

**ARTICLE I  
TITLE, PURPOSE, SCOPE AND LEGAL BASIS**

**SECTION 100. TITLE**

This Ordinance shall be known and may be cited as the "South Haven Zoning Ordinance."

**SECTION 101. PURPOSE**

This Ordinance is based upon the South Haven Comprehensive Plan and is designed 1) to promote the public health, safety and general welfare; 2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; 3) to conserve natural resources and energy, to meet the needs of the State's residents for food, fiber and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; 4) to insure that uses of land shall be situated in appropriate locations and relationships; 5) to avoid the overcrowding of population; 6) to provide adequate light and air; 7) to lessen congestion on the public roads and streets; 8) to reduce hazards to life and property; 9) to facilitate the adequate provision of a system of transportation, sewage and disposal, safe and adequate water supply, education, recreation and other public requirements; 10) to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties. This Ordinance is adopted with reasonable consideration, among other things, of the character of each zoning district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development.

**SECTION 102. SCOPE AND INTERPRETATION**

This Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the City is a party. Whenever any provision of this Ordinance imposes more stringent requirements, regulations, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern. Whenever the provisions of any other law or ordinance imposes more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

**SECTION 103. LEGAL BASIS**

This Ordinance is enacted pursuant to Michigan Public Act 207 of 1921, as amended.

**ARTICLE II  
CONSTRUCTION OF LANGUAGE AND DEFINITIONS**

**SECTION 200. CONSTRUCTION OF LANGUAGE**

Sec. 200. Construction of Language.

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

1. The particular shall control the general.
2. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A "building" or "structure" includes any part thereof.
6. The phrase "used for" or "occupied" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
7. The word "person" includes an individual, a corporation, a partnership, trust, firm, an incorporated association, or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - c. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
9. Terms not herein defined shall have the meaning customarily assigned to them. A dictionary may be consulted.
10. The word "lot" includes the word "plot", "tract", or "parcel".
11. The words "this Ordinance" means the text of this Ordinance as well as all maps, tables, graphics, schedules as included or attached and as enacted or subsequently amended.
12. The "City" is the City of South Haven in the County's of Allegan and Van Buren, State of Michigan; the "Council" is the City Council of South Haven; the Planning Commission is the Planning Commission of the City of South Haven; the Board of Appeals is the Zoning Board of Appeals, Board of Zoning Appeals or "Board" of the City of South Haven.
13. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

14. Where any provision of this Ordinance imposes a greater restriction upon the subject matter than another provision, the provision imposing the greater restriction or regulation shall control.

15. The use of the terms “he” or “his” shall be interpreted as gender neutral and shall be used nonspecifically in reference to gender when found in this ordinance.

sec. 201. Definitions.

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

**Sec. 201.1. “A”.**

**Access:** The right and ability to enter, approach and pass to and from a parcel of property. Also, the physical means to enter and exit property.

**Accessory Use or Accessory:** A use, which is clearly incidental to, customarily found in connection with, and (except in the case of some accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related. When “accessory” is used in this text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

1. Residential accommodations for servants in single-family dwellings.
2. Swimming pools for the use of the occupants of a residence or their guests.
3. Outdoor firepits (permanent or non-permanent), outdoor fireplaces (permanent or non-permanent), or outdoor barbeques (permanent or non-permanent).
4. Domestic or agricultural storage in a barn, shed, tool room, or similar accessory building or other structure.
5. Storage of merchandise normally carried in stock in connection with a business or industrial use unless such storage is excluded in the applicable district regulations.
6. Storage of goods used in, or produced by, industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
7. Accessory off-street parking spaces, open or enclosed, subject to the accessory off-street parking regulations for the district in which the zoning lot is located.
8. Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
9. Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
10. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

**Accessory Building or Accessory Structure:** A building or structure customarily incidental and subordinate to the principal structure whether attached or detached and located on the same zoning lot as the principal building. Except as otherwise provided by this Ordinance, an accessory building or accessory structure shall not be used for human habitation or as a dwelling. As used in Article XVI, an accessory structure shall not have a permanent foundation and shall be constructed to be readily movable or removed. Permanent outdoor firepits and fireplaces or permanent outdoor barbeques are not considered accessory buildings (see Section 1708) but are considered landscaping structures (see Section 1714)

**Adult Entertainment:** See definitions in Section 1510.01. Words defined there include: adult bookstore, adult mini motion picture theater, adult motion picture theater, adult smoking or

sexual paraphernalia store, massage parlor, pool or billiard hall, open dance hall, host or hostess establishment, pawnshop, secondhand store, sauna, hot tub or similar health or body improvement enterprises, pinball or video game arcade or establishment, specified sexual activities, and specified anatomical areas.

Alley: Any public ally owned and dedicated way other than a street, affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alterations: Any change, addition or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed."

Amusement Enterprise – A commercially operated business that offers rides, games and other forms of entertainment, whether permanent or temporary. This definition does not apply to Adult Entertainment Facilities as regulated in Section 1510.01.

Apartments: A suite of rooms or a room in a multiple-family building, including bath and kitchen facilities, arranged and intended for a place of residence of a single family.

Applicant: A person who submits an application under one of the procedures therefore in this Ordinance.

Assisted Living Facility: A facility providing housing for elderly or disabled people that provides nursing care, housekeeping, and prepared meals as needed.

Attached Dwelling: A one-family dwelling attached to two (2) or more one-family dwellings by common vertical walls.

Automobile Repair: The general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting and undercoating of automobiles.

**Sec. 201.2. "B"**

Basement: That portion of a building, which is partly or wholly below finished 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 (see Figure 2-1). A cellar is a basement.

Bed and Breakfast Hotel: An owner-occupied bed and breakfast which has more than ten (10) but less than fifteen (15) sleeping rooms available for transient occupancy, including sleeping rooms occupied by the innkeeper and his/her family, and which may or may not have other commercial facilities for use.

Bed and Breakfast Inn: A single family, owner occupied dwelling unit in which transient guests are provided a sleeping room and board for compensation as an accessory use of the one-family dwelling. A continental or American breakfast, lunch, and/or dinner may be served to overnight guests only. A bed and breakfast inn has ten (10) or less sleeping rooms available for transient occupancy, including sleeping rooms occupied by the innkeeper and his/her family.

Bedroom: A room intended for sleeping or placement of a bed, separated from other spaces in the dwelling unit by one or more functional doors. The following spaces, which must be included in every dwelling unit, do not qualify as bedrooms: (1) kitchens; (2) dining areas; and (3) gathering spaces such as family rooms, dens, or living rooms.

Benefit, Recognizable and Substantial: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonable foreseeable detriments of the proposed development and use(s), including, without limitation: long-term protection and/or

preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis; reducing to a significant extent the nonconformity of a nonconforming use or structure so that, to a significant extent, it is rendered more conforming, or less offensive, to the zoning district in which it is situated.

Berm: A mound of earth graded, shaped, and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes to provide a transition between uses of differing intensity.

Billboard: See definition in Section 2000.1.

Block: The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating); or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development, or corporate boundary lines of the municipality.

Bluffline: The line that is the edge or crest of the elevated segment of the shoreline above the beach or riverbank, which normally has a precipitous front.

inclining steeply on the shoreline side. Where no elevated segment of the shoreline exists, the bluffline shall be determined as the line of continuous, perennial vegetation nearest the water.

Boarding House/Rooming House: A structure in which furnished rooms, or apartments, are let to lodgers on a temporary basis.

Buffer Strip: A strip of land reserved for plant material, berms, walls, or fencing to serve as a visual and/or sound barrier between properties, often between abutting properties and properties in different zoning districts. Landscaping, berms, fencing, or open space can also be used to buffer noise, light and related impacts from abutting properties even if not in a separately established buffer strip and may be so required by this Ordinance.

Building: Any structure, either temporary or permanent, having a roof supported by columns, walls or other supports, and used or intended for the shelter or enclosure of persons, animals, chattels, or property of any kind, or for the conduct of business. The definition includes but is not limited to: mobile homes, tents, inflatable structures, sheds, garages, greenhouses, and other principal and accessory buildings.

Building Inspector: The City of South Haven Building Inspector or the Code Enforcement Officer.

Building, Principal (same as Main Building): A building in which is conducted the main or principal use of the lot upon which it is situated.

**Sec. 201.3. "C"**

Campground: A parcel or tract of land under the control of a person in which sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units.

Campsite: An area designated for the exclusive, temporary use of a single recreational unit.

Carry-out Food Establishment: A business establishment so developed that its retail or service character is dependent upon the preparation of food for consumption off the premises.

**Carport:** A partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to garages.

**Cemetery:** Property, including crematories, mausoleums, and/or columbariums, used, or intended to be used solely for the perpetual interment of deceased human beings or customary household pets.

**Certificate of Occupancy:** A document signed by the Building Inspector as a condition precedent to the commencement of a use or the occupancy of a structure or building, which acknowledges that such use, structure, or building, complies with the provisions of the Building Code.

**Certificate of Zoning Compliance:** A document signed by the Zoning Administrator as a condition precedent to the commencement of a use or the occupancy of a structure or building, which acknowledges that such use, structure, or building, complies with the provisions of the Zoning Ordinance.

**Change of Use:** A use of a building, structure, or parcel of land, or portion thereof, which is different from the previous use in the way it is classified in this Ordinance or in the Building Code, as amended.

**Changeable Message Board:** A sign which identifies a business, institution or organization on the premises of which it is located and which contains the name of the business, institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages such as products on sale, the price of a product or a special service opportunity.

**Club:** An organization of persons or a group of persons associated for a common purpose or a special purpose for promotion or engaging in sports, recreational and social activities, arts, sciences, literature, politics or the like, but not operated for profit and open only to members and not to the general public.

**Communication Tower:** A radio, telephone or television relay structure including but not limited to monopole, skeleton framework, or other design which is attached directly to the ground or to another structure, used for the transmission or reception of radio, television, microwave, or any other form of telecommunications signals.

**Comprehensive Plan:** The plan adopted by the Planning Commission pursuant to Public Act 33 of 2008, as amended, including text, maps and graphic proposals indicating the general location for streets, parks, schools, public buildings, and all physical development of the municipality, the relationship of land uses to one another, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

**Condominium Project:** Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59 of the Public Acts of 1978).

**Condominium Master Deed:** See Master Deed.

**Condominium Subdivision:** A division of land on the basis of condominium ownership, pursuant to the Condominium Act and which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended.

**Condominium Subdivision Plan:** The drawings attached to the master deed for a condominium subdivision which describe the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

**Condominium Unit:** Means that portion of a condominium project or condominium subdivision which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. The owner of a condominium unit also owns a share of the common elements. The term "condominium

unit” shall be equivalent to the term “lot”, for purposes of determining compliance of the site condominium subdivision with the provisions of this Ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

**Conflict of Interest:** Participation by a member of the Zoning Board of Appeals, Planning Commission, or City Council in a public hearing, lobbying, or voting on a matter in which the property in question is owned, leased, rented or is proposed to be developed by the member; is owned or is to be developed by a relative, boss or close friend of the member; or involves a party with whom the member shares a financial interest, such as a partner, borrower, lender, renter or investor; or is property which abuts or is near property owned by the member and the member does not feel he/she can objectively evaluate the request and vote in an unbiased manner. This definition applies to any matter being decided under the Zoning Ordinance. Charter provisions or conflict of interest provisions in other Ordinances shall guide other decisions unless the City Attorney or a Court of Law rules otherwise.

**Convalescent or Nursing Home:** A structure whose principal purpose is the provision of sleeping, eating and gathering rooms where persons afflicted with illness, injury, or an infirmity are housed or lodged, often for extended periods of time, and who are furnished with meals and nursing care.

**Compensation:** Money or other consideration given in return for services, or for the right to occupy or possess a property.

