforcement.**

A. Penalties. Any person violating any provision of this chapter shall be responsible for a municipal civil infraction, subject to the general penalty in § 1-2 of the Code of the Village of Spring Lake.

- (1) A separate offense shall be deemed committed upon each day during or when a violation of this chapter occurs or continues.
- (2) The owner of record or tenant of any building, structure, premises, or part thereof, and any agent or person who commits, participates in, assists in, or

maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

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

#### **§ 390-155. Administrative liability.**

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

#### **§ 390-156. Fees and escrow.**

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

ARTICLE XXIII  
**Wind Energy Turbines (WETs)**

**§ 390-183. Purpose.**

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

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

**§ 390-184. Definitions.**

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

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

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

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

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

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

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

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

**OPERATOR, WET** — The entity responsible for the day-to-day operation and

maintenance of a wind energy turbine (WET).

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

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

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

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

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

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

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

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

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

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

**§ 390-185. Applicability.**

This article shall apply to the following:

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

**§ 390-186. Siting and design.**

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

- A. Visual appearance.
  - (1) An SSMWET or STMWET, including accessory buildings and related structures, shall be a solid, nonreflective, nonobtrusive color (e.g., white, gray, black). The appearance of the turbine, tower, and any ancillary facility shall be maintained throughout the life of the SSMWET or STMWET.
  - (2) An SSMWET or STMWET shall not be artificially lighted, except to the extent required by the FAA or other applicable authority, or unless otherwise approved by the Planning Commission.
  - (3) An SSMWET or STMWET shall not be used for displaying any advertising (including flags, streamers, or decorative items), except for identification of the turbine manufacturer and safety-related signage.
- B. Ground clearance. The lowest extension of any blade or other exposed moving component of an SSMWET or STMWET shall be at least 15 feet above the ground (at the highest point of the natural grade within 30 feet of the base of the tower) and, in addition, at least 15 feet above any outdoor surfaces intended for human use, such as decks, balconies or roof gardens, that are located directly below the SSMWET or STMWET.
- C. Noise control.
  - (1) Where an adjacent parcel contains a residential use or parks, schools, hospitals or churches, the noise produced by the SSMWET or STMWET may not

exceed the lowest ambient sound level that exists between the hours of 9:00 p.m. and 9:00 a.m. along any adjacent property line used for such purposes.

- (2) Where no adjacent parcel contains a residential use or other use listed above, the noise produced by the SSMWET or STMWET may not exceed the lowest ambient sound level that exists between the hours of 9:00 p.m. and 9:00 a.m. on the parcel, plus five decibels dB(A).
- D. Vibration. Vibrations shall not be produced which are humanly perceptible beyond the property on which the SSMWET or STMWET is located.
- E. Shadow flicker. The SSMWET or STMWET owner(s) and/or operator(s) shall conduct an analysis on potential shadow flicker at any occupied building with direct line-of-sight to the SSMWET or STMWET. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify situations where shadow flicker may affect the occupants of the buildings for more than 30 hours per year, and describe measures that shall be taken to eliminate or mitigate the problems. Shadow flicker on a building shall not exceed 30 hours per year.
- F. Guy wires. Guy wires shall not be permitted as part of the SSMWET or STMWET.
- G. Height. The total height of a SSMWET shall not exceed 15 feet as measured from the highest point of the roof, excluding chimneys, antennas, and other similar protuberances. The total height of an STMWET shall not exceed 120 feet.
- H. Setback. The setback for an SSMWET shall be a minimum of 15 feet from the lot line, street, private road, or overhead utility lines. The setback shall be measured from the farthest outward extension of all moving parts. The setback for an STMWET shall be at least 150 feet from any front lot line (or rear lot line in the case of a waterfront lot), and shall be set back a distance equal to or greater than the total height of the STMWET, as measured from the base of the tower, from all other lot lines, public or private streets, public easements, or overhead public utility lines.
- I. Separation. If more than one SSMWET is installed on a lot, a distance equal to the total height of the highest SSMWET must be maintained between the base of each SSMWET.
- J. Location. The SSMWET shall not be affixed to the wall on the side of a structure facing a street or private road. A STMWET may only be located in a rear yard of a lot that has an occupied building. A STMWET may be located in a side yard or front yard of a lot that has an occupied building, provided that it is set back at least 150 feet from the front lot line (or rear lot line in the case of a waterfront lot), as measured from the base of the tower.
- K. Quantity. No more than three SSMWETs shall be installed on any lot of residentially zoned or used property. The Planning Commission may allow more SSMWETs on commercially zoned properties if appropriate. No more than one STMWET shall be installed on any residentially zoned or used property. The

Planning Commission may allow more STMWETs if appropriate. The Planning Commission shall consider the size of the lot, the use of the lot, the location of the proposed WETs, the use of and impact upon adjoining lots, and other relevant factors in determining if additional WETs are appropriate. No more than three SSMWETs or one STMWET shall be allowed on any single lot of residentially zoned or used property, unless specifically approved by the Planning Commission.