**Sec. 201.4. “D”.**

**Day Care Center (Child Care Center):** A facility, licensed by the State of Michigan, 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, which 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:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious institution where children are in attendance for not greater than 3 hours per day for an indefinite period, or not greater than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious institution where children are cared for while persons responsible for the children are on the premises.

**Day Care (Family, Home):** A licensed day care center as an accessory use in a private home in which at least 1 but less than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

**Day Care (Group, Home) or Day Nursery:** As defined in PA 116 of 1973, MCL 722.111, a “group day care home” means a licensed day care center in a private home as an accessory use in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

**Day Care (Private, Home):** A private residence in which a day care center operator licensed by the State of Michigan permanently resides as a member of the household, which

residency shall not be contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home.

Deck: An unroofed structure, generally with a pole or pier foundation, used for outdoor living purposes which may or may not be attached to a building and which protrudes more than four (4) inches above the finished grade. (See Section 1722.)

Deed Restriction: A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the County Register of Deeds. It is binding on subsequent owners and is sometimes also known as a restrictive covenant. Unless the City has an ownership interest in the property, a deed restriction is enforced by the parties to the agreement, not by the City.

Density: The number of dwelling units situated on or to be developed on a net acre (or smaller unit) of land, which shall be calculated by taking the total gross acreage and subtracting the area in rights-of-way for streets and roads. (See Figure 2-6 and definitions of Lot Area, Gross and Lot Area, Net).

Detached Dwelling: A dwelling that is not attached to any other dwelling by any means.

Development: A parcel of land with one or more structures and a legal use.

District (or Zone): A portion of the incorporated area of the municipality within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.

Drive-in: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Drive Through: A type of accessory service provided by a business that allows customers to purchase products or food without leaving their cars.

Driveway: A means of access for vehicles from a street or approved alley across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot, that is located and constructed in accordance with the requirements of this Ordinance and any other requirements of the City, the County Road Commission or State of Michigan (depending on which entity exercises authority over the street from which driveway access is derived).

Dwelling: A building containing one or more dwelling units.

Dwelling Unit: A building or portion thereof that is designed for human occupancy and provides complete living facilities, including permanent provisions for sleeping, eating, cooking and sanitation.

Dwelling, One-Family: A dwelling unit designed for occupancy by one (1) family; also known as a single-family dwelling.

Dwelling, Two-Family: A building containing two (2) dwelling units designed for occupancy by two (2) families living independently of each other; also known as a duplex. A structure with two independent housekeeping units with independent entrances and independent cooking, eating, living, sleeping and sanitary facilities shall be considered a two-family dwelling, unless there is a shared common living area joining the housekeeping units.

Dwelling, Multiple-Family: A building or a portion thereof, designed for occupancy of three (3) or more families living independently of each other. A structure with three or more independent housekeeping units with independent entrances and independent cooking, eating, living, sleeping and sanitary facilities shall be considered a multiple-family dwelling, unless there is a shared common living area joining the housekeeping units.



**Sec. 201.5. “E”.**

Easement: An interest in land that entitles its holder to the limited use of another’s property for a specified purpose.

Easement: A duly recorded interest in land that entitles its holder to the limited use of another’s property for a specified purpose.

Efficiency Unit: A dwelling unit consisting of one (1) room and having such facilities as kitchen, closets, bathrooms, and hallways in or immediately adjoining such room.

Erected: The word “erected” includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises, which are required for a building or structure. Excavation, fill, drainage, and the like, shall be considered a part of erection when done in conjunction with a structure.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems; collection, telephone, communication, supply or disposal system; including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants in connection therewith which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, convenience or welfare of the public, but not including towers, or office buildings, substations, or structures which are enclosures or structures for service equipment, or maintenance depots.

Excavation: Any breaking of ground, except common household gardening and ground care.

**Sec. 201.6. “F”.**

Family: One or two persons or parents, with their direct lineal descendants and adopted or foster children (and including the domestic employees thereof) together with not more than three (3) persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.

Farm: The pursuit of any agricultural activity or the raising of livestock or small animals.

Fence: An accessory structure artificially constructed as a barrier and made of wood, metal, stone, brick, or various manufactured materials, which is usually erected, for the enclosure of yard areas.

Flood Related Definitions: See Section 1612. Words defined there include area of special flood hazard, base flood, development, flood or flooding, floodplain, floodway, flood insurance rate map, flood insurance study, substantial improvement, variance.

Floor Area, Usable (For the purposes of computing parking): That area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers. Such floor area which is used, or intended to be used, principally for the storage or processing of merchandise, hallways, stairways, elevator shafts, restrooms, janitorial services, or for utilities or sanitary facilities shall be excluded from this computation of “Usable Floor Area.” Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Frontage: The total continuous length of the front lot line. (See also Lot, Front Lot Line.)

**Sec. 201.7. “G”.**

Garage, Private: An accessory building or accessory portion of a main building designed or used solely for the storage of motor-driven vehicles, boats, motor homes, snowmobiles and similar vehicles owned and used by the occupants of the building to which it is accessory.

Gasoline Service Station: A place for the dispensing, sale or offering for sale of motor fuels

directly to users of motor vehicles, together with the sale and installation of minor accessories and services for motor vehicles, including but not limited to oil, grease, batteries, tires, other operational fluids and minor accessories for automobiles, but not including major automobile repair.

Grade, Average: The arithmetic average of the lowest and highest grade elevations in an area within five (5) feet of the foundation line of a building or structure (see Figure 2-3).

Grade, Finished: The lowest point of elevation between the exterior wall of the structure and a line five (5) feet from the exterior wall of the structure.

Grade, Natural: The elevation of the ground surface in its natural state, before man-made alterations.

Group Day Care Facilities (Large): A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than twenty-four (24) hours a day and for not less than two (2) consecutive weeks and where the parents or guardians are not immediately available to the child.

**Sec. 201.8. "H"**

Hazardous Substance: means one of the following:

1. A chemical or other material, which is or may become injurious to the public health, safety, or welfare or to the environment.
2. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, Public Law 96-510, 94 Stat. 2767.
3. "Hazardous waste" as defined in the Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.11103.
4. "Petroleum" as defined in the Natural Resources and Environmental Protection Act of 1994, as amended, MCL 324.21303(d)(ii).

Height (Building): In the case of a principal building, the vertical distance measured from the average grade of the site to the highest point of the roof (see Figure 2-2). A cupola, widow's watch, or tower that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features. The measurement of the height of an accessory building or structure shall be determined as the greatest vertical distance from the average finished grade of any side to the highest point of the roof surface (see also Section 1708(5) and Section 1732). Average grade shall be determined by a topographic survey if lot variation is ten (10) feet or greater.

High Risk Erosion Area: An area of shoreline which is determined by the Department of Environmental Quality on the basis of studies and surveys to be subject to erosion and which is designated as such pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended.

Home Occupation: An occupation or profession customarily carried on by an occupant of a dwelling unit as an accessory use, which is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Hotel (or Motel): A building or group of buildings, whether detached or in connecting units, used as temporary individual sleeping units designed primarily for travelers and providing for accessory off-street parking facilities. The term hotel shall include buildings designated as auto courts, hotels, tourist courts, motor courts, motor hotel, and similar appellations. A hotel shall not be considered or construed to be a multiple family dwelling or a Bed and Breakfast Inn or Bed and Breakfast Hotel. Hotels may include restaurants, meeting spaces, ballrooms and banquet halls.

Human Habitation: A place in which a human being lives; a place of abode.

**Sec. 201.9. “I”.**

Improvements: Those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of the City

and future users or inhabitants of the proposed project area, including, but not limited to roadways, lighting, utilities, sidewalks, screening, drainage, parking areas, and landscaping.

**Sec. 201.10. “J”.**

Junk: For the purpose of this Ordinance, the term “junk” shall mean any motor vehicles, machinery, appliances, products, or merchandise with parts missing, scrap metals or other trash, rubbish, refuse, or scrap materials that are damaged or deteriorated. It includes any inoperable or abandoned motor vehicle which is not licensed for use upon the highways of the State of Michigan for a period in excess of thirty (30) days, unless it is actively in the process of rehabilitation as an antique car, and shall also include whether so licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of thirty (30) days and which is not in a completely enclosed building. It does not include domestic refuse if stored so as to not create a nuisance and is thirty (30) feet or more from any residential structure for a period not to exceed seven (7) days. It also includes any other material so determined to be “debris” pursuant to Ordinance #731, Section 30-91 of the Code of Ordinances of the City of South Haven.

Junk Yard: An area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. A “Junk Yard” includes automobile salvage yards and includes any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk.

**Sec. 201.11. “K”.**

Kennel, Commercial: Any lot or premise on which five (5) or more dogs, cats, or other household pets four (4) months of age or older, are either permanently or temporarily boarded for remuneration, breeding, training, transfer or for sale purposes. This definition shall include the term “doggy daycare”.

**Sec. 201.12. “L”.**

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.

Lodging Rental: A lodging unit secured for transient or temporary occupancy for compensation, which may include but is not limited to, daily fees for a hotel room, motel room, bed and breakfast room, or residential dwelling unit rented for a period of less than 48 hours. (See Section 1738).

Landscaping structure: A structure intended as exterior decoration or personal enjoyment, often associated with plantings, gardening, relaxation, permanent outdoor firepits, or permanent outdoor fireplaces, or a permanent barbeque which are open to the sky or contain some sort of chimney covering, and do not support either a floor or a closed roof to a defined principal or accessory structure. Examples of which include but not limited to an arbor, gateway arbor, shade arbor, trellis, retaining wall, raised garden bed, ornamental fence post, pillar, monument or statue, permanent outdoor fireplace, permanent outdoor firepit, or permanent outdoor barbeque.

Lodging Unit: A hotel, motel, and bed and breakfast room or suite, which is used for temporary or transient lodging in exchange for compensation. Additionally, any residential dwelling unit rented for a period of less than 48 hours, or offered or advertised as a daily rental, shall be considered a lodging unit, and its use shall not be classified as a residential

use. (See Section 1738).

**Lot:** Land described in a recorded plat or by metes and bounds description, including a condominium unit in a site condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage and buildable area requirements of this Ordinance, and having its principal frontage upon a public street or on a private road approved by the City (see Figure 2-4). A lot may or may not be specifically designated as such on public records. A lot may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) any combination of complete and/or portions of contiguous lots of record; or (d) a parcel of land described by metes and bounds, provided that in no case of a lot division or combination shall the width or depth of any lot or parcel created including residuals be less than that necessary to comply with the requirements of this Ordinance.

**Lot Area.** The area of a horizontal plane contained within the lot lines and right of way lines of a parcel, not including any area within a public right of way, or the 100 year Flood Plain as established by the Flood Insurance Rate Map promulgated by the Federal Emergency Management Agency as referenced within Section 1613.

**Lot, Corner:** A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred and thirty-five (135) degrees.

**Lot Coverage:** The amount of a lot, stated in terms of percentage, which is covered by all buildings, and/or structures located thereon. This shall be deemed to include all buildings, roofed porches, arbors, breezeways, patio roofs, whether open box types and/or lathe roofs, or fully roofed, but shall not be deemed to include fences, walls, or hedges used as fences, unroofed decks (four inches or less above the finished grade) or patios or swimming pools. Lot coverage shall be measured from the drip line of the roof or from the wall or foundation if there is no projecting portion of the roof.

**Lot, Depth of:** The average distance from the front lot line of the lot to its opposite rear line measured in the general direction of the side lines of the lot (see Figure 2-5).

**Lot, Flag:** A lot whose access to the public street is by a narrow, private right-of-way that is either a part of the lot or an easement across another property. See Figures 2-4 and 2-7.

**Lot Frontage:** The length of the front lot line.

**Lot, Interior:** Any lot other than a corner lot, which, with the exception of a "through lot", has only one lot line fronting on a street (see Figure 2-4).

**Lot Lines:** The lines bounding a lot as defined herein and illustrated on Figure 2- 7:

1. **Front Lot Line:** In the case of an interior lot, that line separating said lot from the street, private road, or other access easement. In the case of a through lot, that line separating said lot from either street, private road, or other access easement. (See Section 1715). (Amended 1/17/85; Ord. No. 663)
2. **Rear Lot Line:** That lot line opposite the front lot line. In the case of a through lot or a lot having frontage on more than one street, the line, which is opposite, the street address selected by the owner. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line at least ten (10) feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line. (Amended 1/17/85; Ord. No. 663)
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating

a lot from another lot or lots is an interior side lot line.

**Lot of Record:** A lot which is part of a subdivision and is shown on a plat, or a parcel of land, the dimensions of which are shown on a document or map, or a parcel of land described by survey or metes and bounds which is the subject of a deed or land contract and, in all three cases, that was legally created and legally existing at the effective date of this Ordinance, February 3, 1983, as such lot was depicted and dimensionally configured on such date, and is on file with the County Register of Deeds, or in common use by municipal or county officials and which actually exists as so shown, or any part of such parcel held in an record of ownership separate from that of the remainder thereof. For the purposes of Article XVI, a lot of record only includes lots, which predate the effective date of the high-risk erosion designation.

**Lot, Through:** Any interior lot having frontage on two more or less parallel streets as distinguished from a corner lot (see Figure 2-4). In the case of a row of through lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

**Lot, Waterfront:** A lot having a property line abutting the Black River and/or Lake Michigan.

**Lot Width:** The horizontal straight-line distance between the side lot lines, measured between the two points where the line establishing the setback for the front yard intersects the side lot lines.

**Lot, Zoning:** A single tract of land, located within a single block, which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this Ordinance with respect to area, size, dimensions, and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the County Register of Deeds, but may include one or more lots of record.

**Sec. 201.13. "M".**

**Main Building:** A building in which is conducted the principal use of the lot upon which it is situated.

**Major Thoroughfare:** A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary function the provision of access to abutting property. A street with a nonresidential character.

**Marina:** A boat basin with facilities for berthing and securing all types of recreational craft, providing adequate supplies, provisions and service and fueling facilities, and repair and storage of boats.

**Marine Terminal:** A dock, pier, landing, structure, or property, which provides access from land to a water, based business.

**Master Deed:** The document recorded as part of a condominium subdivision to which are attached as exhibits and incorporated by reference the approved bylaws for the condominium subdivision and the condominium subdivision plan.

**Mezzanine:** An intermediate floor in any story occupying not to exceed one-third (1/3) of the floor area of such story.

**Minor Thoroughfare:** A public street identified as a secondary street or road on Figure 2-8.

**Mobile Home:** A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term mobile home shall not include pick-up campers, travel trailers, motor homes, modular homes, recreational vehicles, recreational unit, converted buses, tent trailers, or other transportable structures designed

for temporary use.

**Mobile Home Park:** A parcel or tract of land under the control of a person upon which 3 or more mobile homes are located on a continual, nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home.

**Mobile Home Site:** An area designated for the exclusive use of a single mobile home or recreational unit.

**Modular (Pre-Manufactured) Housing Unit:** A dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a single-family dwelling unit, and meeting all codes and regulations applicable to conventional single-family home construction.

**Motel:** See definition of Hotel.

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

**Moveable Structure, Easily:** An accessory structure, which is smaller than two hundred twenty-five (225) square feet; is not built on a slab; does not have a permanent foundation; and is easily removable.

**Moveable Structure, Readily:** A small permanent structure (greater than two hundred twenty-five square feet and less than three thousand five hundred square feet) which is designed, sited, and constructed to accomplish relocation at a reasonable cost relative to other structures of the same size and construction. Access to and from the site shall be of sufficient width and acceptable grade to permit the structure to be relocated. New construction and installations shall meet the following criteria to be considered readily moveable structures:

1. The buildings shall be on pilings, a basement, or crawl space. Except as noted below, a slab-on-grade foundation does not meet this criterion.
2. Above-grade walls shall be stud wall construction. Above-grade walls that are constructed of masonry, including stone walls, concrete poured or concrete block walls, and brick veneer walls do not meet this criterion.

Existing permanent structures shall be considered readily moveable structures if the cost of relocation landward of the required setback distance is not more than 25% of the replacement cost of the structure (including any added cost of land) or if the existing structure meets the criteria for new construction in this subdivision. A 1- or 2-car garage which is bolted to a slab foundation, which does not have living space within or above the structure, and which does not have plumbing or interior walls shall be considered a readily moveable structure if it meets the remainder of the requirements specified in this subdivision. Septic systems, tile fields, or other waste-handling facilities are not readily moveable structures.

**Municipality:** The City of South Haven, Michigan.

**Sec. 201.14. "N"**

**Nonconforming Building:** A building or portion thereof that does not conform to the provisions of this Ordinance in the district in which it is located.

**Nonconforming Lot:** A lot that does not conform to the area and/or dimensional provisions of this Ordinance in the district in which it is located.

**Nonconforming Lot of Record:** A lot legally created and legally existing at the effective date of this Ordinance, February 3, 1983, that does not conform to the area and/or dimensional provisions of this Ordinance in the district in which it is located.

**Nonconforming Structure:** A structure or portion thereof that does not conform to the provisions of this Ordinance in the district in which it is located. Within Article XVI, it means a permanent structure which does not conform to the required setback distance at the time of high-risk erosion area designation or which became nonconforming due to erosion or became nonconforming due to a change in the required setback distance. Permanent structures that are constructed within the High Risk Erosion Overlay Zone in violation of the requirements of Article XVI shall not be considered to be nonconforming structures.

**Nonconforming Use:** A use that does not conform to the use provisions of this Ordinance in the district in which it is located.

**Nuisance:** An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things such as, but not limited to noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people (particularly at night), passenger traffic, and invasion of nonabutting street frontage by traffic.

**Nursery, (Plant Materials):** A space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building, or structure used for the sale of fruits, vegetables, or Christmas trees.

**Sec. 201.15. "O".**

**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 (3) vehicles.

**Open Air Business:** A business where the goods offered for sale are displayed outside a building. Buildings on the property shall be incidental and used for office space only. This definition does not include seasonal open air businesses as regulated in Section 1731.

**Open Space, Common:** An area of land in a development, the use of which is limited to landscaping, conservation and recreational purposes and which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development, or by others if so authorized by this Ordinance or other municipal action.

**Open Space, Dedicated:** Common open space dedicated as a permanent recorded easement, or other means of permanent dedication that runs with the deed.

**Ordinary High Water Mark:** The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Pursuant to the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 325, formerly the Great Lakes Submerged Lands Act, P.A. 247 of 1955, as amended, the ordinary high water mark for Lake Michigan is 580.5 feet

above sea level, International Great Lakes Datum of 1985.

**Outdoor Barbeque (Permanent):** An outdoor structure that has been permanently constructed or affixed to a foundation or pad, which may be solid fuel or gas burning, and constructed of steel, concrete, clay, or other noncombustible material. A permanent outdoor barbeque may be open in design or may be equipped with removable or retractable covering of noncombustible material. An outdoor barbeque is used for the private use of the property owner or the property owners' guests for cooking food for consumption.

**Outdoor Firepit (Permanent):** An outdoor structure that has been permanently constructed by the property owner which may be located on or recessed in the ground. A permanent

outdoor firepit is a propane, natural gas, or seasoned wood burning structure that may be constructed out of steel, concrete, clay, or earthen material in nature. The structure may not have a burning area larger than three feet a side or nine (9) square feet and have a depth no greater than two (2) feet. A permanent outdoor firepit is open in design and is intended for the private use of the property owner or the property owner's guests for cooking food for consumption or recreational enjoyment.

Outdoor Fireplace (Permanent): An outdoor structure that is solid fuel or gas burning that has been permanently constructed out of steel, concrete, clay, or other noncombustible material. An outdoor fireplace may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top. A permanent outdoor fireplace is intended for the private use of the property owner or the property owner's guests for recreational enjoyment.

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

**Sec. 201.16. "P"**

Parcel: A lot described by metes and bounds or described in a recorded plat, or as used in Article XVI, a continuous area or acreage of land, which is under the same ownership at the time of the high-risk erosion area designation.

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

Parking Spaces: An area of definite length and width used for the parking of a motor vehicle. Said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Permanent Foundation: As used in Article XVI, a foundation for a structure that includes all frost-free foundations as regulated by the building code as well as concrete block, poured concrete, and slabs or other materials used to support the walls of a building, even if they do not extend down below the frost free line.

Permanent Outdoor Barbeque: See Outdoor Barbeque (Permanent)

Permanent Outdoor Fireplace: See Outdoor Fireplace (Permanent)

Permanent Outdoor Firepit: See Outdoor Firepit (Permanent)

Permanent Structure: As used in Article XVI, any one (1) of the following structures that is erected, installed, or moved on a parcel of property:

1. A residential building.
2. A commercial building.
3. An industrial building.
4. An institutional building.
5. A mobile home.
6. Accessory and related buildings.
7. Permanently constructed landscape structures including, but not limited to outdoor barbeques, outdoor fireplaces, and outdoor firepits.
8. Septic systems.
9. Tile fields.
10. Other waste handling facilities.



A permanent structure shall be considered small if it has a foundation size of three thousand five hundred (3,500) square feet or less and less than five (5) individual living units. All other permanent structures shall be considered large. The term does not include recreational vehicles, travel trailers, or other recreational units. The term also does not include accessory structures, which have less than two hundred and twenty-five (225) square feet, which are used for picnicking, storing of recreational, or lawn equipment, and which are constructed in a manner that facilitates easy removal. The accessory structure shall not have a permanent foundation and shall not be used as a residential facility.

Person: Means an individual, partnership, association, trust, or corporation, or any other legal entity or combination of legal entities.

Personal Service Business - A business or use which provides routine and common service to the public including, but not necessarily limited to, barber shops, hair salons, dry cleaners, tailors, shoe repair and craftsman, not including the sale of products except where incidental to the principal service-oriented use.

Planned Shopping Center – A group of architecturally unified commercial facilities and parking on a site that is centrally owned or managed, designed and operated as a unit.

Planned Unit Development: A tract of land or lot, developed under single ownership or management as a separate neighborhood or community unit. The development shall be based on an approved site plan, which allows flexibility of design not available under normal zoning district requirements. The plan may contain a mixture of housing types, common open space, and other land uses as provided in this Ordinance.

Plat: A map of a subdivision of land recorded with the County Register of Deeds pursuant to Public Act 288 of 1967, or a prior statute.

Plot Plan: A drawing showing the proposed placement of a new building, dwelling structure or use, or an addition to a building, structure, or use on a parcel of land. See Section 2102.

Porch: A roofed open area, which may be screened, usually attached to or part of and with direct access to or from a building. A porch becomes a room when the enclosed space is heated or air-conditioned and when the percentage of window area to wall area is less than fifty (50) percent.

Principal Structure: As used in Article XVI, the main building on a lot or parcel, including but not limited to, residential, commercial, industrial, institutional structures and mobile homes. In the high-risk erosion areas described in this Ordinance, principal structure also includes septic systems, tile fields, any on-site waste handling facility, garages and any other building designed and intended for permanent use.

Principal Use: The primary or predominant use of any lot or parcel of land.

Private Road: A private way or means of approach, other than an alley, right-of-way or easement, providing access to two (2) or more abutting lots, and which is constructed and maintained by the owner or owners and is not dedicated for general public use.

Professional Service Business - Businesses of an executive, administrative, or professional nature, including but not necessarily limited to, certified public accountants, engineers, chiropractors, dentists, osteopaths, physicians and surgeons, podiatrists, chiropodists, architects, attorneys at law, physical therapists, and life insurance agents.

Public Facilities: Public facilities include, but are not limited to parks, administrative offices, fire and police facilities, libraries, museums, recreational centers, indoor and outdoor storage areas for materials, public equipment and buildings for essential public services (including but not limited to electric substations, telephone substations, gas regulator stations). Public schools providing K-12 or post high school education are not included as public facilities in this Section (see Section 1510.31).