- L. Electrical system. All electrical controls, control wiring, grounding wires, power lines, and system components shall be placed underground within the boundary of each lot at a depth designed to accommodate the existing land use to the maximum extent practicable. Wires necessary to connect the WET to the tower wiring are exempt from this requirement.
- M. Anemometers. If an anemometer is to be installed prior to, or in conjunction with, an SSMWET or STMWET, it must be done so in accordance with the following provisions:
  - (1) The construction, installation, or modification of an anemometer tower shall require a certificate of zoning compliance and applicable building, electrical or mechanical permits and shall conform to all applicable local, state, and federal applicable safety, construction, environmental, electrical, communications, and FAA requirements.
  - (2) An anemometer shall be subject to the minimum requirements for height, setback, separation, location, safety, and decommissioning of this chapter that correspond to the size of the SSMWET or STMWET that is proposed to be constructed on the site.

### **§ 390-187. Certificate of zoning compliance application requirements.**

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

- A. A site plan (drawn to scale) showing the proposed location of all components and ancillary equipment of the SSMWET(s) and/or STMWET(s), lot lines, physical dimensions of the lot, existing building(s), setback lines, right-of-way lines, public easements, overhead utility lines, sidewalks, nonmotorized pathways, public and private streets, and contours. The site plan must also include adjoining lots as well as the location and use of all structures.
- B. The proposed number, type, and total height of SSMWET(s) and/or STMWET(s) to be constructed; including the manufacturer and model, product specifications including maximum noise output (measured in decibels), total rated generating capacity, dimensions, rotor diameter, and a description of ancillary facilities.
- C. Documented compliance with the noise requirements set forth in this chapter.
- D. Documented compliance with applicable Village, county, state, and federal regulations, including, but not limited to, all applicable safety, construction,



environmental, electrical, communications, and FAA requirements.

- E. Evidence of a net metering agreement with the utility company that contains the customer's intent to install an interconnected, customer-owned generator and that such connection has been approved. Off-grid systems shall be exempt from this requirement.
- F. For STMWET applications, a description of the methods that will be used to perform maintenance on the STMWET and the procedures for lowering or removing the STMWET in order to conduct maintenance.
- G. Verification that the SSMWET or STMWET shall not interfere with communication systems such as, but not limited to, radio, telephone, television, satellite, or emergency communication systems.
- H. Other relevant information as may be reasonably requested by the Village.

**§ 390-188. Safety requirements.**

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

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

properly and safely removed in a timely manner.

**§ 390-189. Decommissioning.**

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

- A. The WET owner(s) or WET operator(s) shall complete decommissioning within six months after the end of the useful life. Upon request of the WET owner(s) or WET operator(s) of the SSMWET or STMWET, and for a good cause, the Zoning Administrator may grant a reasonable extension of time. The SSMWET or STMWET will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of six months; the end of its useful life may also be established by other facts and circumstances determined by the Zoning Administrator. All decommissioning expenses are the responsibility of the WET owner(s) or WET operator(s).
- B. If the WET owner(s) or WET operator(s) fails to complete decommissioning within the period prescribed above, the Village Council may designate a contractor to complete decommissioning with the expense thereof to be charged to the violator and/or to become a lien against the property and added to the next tax statement issued for the property upon which the SSMWET or STMWET is located. If the SSMWET or STMWET is not owned by the lot owner(s), a bond, security deposit or bank letter of credit must be provided to the Village for the cost of decommissioning each SSMWET or STMWET prior to construction.
- C. In addition to the decommissioning requirements listed previously, the STMWET shall also be subject to the following:
  - (1) Decommissioning shall include the removal of each STMWET, buildings, electrical components, and any other associated facilities. Any foundation shall be removed to a minimum depth of 60 inches below grade, or to the level of the bedrock if less than 60 inches below grade.
  - (2) The site and any disturbed earth shall be stabilized, graded, and cleared of any debris by the WET owner(s) or its assigns. The site shall be seeded to prevent soil erosion.
  - (3) All WET applications shall provide a decommissioning plan and performance bonds as necessary by the Village.
  - (4) Legal agreements may be required between the WET owner/operator and the Village to ensure compliance with all decommissioning requirements.

**§ 390-190. Public inquiries and complaints.**

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

## A. Noise complaint.

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

## B. Shadow flicker complaint.

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