Public Utility: A person, firm or corporation, municipal department, board or commission,

duly authorized to furnish and furnishing under federal, State, or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telephone, telegraph, transportation, or water.

**Sec. 201.17. "Q"**

Reserved.

**Sec. 201.18. "R"**

Ramp: A sloping walkway, roadway, or passage used to join and provide a smooth transition between two levels of different elevation, including between land and water at a boat-launching site.

Recession Rate: A quantitative measure of the landward movement of the zone of active erosion determined on the basis of the shoreland erosion studies conducted under the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended, and expressed in terms of an annual average rate.

Recreation Center - A publicly or privately owned business which is open to the public where meetings are held, sports are played and activities made available for diverse ages and capabilities.

Recreational Unit: A tent or vehicular-type structure, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle, which is self, powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors.

Recreational unit includes but is not limited to the following:

1. Travel trailer, which is a vehicular portable structure, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a vehicle, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use.
2. Camping trailer, which is a vehicular portable structure, mounted on wheels and constructed with collapsible partial sidewalls of fabric, plastic, or other pliable material which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
3. Motor home, which is a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.
4. Truck camper, which is a portable structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.
5. Truck camper, which is a portable structure designed to be loaded onto, or affixed to the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use. Truck campers are of two (2) basic types:
  - a. Slide-in camper, which is a portable structure designed to be loaded onto and unloaded from the bed of a pickup truck, constructed to provide temporary living quarters for recreational, camping, or travel use.
  - b. Chassis-mount camper, which is a portable structure designed to be mounted on a truck chassis, and constructed to provide temporary living quarters for recreational, camping, or travel use.
6. Boats, or other recreational units, which have the characteristics of the definition of recreational unit but are not listed above.

Recreation Uses: shall include, but need not be limited to, the following:

- a. Miniature golf.
- b. Animal racing, go-cart, automobile or motorcycle tracks.
- c. Amphitheaters.
- d. Amusement and water parks.
- e. Airgun or survival games.
- f. Amusement parks
- g. Resorts
- h. Fairgrounds
- i. Batting cages
- j. Ski slope
- k. Skate board park
- l. Flea markets
- m. Uses similar to the above uses
- n. Uses accessory to the above uses, such as refreshment stands, retail shops selling items related to the above uses, maintenance buildings, office for management functions, spectator seating and service areas, including locker rooms and rest rooms.

Religious Institution: Building wherein persons regularly assemble for religious prayer and worship and which is maintained and controlled by a religious body organized to sustain public religious activities, together with all accessory buildings and uses customarily associated with such primary purposes.

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

Required Setback Distance: As used in Article XVI, the least distance a permanent structure can be constructed from the bluffline without a special exception.

Residence Hotel: A building, or part of a building, with a common entrance or entrances, in which rooms are rented primarily for long term occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial or desk service, bellboy service and meals in a common eating area. A residence hotel may include a restaurant, or cocktail lounge, public banquet halls, ballrooms or meeting rooms and recreational facilities. A residence hotel is a type of hotel.

Resort: A place of typically seasonal entertainment, recreation, and/or lodging. Resort lodging, if provided, may include hotels, motels, single or multiple-family residential dwelling units, cottages, campgrounds, bed and breakfasts, or some combination, as regulated by appropriate sections of this Ordinance.

Restaurant: An establishment where food is prepared and served for consumption within the principal building, with or without carry-out services.

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

Retail Businesses – Businesses selling goods or commodities in small quantities directly to consumers. This definition does not include wholesale distributors.

Right-of-Way: A street, alley, or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

**Sec. 201.19. "S"**

Satellite Antenna: See Definition in Section 1729.1.

**Seasonal Mobile Home Park:** A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual or temporary basis but

occupied on a temporary basis only, and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home. Seasonal mobile home park does not include a campground licensed pursuant to sections 12501 to 12516 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.12501 to 333.12516 of the Michigan Compiled Laws.

**Setback:** The distance required to obtain minimum front, side or rear yard open space provisions of this Ordinance.

**Setback Line:** As used in Article XVI, the line which is the required setback distance landward of the bluffline and which is the lakeward limit for the construction of permanent structures without a special exception.

**Screen:** A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be non-structural, consisting of shrubs or other growing materials.

**Shoreland:** The land, water and land beneath the water, which is in close proximity to the shoreline of Lake Michigan.

**Shoreline:** That area of shorelands where land and water meet.

**Shore Protection Structure:** Any structural or physical method used to control shoreland erosion processes. Shore protection structures include, but are not limited to, structures such as seawalls, revetments or bulkheads, and may also include any type of beach nourishment by filling.

**Short-term Rental Activity:** The rental of a dwelling unit for compensation for a term of 2 nights to 29 nights. However, operation of the following facilities shall not be considered short-term rental activity:

- a. Transitional houses operated by a charitable organization;
- b. Group homes such as nursing homes and adult-foster-care homes;
- c. Substance-abuse rehabilitation clinics;
- d. Mental-health facilities; and
- e. Other similar health-care related facilities.

**Short-term Rental Business Unit:** A zoning use consisting of a residential dwelling unit that may be rented for more than 6 short-term rental terms and more than 28 days in a calendar year. (Subject to regulations as provided in Section 1743).

**Short-term Rental Personal Unit:** A zoning use consisting of a residential dwelling unit that may be rented for no more than 6 short-term rental terms and nor more than a total of 28 days in a calendar year. (Subject to regulations as provided in Section 1744).

**Short-term Rental Term:** The duration of a rental contract (including any sublease) with a renter or group of renters. A rental term shall be deemed to end when there is a complete turnover in occupancy in the dwelling unit, or when the individual on the rental contract vacates the dwelling unit.

**Sign:** Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to communicate information of any kind to the public. House numbers, addresses, and name plates not exceeding two square feet shall not be considered signs. Definitions of specific types of signs are found in Section 2001.

**Site Condominium Subdivision:** Means a condominium subdivision which includes units with building envelopes or which grants the owner the right to construct a structure.

**Site Plan:** A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this

Ordinance. A plot plan depicts a subset of the information required by this Ordinance for a site plan (see Article XIV).

Special Land Use: A use of land whose characteristics may create a nuisance or nuisance-like impacts on adjoining lands unless carefully sited according to standards established in this Ordinance (see Article XV). Approval for establishing a special land use is indicated by issuance of a Special Use Permit.

Special Use Permit: A permit issued by the City Planning Commission to a person or persons intending to undertake the operation of an activity upon land or within a structure specifically permitted as a special land use pursuant to standards and procedures established in Article XV.

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

Story: That part of a building, except a mezzanine as defined herein included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall not be counted as a story (see Figure 2-1).

Street: A public owned and dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

Structure: Anything fabricated, constructed or erected, the use of which requires fixation or placement in, on or attachment to something having location on the ground including but not limited to all buildings, independently supported decks, satellite dishes and free-standing signs; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities defined as essential public services.

Subdivision: The division of a lot, tract, or parcel of land into more lots for the purpose of sale or development, and subject to the requirements of Public Act 288 of 1967, as amended, this Ordinance and the requirements of Chapter 78 of the Code of Ordinances of the City of South Haven.

Substandard Lot or Parcel: Also known as “nonconforming” lot or parcel. A lot or parcel of record or a lot or parcel which is described in a land contract or deed that is executed and delivered before the designation of a high risk erosion area and which does not have adequate depth to provide the required setback distance from the bluffline for a permanent structure. The term also means those lots which are legally created after the designation of a high-risk erosion area and which have sufficient depth to meet setback requirements for permanent structures, but which subsequently become substandard due to erosion processes or become substandard due to a change in the required setback distance.

Swimming Pool: Means any structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing.

**Sec. 201.20. “T”.**

Temporary Dwelling Unit: A dwelling unit occupied continuously for less than six (6) months of the year, or a dwelling unit occupied intermittently for less than fifteen (15) days of each month. A dwelling unit, which is occupied more than one hundred-eighty (180) days per year, is not a temporary dwelling unit. A dwelling unit used to gain residency, as a mailing address, or for a homestead tax exemption is not a temporary dwelling unit.

Temporary Use or Building: A use, building, or structure permitted by procedures established in this Ordinance, to exist during a specified period of time.

Traffic Impact Study: This and various terms related to this one are defined in Section 1737.2 including the following: development, average day, gap (critical gap), level of

service, peak hour, study area, traffic impact study, trip (i.e., directional trip).

Travel Trailer: A recreational unit designed to be used for temporary residence purposes.

**Sec. 201.21. "U".**

Underground Storage Tank: A tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain hazardous substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is ten percent (10%) or more beneath the surface of the ground.

Use: The principal purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.

**Sec. 201.22. "V".**

Variance: A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals, when standards established in Article XXII of this Ordinance have been met.

These standards seek to ensure that no variance is granted unless: (a) strict enforcement of the Zoning Ordinance would cause practical difficulty or unnecessary hardship, (b) would not be contrary to the public interest, (c) there are circumstances unique to the individual property on which the variance is granted, and (d) the variance request is not due to actions of the applicant.

Vicious Animal: Any animal that attacks, bites, or injures human beings or domesticated animals without adequate provocation, or which because of temperament, conditioning, or training, has a known propensity to attack, bite, or injure human beings or domesticated animals. (See Section 1739.)

**Sec. 201.23. "W".**

Wall, Obscuring: A structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this Ordinance.

Water Based Business: Any business in which the proprietor, employee(s) or customer(s) physically board a ship, boat, barge or vessel at a marine terminal, including, but not limited to dinner boats, charter boats, passenger service, boat tours, watercraft rentals, and commercial fisheries.

Wild Animal: Any living member of the animal kingdom, including those born or raised in captivity, except the following: human beings, domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats (excluding hybrids with ocelots or margays), rodents, any hybrid animal that is part wild, and captive- bred species of common cage birds. (See Section 1739.)

**Sec. 201.24. "X".**

Reserved.

**Sec. 201.25. "Y".**

Yards: The open spaces on the same lot with a main building unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance and as defined herein (see Figure 2-7):

1. Front Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest wall of the main building. (Amended 1/17/85; Ord. No. 663)
2. Rear Yard: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest wall of the main building. In the case of a corner lot, the rear yard may be opposite either street frontage. In the case of a waterfront lot, the rear yard shall be defined

by the minimum horizontal distance between the nearest wall of the main building and the 100 year Flood Elevation line established by the Flood Insurance Rate Map promulgated by the Federal Emergency Management Agency as referenced within Section 1613.

3. Side Yard: An open space between a main 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 wall of the main building.

**Sec. 201.26. "Z".**

Zone of Active Erosion: The area of the shoreland where the disturbance or loss of soil and substrate has occurred with sufficient frequency to cause unstable slopes or prevent vegetation of the area.

Zoning Administrator: The City of South Haven Zoning Administrator hired for the purpose of carrying out certain duties and responsibilities as defined in this Ordinance.

Zoning Board of Appeals: The body appointed by the City Council to hear appeals by any aggrieved party by a decision or order of the Zoning Administrator, or where it is alleged that the literal enforcement of this Ordinance would involve practical difficulties or would cause unnecessary hardship to the property owner.

Zoning Permit: A document signed by the Zoning Administrator according to procedures established in this Ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that indicates that a site plan, plot plan, and/or other zoning application or request for special zoning approval or variance for a use, structure or building has been reviewed and determined to comply with the requirements of this Ordinance or has been granted a variance therefrom.

**FIGURE 2-1  
BASEMENT AND STORY**

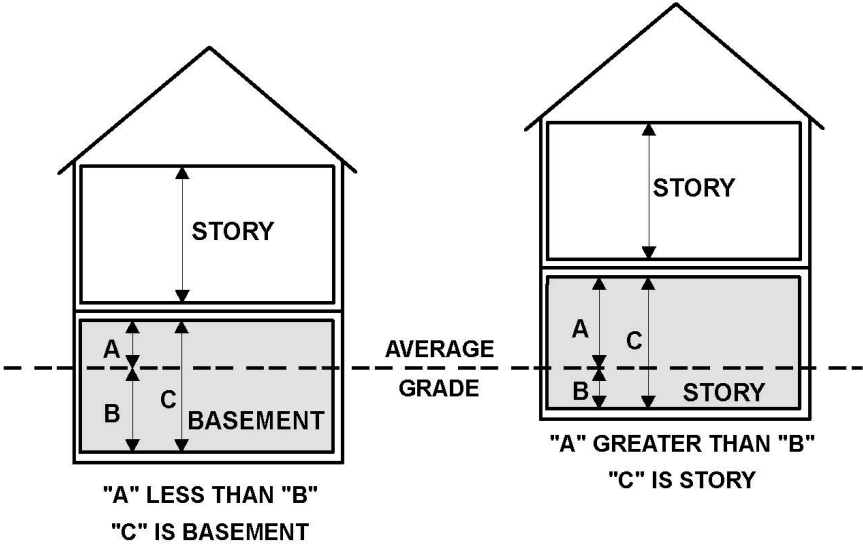




FIGURE 2-2

BUILDING HEIGHTS

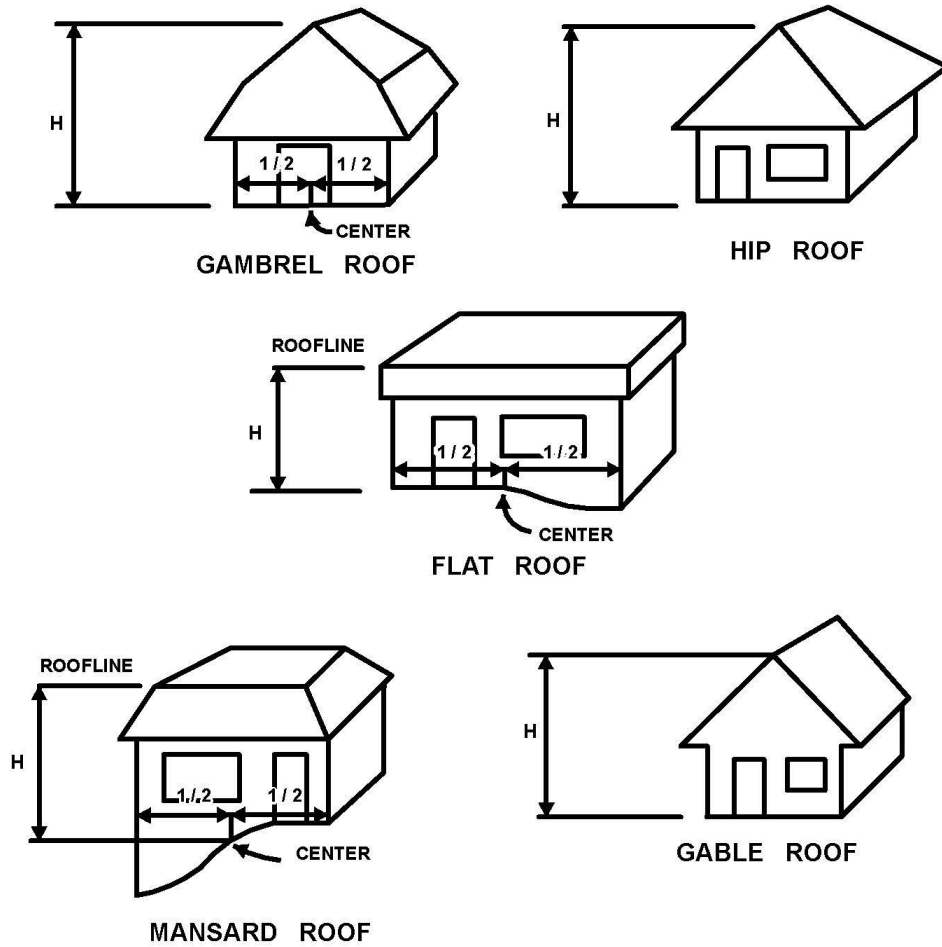


FIGURE 2-3

AVERAGE GRADE

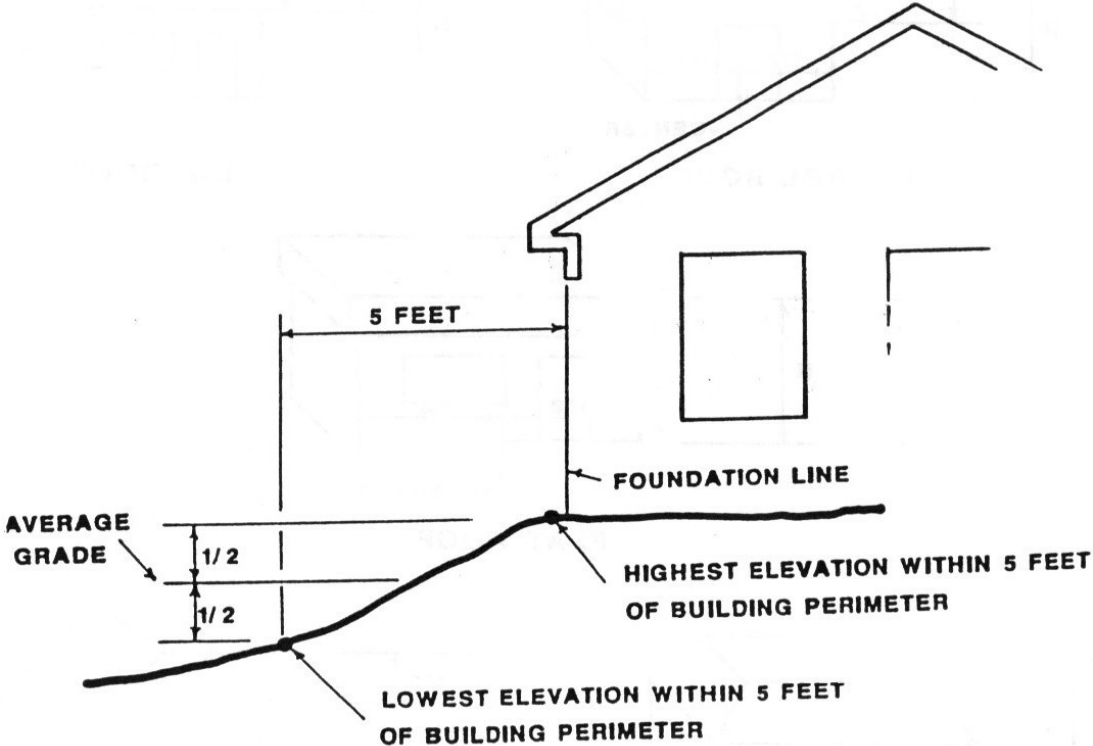


FIGURE 2-4

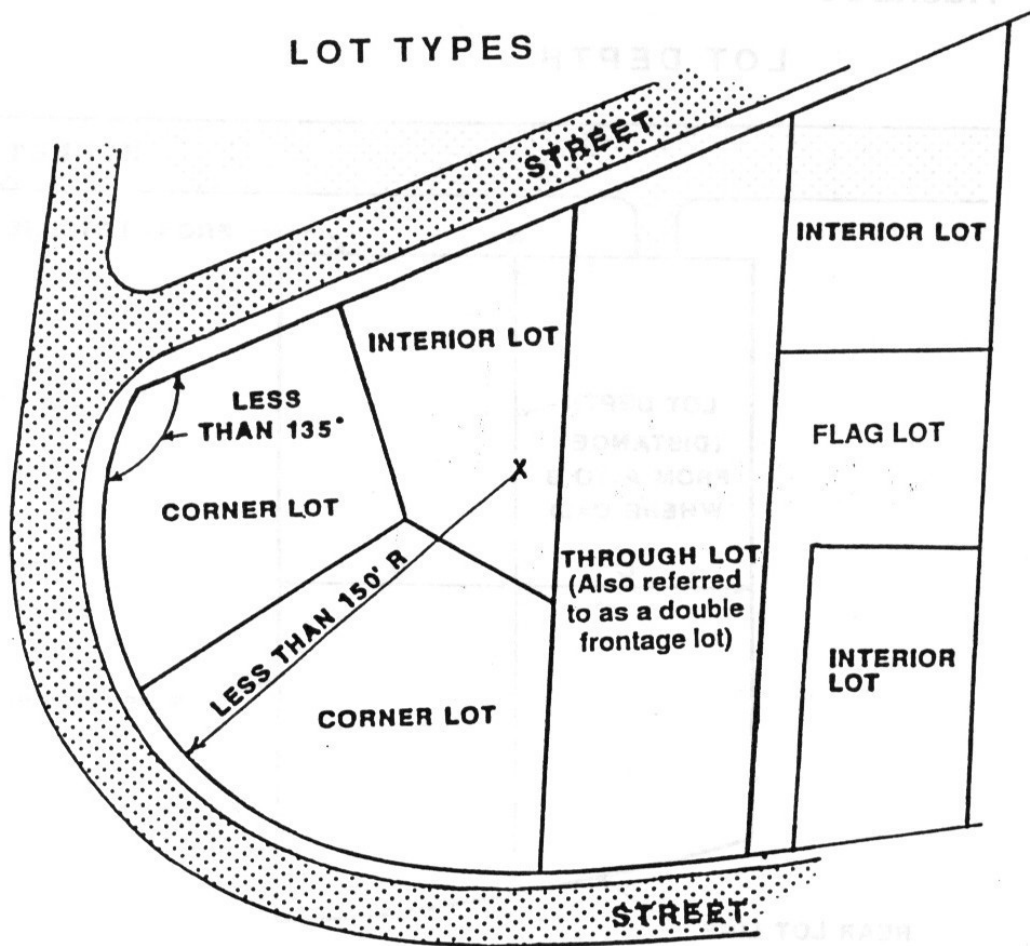


FIGURE 2-5

LOT DEPTH

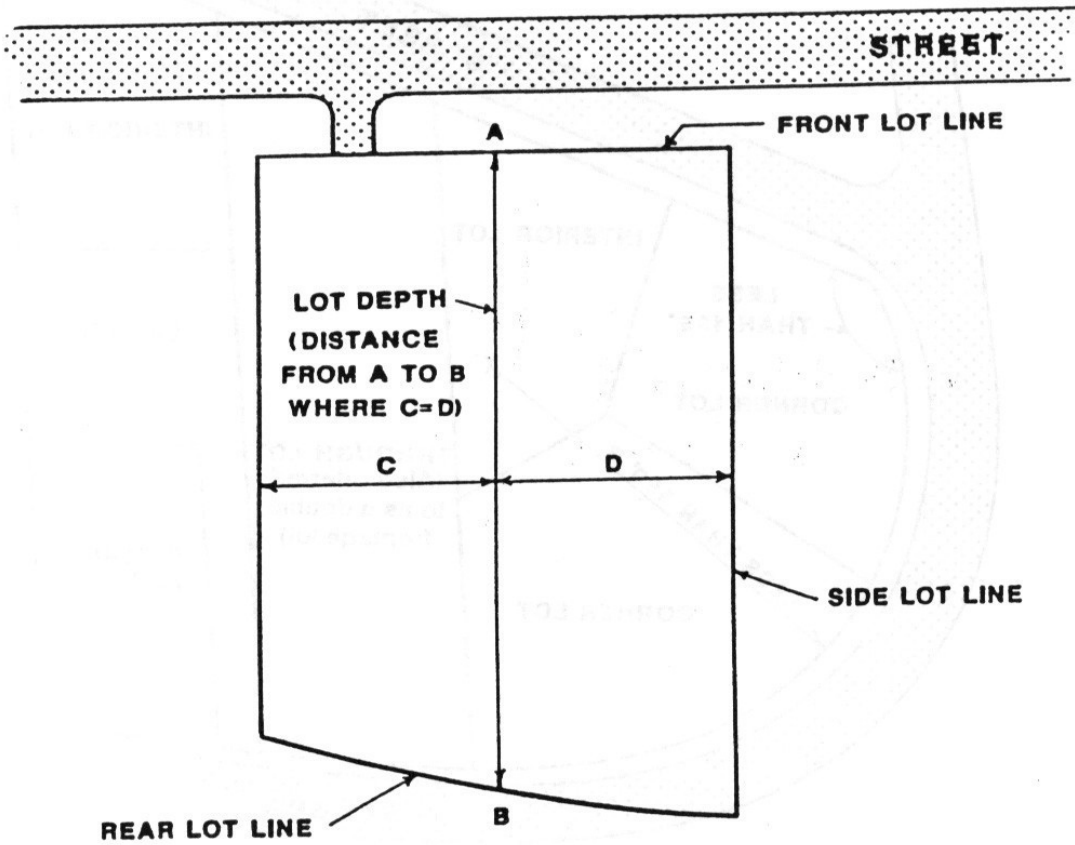


FIGURE 2-7

### LOT LINES AND YARDS

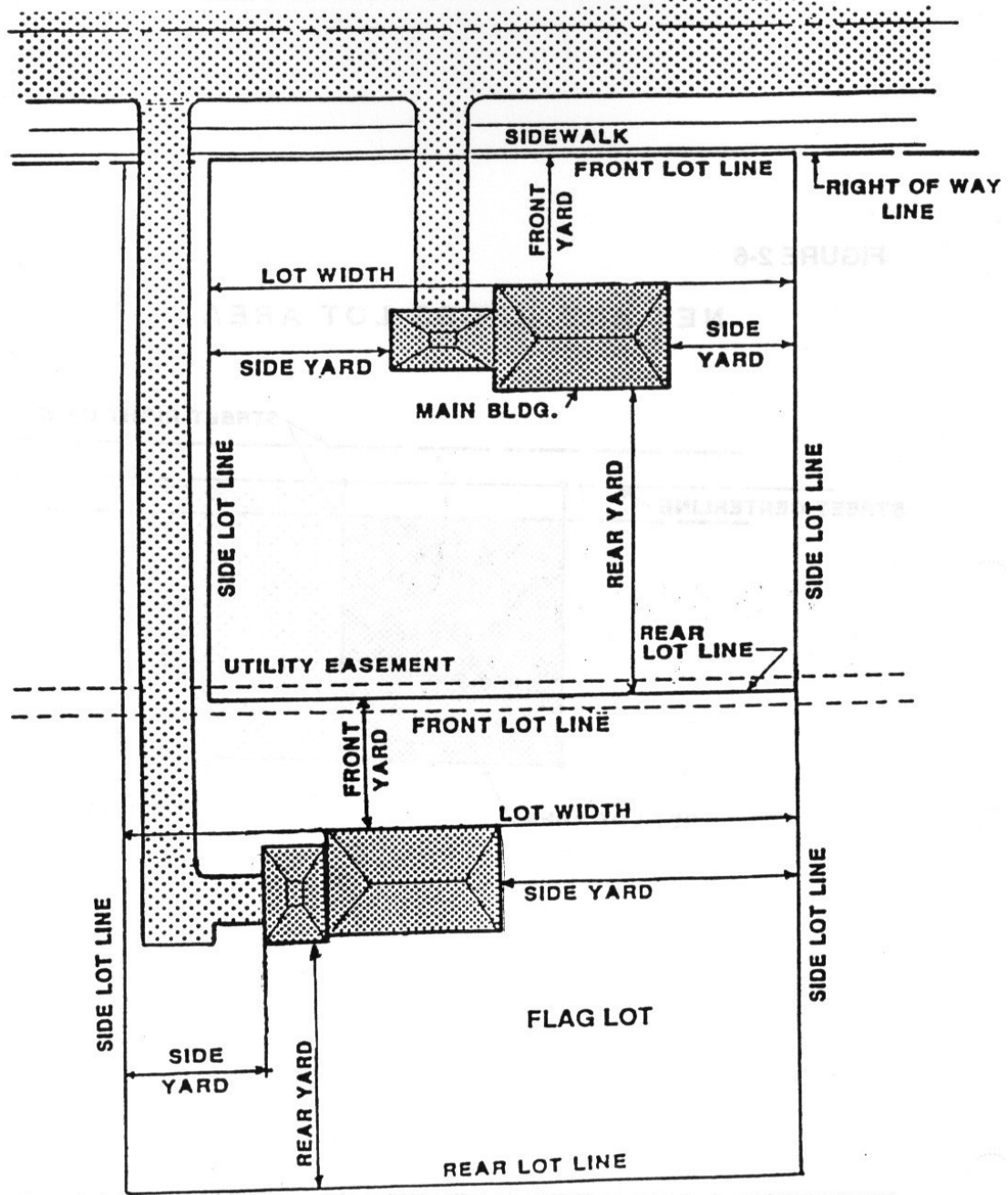


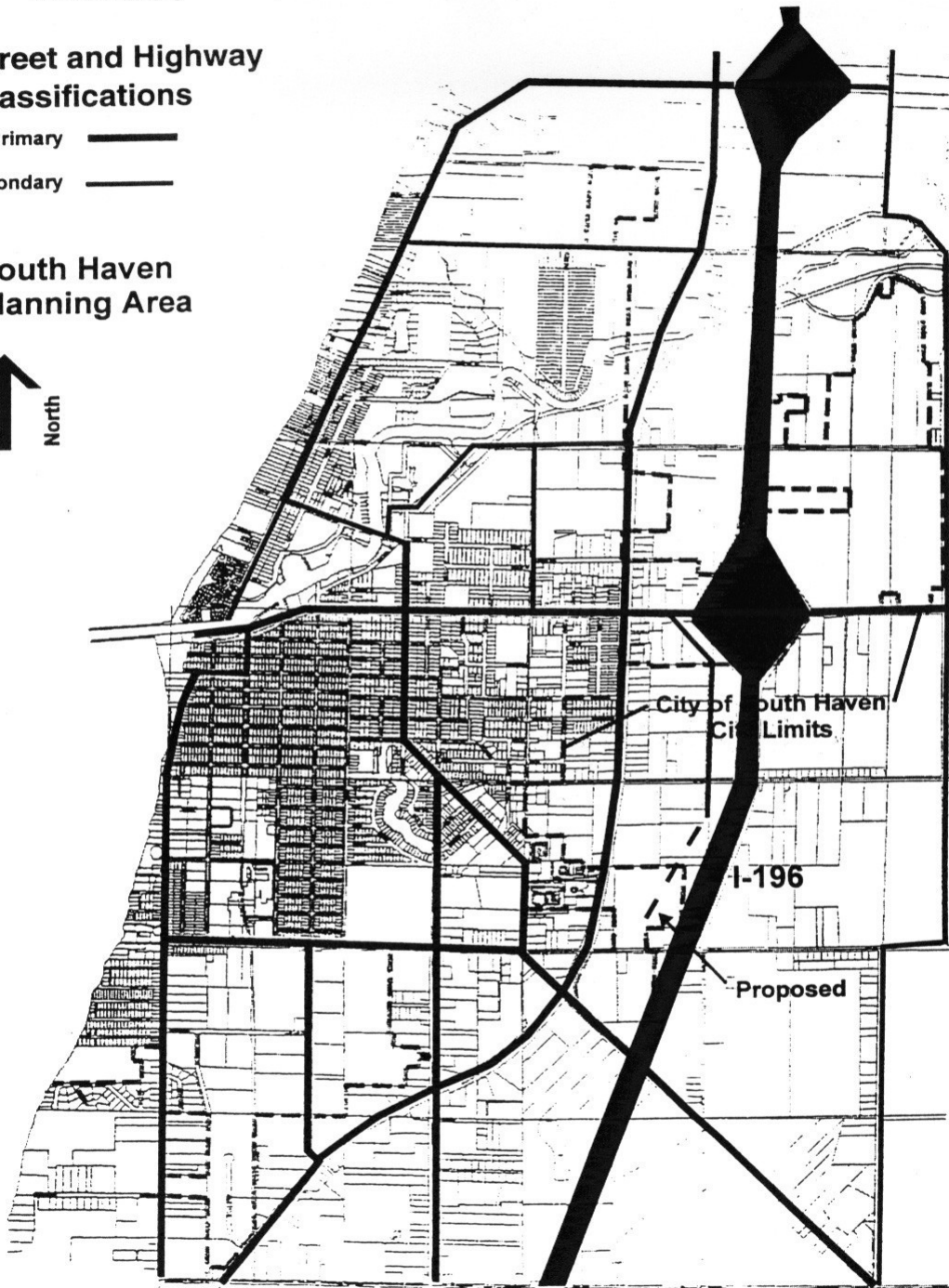


FIGURE 2-8

**Street and Highway  
Classifications**

- Primary 
- Secondary 

**South Haven  
Planning Area**



**ARTICLE III  
ZONING DISTRICTS AND MAP**

**SECTION 300. DISTRICTS ESTABLISHED**

For the purpose of this Ordinance, the City of South Haven is hereby divided into the following districts:

R-1A	Single-Family Residential District
R-1B	Single-Family Residential District
R-1C	Single-Family Residential District
R-2	Residential District
RM-1	Multiple-Family Residential District
CBD	Central Business District
B-1	Neighborhood Business District
B-2	General Business District
B-3	Waterfront Business District
B-4	Major Thoroughfare Business District
I-1	Light Industrial District
I-2	General Industrial District
PB-1	Professional Business District

**SECTION 301. DISTRICT BOUNDARIES**

The boundaries of these districts are hereby established as shown on the Zoning Map, City of South Haven Zoning Ordinance, which accompanies this Ordinance, and which map, with all notations, references and other information shown thereon, shall be as much a part of this Ordinance as if fully described herein.

**SECTION 302. DISTRICT BOUNDARIES INTERPRETED**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following City limits.
4. Boundaries indicated as following railroad lines shall be construed to be the midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to, or extensions of, features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.

7. Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Zoning Board of Appeals shall interpret the district boundaries.
8. Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns which, for the sake of map clarity, do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.

### **SECTION 303. ZONING OF ANNEXED AREAS**

Whenever any area is annexed to the City of South Haven, one of the following conditions will apply:

1. Land that is zoned previous to annexation shall be classified as being in whichever district of this Ordinance most closely conforms with the zoning that existed prior to annexation, such classification to be recommended by the Planning Commission to the City Council and the Council shall approve same by ordinance.
2. Land not zoned prior to annexation shall be automatically classified as an R-1 District until a Zoning Map for said area has been adopted by the City Council. The Planning Commission shall recommend the appropriate zoning districts for such area within three (3) months after the matter is referred to it by the City Council.

### **SECTION 304. ZONING OF VACATED AREAS**

Whenever any street, alley or other public way within the City of South Haven shall be vacated, such street, alley or other public way, or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

### **SECTION 305. DISTRICT REQUIREMENTS**

All buildings and uses in any district shall be subject to the provisions of Article XVII - General Provisions in addition to the specific provisions of the district in which they are located.

### **SECTION 306. ZONING OF PUBLIC PROPERTY**

All land owned by the City, County, State, Federal government, or other public entity is subject to the requirements of this Ordinance, except as exempted herein (see Essential Services in Section 1705), or as specifically exempted by State or Federal law, or action by a Court of Law.



**ARTICLE IV  
R-1A, R-1B, AND R-1C SINGLE FAMILY RESIDENTIAL  
AND R-2 RESIDENTIAL DISTRICTS**

**SECTION 400. INTENT**

The R-1A, R-1B and R-1C Single-Family Residential Districts are designed to preserve the character of the single-family residential neighborhoods in the City from intrusion by incompatible land uses. R-1A districts are typically areas of the City originally platted as 50 foot wide lots, and the setback regulations are designed to permit development similar to the character of existing land uses. R-1B districts are made up of areas of the City where there are typically larger lots than 50 feet in width, with 66 feet as a typical lot width. R-1C districts are cottage districts which typically have smaller lots than 50 feet in width and have dense development. In all of these districts, it is the intent of this ordinance to allow development which fits the existing characteristics and patterns of development. Single Family residential structures with more than three (3) bedrooms will need the plans reviewed by the city engineer prior to the issuance of the zoning permit.

**SECTION 401. R-1A, R-1B AND R-1C USE REGULATIONS**

Land, buildings and structures in the R-1 zoning districts may be used for the following purposes only:

1. One-family detached dwellings.
2. Two-family dwellings which were erected prior to the effective date of the amendment which added this provision. Thereafter, no new two-family dwellings, or conversions to two-family dwellings are permitted in this district.
3. Farms in existence on the effective date of this Ordinance are allowed by right, all others by special use permit (see Section 1510.12.)
4. Publicly owned and operated libraries, parks, recreational facilities, and municipal parking lots by special use permit.
5. Cemeteries which lawfully occupied land in this district at the time of adoption of this Ordinance.
6. Churches and other facilities normally incidental thereto when authorized as a special land use. In considering such authorization, the Planning Commission shall ensure compliance with the standards in Article XV:
7. Public, charter, parochial and private schools offering courses in general education, when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure compliance with the standards of Article XV.
8. Family day care home is permitted. Nursery schools, day nurseries and group day care homes, not including dormitories, when authorized by the Planning Commission as a special land use. In considering such authorization, the Planning Commission shall ensure compliance with the standards of Article XV.
9. Private noncommercial recreation areas, institutional or community recreation centers, nonprofit swimming pool clubs when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure compliance with Article XV.
10. Golf courses when authorized as a planned unit development. In considering such authorization, the Planning Commission shall ensure compliance with the standards in Section 1510.15 and Article XIII.
11. Home occupations, as defined in Section 201, and which meet the requirements which follow, are not required to obtain a special use permit, all others are only permitted when authorized as a special land use by the Planning Commission according to the standards in b., which follow:
  - a. No special use permit is required if the home occupation meets the following standards:

- i. No customers or clients visit the property to do business.
  - ii. No parking of commercial vehicles, equipment or trucks.
  - iii. No shipping or receiving of merchandise or freight which is obtrusive to neighbors.
  - iv. No storage of material, products, or other business related items in a garage, accessory building, or outdoors.
  - v. No signage.
  - vi. No visible evidence of business activity from outside the home.
- b. In considering authorization for a special use permit for a home occupation, the Planning Commission shall ensure compliance with the following standards and those in Article XV:
  - i. Said home occupation shall not exceed ten (10) percent of the gross floor area of any floor of the residential structure.
  - ii. There shall be no alteration in the residential character or function of the premise in connection herewith nor shall any garage or parking area be used in connection herewith.
  - iii. An identification sign shall not exceed two (2) square foot in area and shall be mounted flush to the main structure.
  - iv. The sale of a commodity or stock in trade sold or stored upon the premises shall only be incidental to the specific home occupation.
  - v. No person not residing on the premises shall be employed in connection with the home occupation.
  - vi. There shall be no equipment or machinery used in connection with a home occupation which is industrial in nature.
  - vii. No home occupation shall be permitted to be established or continued when the same is objectionable as determined by the Planning Commission due to noise, dust, smoke, odor, vibrations, light, traffic congestion, reduction of the living environment, or other impacts detrimental to the neighborhood in which it is located.
- 12. Planned Unit Development which contains the following uses or mix of uses and as regulated in Article XIII:
  - a. Single-family dwellings.
  - b. Golf courses, tennis clubs, athletic clubs, and other recreational uses.
  - c. Parks and playgrounds.
- 13. Accessory buildings and structures customarily incidental to the above permitted uses.
- 14. Model homes including sales office(s) are permitted in subdivisions, condominium developments and planned unit developments and shall comply with the following standards:
  - a. The model home shall be used solely as a sales and promotion office for the development in which the home is located. The model home shall not be used to conduct other business, or as a model home to promote sales in other developments.
  - b. The model home requires a temporary zoning permit. The Zoning Administrator may issue temporary zoning permits for up to either three (3) model homes or a number equal to one (1%) percent of the total number of units within the development, whichever is less, with a minimum of one (1) model home permitted per development. Temporary zoning permits shall not be issued until roads, water supply, sewage disposal, storm drainage, and other utilities and infrastructure to service the site used for the model home(s) are completed and determined to be acceptable for use. Certificates of occupancy for model homes shall be limited to model and sales office purposes only and not for habitation.
  - c. The model home must be located within the boundaries of the approved development and must comply with all requirements, conditions and stipulations of the development approval, zoning ordinance, and other city, county, state and federal regulations which may apply.
  - d. The model home shall be maintained to appear as a home at all times.

- e. Use of the model home for sales and promotion shall cease as soon as fifty (50%) percent of the lots, condominiums, or units are sold or leased, or within two (2) years of the home's occupancy as a model home, whichever occurs first, whereupon the model home shall be offered for sale.
  - f. One (1) identification sign shall be permitted subject to the following regulations
    - i. The sign shall not exceed six (6) square feet in area.
    - ii. The sign shall be mounted to the structure or freestanding within five (5) feet of the building.
    - iii. If freestanding the sign may be no more than six (6) feet in height. The sign may not be illuminated.
15. Short-term rental business units, subject to the regulations in Section 1743.
16. Short-term rental personal units, subject to the regulations in Section 1744.

## **SECTION 402. R-1A AREA REQUIREMENTS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement.

1. **Front Yard** - There shall be a front yard of no less than fifteen (15) feet, or the average of the front setbacks of the two principal structures on the properties directly adjacent to and fronting on the same right-of-way as the property in question, except that the front setback shall not be less than 10 feet when calculated as an average of the adjacent structure setbacks. If the adjacent property is vacant or the property is on a corner lot, fifteen (15) feet shall be used as the amount for that side when calculating the average. (Amended 10/4/03, Ord. 919)
2. **Side Yard** - There shall be total side yards of fifteen (15) feet, provided that no yard shall be less than three (3) feet.
3. **Rear Yard** - There shall be a rear yard of no less than twenty-five (25) feet.
4. **Lot Area and Width** - The minimum lot area and width for all uses in this District, unless specified elsewhere, shall be five thousand (5000) square feet and fifty (50) feet, respectively.
5. **Maximum Lot Area** - The lot area covered by all buildings shall not exceed 40%.

Single family residential structures with more than three (3) bedrooms will need the plans reviewed by the city engineer prior to the issuance of the zoning permit.

## **SECTION 403. R-1B AREA REQUIREMENTS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement.

1. **Front Yard** - There shall be a front yard of no less than twenty-five (25) feet, or the average of the front setbacks of the two principal structures on the properties directly adjacent to and fronting on the same right-of-way as the property in question, except that the front setback shall not be less than 10 feet when calculated as an average of the adjacent structure setbacks. If the adjacent property is vacant or the property is on a corner lot, twenty-five (25) feet shall be used as the amount for that side when calculating the average. (Amended 10/4/03, Ord. 919)

2. **Side Yard** - There shall be total side yards of twenty (20) feet, provided that no yard shall be less than eight (8) feet.
3. **Rear Yard** - There shall be a rear yard of no less than twenty-five (25) feet.
4. **Lot Area and Width** - The minimum lot area and width for all uses in this District, unless specified elsewhere, shall be eight thousand four hundred (8,400) square feet and sixty-six (66) feet, respectively. Flag lots shall have a minimum of 20 feet of street frontage and shall widen to the minimum lot width no more than one hundred (100) feet from the right-of-way.
5. **Maximum Lot Area** - The lot area covered by all buildings shall not exceed 35%.
6. Single family residential structures with more than three (3) bedrooms will need the plans reviewed by the city engineer prior to the issuance of the zoning permit.

#### **SECTION 404. R-1C AREA REQUIREMENTS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement.

1. **Front Yard** - There shall be a front yard of no less than three (3) feet.
2. **Side Yard** - There shall be side yards of no less than three (3) feet in width.
3. **Rear Yard** - There shall be a rear yard of no less than three (3) feet.
4. **Lot Area and Width** - The minimum lot area and width for all uses in this District, unless specified elsewhere, shall be two thousand one hundred seventy eight (2,178) square feet and thirty three (33) feet, respectively.

#### **SECTION 405. R-1A, R-1B AND R-1C HEIGHT REGULATIONS**

No building shall exceed thirty-five feet in height (see the definition of "Height (Building)"). The highest point of a cupola, widow's watch, tower or similar feature that extends above the roof line shall be considered the highest point of the roof surface on roofs with such features. Flat roofs and mansard roofs shall be no greater than 25 feet at the highest point.

#### **SECTION 406. R-2 USE REGULATIONS**

Land, buildings and structures in the R-2 District may be used for the following purposes only:

1. All uses as permitted and regulated in the R-1 Residential District, provided that any time more than two (2) one-family dwellings are proposed, the requirements of Article XIII shall be met.
2. Two-family dwellings, provided that any time more than one duplex is proposed, the requirements of Article XIII shall be met.
3. Planned Unit Development which contains the following uses or mix of uses and as regulated in Article XIII:
  - a. Single-family attached and detached dwelling units that conform with the standards of Section 501(2).
  - b. Two-family dwellings.
  - c. Golf courses, tennis clubs, athletic clubs and other recreational uses.
  - d. Parks, playgrounds and other open space.
4. Accessory buildings and structures customarily incidental to the above permitted uses.

## **SECTION 407. R-2 AREA REQUIREMENTS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement.

1. **Front Yard** - There shall be a front yard of no less than twenty-five (25) feet.
2. **Side Yard** - There shall be total side yards of twenty (20) feet, provided that no yard shall be less than eight (8) feet.
3. **Rear Yard** - There shall be a rear yard of no less than twenty-five (25) feet.
4. **Lot Area and Width** - The minimum lot area and width for all uses in this District, unless specified elsewhere, shall be eight thousand four hundred (8,400) square feet and sixty-six (66) feet, respectively. Where no lots are created, the maximum density of dwelling units on the site shall not exceed that permitted by this standard if there were individual dwelling units on individual lots.
5. **Maximum Lot Area** - The lot area covered by all buildings shall not exceed 35%.

## **SECTION 408. R-2 HEIGHT REGULATIONS**

No building shall exceed thirty five (35) feet and two stories in height.

**ARTICLE V**  
**RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT**

**SECTION 500. INTENT OF THE RM-1 DISTRICT**

The RM-1 District is designed to accommodate those types of low-rise multiple dwelling structures which are similar, in terms of use and structural character, to single-family dwellings and two-family dwellings.

The RM-1 District is further designed to encourage intensive use of residential land through the elimination of certain exterior yard areas and the development of building types and/or modules which will contain private interior open spaces or provide common exterior open space areas.

The RM-1 Multiple-Family Residential District is also designed to provide sites for multiple-family dwelling structures and related uses which will generally serve as zones of transition between the nonresidential districts and lower density single-family districts. The multiple-family district is further provided to serve the limited needs for the apartment type of unit in an otherwise single-family community.

**SECTION 501. RM-1 USE REGULATIONS**

Land, buildings and structures in RM-1 District may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission:

1. All uses as permitted and regulated in the R-1 and R-2 Residential Districts.
2. Attached and semi-detached dwelling units including dwellings known as townhouses or condominiums, among other names, subject to conformance with the following standards:
  - a. Each dwelling unit shall have one (1) floor at ground level.
  - b. No more than four (4) dwelling units shall be attached in any construction group, or contained in any single structure, except that where the roof ridge lines and building facades of any four (4) consecutive units are staggered or offset by at least ten (10) feet, then a maximum of eight (8) units may be permitted.
  - c. The site plan shall be so planned as to provide ingress and egress directly onto a major or minor thoroughfare, except when the Planning Commission finds, upon review of the site plan, that ingress and egress directly onto an adjacent minor street will not be detrimental to the harmonious development of the adjacent properties. Where feasible, the Planning Commission may require that ingress-egress to parking facilities be provided from adjacent alleys so as to minimize curb cuts directly onto the major or minor thoroughfares.
  - d. The site plan shall be so planned as to recognize yard and general development relationships with adjacent land uses. The Planning Commission may recommend physical features to be provided which will insure harmony in these relationships.
3. Multiple-family dwellings and apartments where not all the units are at ground level.
4. Mobile home parks, when authorized as a special land use by the Planning Commission and provided they are in conformance with all state regulations governing mobile home parks, including Public Act 96 of 1987 as amended. In considering such authorization, the Planning Commission shall also ensure conformance with the requirements of Article XV.
5. Bed and breakfast inns.
6. Bed and breakfast hotel as a special land use (see Section 1510.04).
7. General hospitals, when authorized by the Planning Commission as a special land use. In considering such authorization, the Planning Commission shall ensure conformance with the standards Article XV.
8. Housing for the elderly when authorized by the Planning Commission as a special land use or planned unit development. In considering such authorization, the Planning

Commission shall ensure conformance with the standards in Article XV or Article XIII, as appropriate.

9. Convalescent homes and orphanages when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure conformance with the standards in Article XV or Article XIII, as appropriate.
10. Planned unit development which includes any of the solitary, or a mix of the uses permitted in this District and as regulated in Article XIII.
11. Marinas as an accessory use in a planned unit development when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure conformance with the standards in Article XV or Article XIII, as appropriate.
12. Accessory buildings and structures customarily incidental to the above permitted uses.
13. Bakeries for the production of baked goods to be sold on the property and retail establishments for the sale of baked goods, coffee, ice cream, pizza and others similar consumable products which have been erected prior to the effective date of the amendment which added this provision and subject to the following conditions:
  - a. On-premise seating may be provided for the consumption of goods purchased on site subject to an occupancy established by the Fire Marshall, Building Inspector, and Health Department and subject to all state and local code requirements.
  - b. No additional parking shall be required if the seating provided is for 16 persons or less.
  - c. The premises shall be limited in size to 1,000 square feet in area and shall be architecturally compatible with the surrounding buildings.

A very few such establishments that have historically existed and continue on a small scale are compatible with a neighborhood. Larger scale establishments, those with architecture or layouts out of character with the neighborhood, and an increase in the number of such establishments can adversely affect the quality and character of the community. The concept is to continue the "quaint" without succumbing to the "commercial" nature of such businesses. Therefore, no new bakeries or retail establishments, as defined in this section, are permitted in this district.

## **SECTION 502. AREA REGULATIONS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement.

1. **Front Yard** - There shall be a front yard of no less than twenty-five (25) feet.
2. **Side Yard** - No side yard shall be less than twelve (12) feet.
3. **Rear Yard** - There shall be a rear yard of no less than twenty-five (25) feet.
4. **Lot Area and Width** – The minimum lot area and width for all uses in this District, unless specified elsewhere, shall be eight thousand seven hundred twelve (8712) square feet and a minimum lot width of sixty-six (66) feet.
5. **Lot Area** - The lot area covered by all buildings shall not exceed 30%.
6. **Site Plan** - A site plan is required for all structures, additions and parking areas.

## **SECTION 503. HEIGHT REGULATIONS**

No single-family dwelling or duplex shall exceed thirty-five (35) feet. No other building shall exceed forty (40) feet and three (3) stories in height except for a general hospital which shall not exceed sixty (60) feet in height.

**ARTICLE VI  
CBD CENTRAL BUSINESS DISTRICT**

**SECTION 600. INTENT**

The CBD Central Business District is intended to permit those uses which provide for a variety of retail stores and related activities, and for office buildings and service establishments which occupy the prime frontages in the Central Business District and which serve the consumer population beyond the corporate boundaries of the city. The district regulations are designed to promote convenient pedestrian shopping and the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive related services and nonretail uses which tend to break up such continuity. Residential use of floors above the ground floor is encouraged as compatible with nonresidential uses in this District, provided the standards herein are conformed with.

**SECTION 601. CBD USE REGULATIONS**

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

1. Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building.
2. Any personal service establishment which performs services on the premises within a completely enclosed building.
3. Restaurants delicatessens, ice cream store, soda fountain, and carry-out food establishments, excluding drive-ins or drive through establishments. Outdoor cafes and outdoor seating is permitted by special use permit.
4. Professional Service Businesses.
5. Banks, loan and finance offices. Banks with drive-in facilities are permitted by special use permit, when said drive-in facilities are incidental to the principal function.
6. Public and quasi-public buildings, such as:
  - a. Municipal offices.
  - b. Municipal off-street parking lots by special use permit.
  - c. Libraries.
  - d. Museums.
  - e. Fraternal organizations.
7. Indoor recreation centers.
8. Offices and showrooms of plumbers, electricians, decorators, or similar trades, of which not more than 25% of the floor area of the building or part of the building occupied by said establishment is used for making, assembling, remodeling, repairing, altering, furnishing, or refinishing its products or merchandise, and provided that the ground floor premises facing upon, and visible from, any abutting street shall be used only for entrances, offices or display. All storage of materials on any land shall be within the confines of the building or part thereof occupied by said establishment.
9. Business schools or private schools operating for profit; examples of private schools permitted herein include, but are not limited to, the following: trade schools, dance schools, music and voice schools, and art studios. Schools providing K-12 education are not included as permitted uses in this District.



10. Newspaper offices and printing plants; provided the printing plant is not greater than 2,500 square feet.
11. Storage facilities when incident to, and physically connected with, any principal use permitted, provided that such facility be within the confines of the building or part thereof occupied by said establishment.
12. Hotels when authorized as a special land use. (See Section 1510.22 and Section 1738) (Amended 8/21/06, Ord. 946.)
13. Bus passenger stations.
14. Other uses which are similar to the above when authorized as a special land use. In considering such authorization, the Planning Commission shall consider the following standards and Article XV:
  - a. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail from premises where produced.
  - b. Outdoor storage of merchandise, products, parts or supplies shall be expressly prohibited. Excluded from this provision is the outdoor display of goods for sale as authorized by the City of South Haven Code of Ordinances, Section 74-3.
15. Accessory structures customarily incidental to the above permitted uses.
16. One or more dwelling units located above a permitted use. In considering such authorization, the Planning Commission shall ensure conformance with the following standards:
  - a. Each dwelling unit shall have adequate means of ingress and egress; and
  - b. One dwelling unit per lot is allowed above any permitted use without providing any parking space. Notwithstanding any other provision of this zoning ordinance:
    1. In the CBD district, each additional unit requires 1 space per unit.
    2. In any district in which this subsection applies by cross-reference, each additional unit requires 2 spaces per unit.
17. Automatic teller machines when located inside a building as an accessory use and not as a freestanding building.
18. Farmer's markets, art fairs and other outdoor events open to the public as permitted by the City Council.
19. Private clubs by special use permit.
20. Multiple-family dwellings with 1 or more dwelling units on the ground floor, when authorized as a special land use. In considering such authorization, the Planning Commission shall ensure conformance with the following standards and Article XV:
  - a. The parcel shall not have frontage on the Phoenix Street, Center Street or Broadway Avenue rights-of-way; and,
  - b. Two (2) parking spaces shall be provided per dwelling unit, either on-site or within 300 feet of the parcel.
21. Planned Unit Developments which contain a mix of land uses permitted by right in this district.
22. Theaters.
23. Public Parks.

24. Short-term rental business units within dwelling units permitted under this Section or other applicable provisions of the zoning ordinance, subject to the regulations in Section 1743.
25. Short-term rental business units within dwelling units permitted under this Section or other applicable provisions of the zoning ordinance, subject to the regulations in Section 1744.

## **SECTION 602. REQUIRED CONDITIONS**

The outdoor display or sale of goods or merchandise shall not extend more than three (3) feet beyond the front lot line, provided the sidewalk is ten (10) feet wide or greater. If the sidewalk is less than ten (10) feet in width, goods or merchandise shall not be displayed outdoors. During special sidewalk sale days, as determined by the City Manager, goods or merchandise may be displayed outdoors in a reasonable fashion.

## **SECTION 603. AREA REGULATIONS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement.

1. **Front yard** - No minimum required.
2. **Side Yard** - No side yard is required; where a side yard is provided, it shall be at least ten (10) feet in width.
3. **Rear Yard** - No rear yard is required where the Planning Commission determines that the Site Plan adequately insures no present or future building will be adversely affected.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A Site Plan is required for all structures, additions and parking areas.
6. **Balconies** - Balconies shall be setback at least 18 inches from the lot line. For purposes of this section, the term "balcony" means a porch or platform that extends from an upper floor of a building. The setback shall be measured from the balcony's furthest point of protrusion.

## **SECTION 604. HEIGHT REGULATIONS**

No building shall exceed forty-five (45) feet and three and one half (3-1/2) stories in height.

**ARTICLE VII  
B-1 NEIGHBORHOOD BUSINESS DISTRICT**

**SECTION 700. INTENT**

The Neighborhood Business District is for neighborhood convenience shopping, including retail business or service establishments which supply commodities or perform services which meet the daily needs of the neighborhood. Businesses in this zone are scaled to be compatible with the neighborhood character.

**SECTION 701. B-1 USE REGULATIONS**

Land, buildings or structures in the B-1 zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission:

1. Those non-residential uses which are permitted in the residential zoning districts, subject, except as specifically provided otherwise in this Article, to the same conditions, restrictions and requirements as are provided in the residential zoning districts.
2. Personal Service Businesses not exceeding 2500 square feet in floor area
3. Automatic teller machines when inside a building and accessory to another use.
4. Retail Businesses not exceeding 2500 square feet in floor area or as provided elsewhere in this section. This size limit does not apply to existing structures.
5. Professional Service Businesses not exceeding 2500 square feet in floor area. This size limit does not apply to existing structures.
6. Dwelling located above a permitted use when authorized as a special land use per the standards in Section 601.16.
7. Home occupations are permitted in any building designed and built as a dwelling unit. 8. Recreation center by special use permit.
9. Restaurants delicatessens, ice cream store, soda fountain, and carry-out food establishments, excluding drive-ins or drive through establishments. Outdoor cafes and outdoor seating are permitted by special use permit.
10. Accessory buildings and structures customarily incidental to the above permitted uses.
11. Short-term rental business units within dwelling units permitted under this Section or other applicable provisions of the zoning ordinance, subject to the regulations in Section 1743.
12. Short-term rental business units within dwelling units permitted under this Section or other applicable provisions of the zoning ordinance, subject to the regulations in Section 1744.

**SECTION 702. REQUIRED CONDITIONS**

1. The outdoor storage of goods or materials shall be prohibited.
2. Warehousing or indoor storage of goods or materials beyond that normally incidental to the above permitted uses shall be prohibited.
3. Screening - Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following with the selection of the option by the Planning Commission after consulting with neighbors: 1) by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width

after one growing season, or 2) a solid wall or tight board fence or a privacy fence (which allows air to flow through) six (6) feet in height, or 3) if the provisions in Section 1709, 1713, or 1714 are more restrictive in an individual case, then the provisions of whichever section the Planning Commission believes will best protect abutting properties.

4. No individual commercial building on an individual lot shall exceed fifteen hundred (1500) square feet on a single floor unless the Planning Commission approves it as a special land use pursuant to the standards in Section 1502.
5. The minimum setback of any parking area, including drives within said parking area, from any property line or right-of-way shall be at least five (5) feet. All setback areas required by this paragraph must be landscaped.

### **SECTION 703. AREA REGULATIONS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement:

1. **Front Yard** - There shall be a front yard of no less than ten (10) feet.
2. **Side Yard** - Each side yard shall be at least ten (10) feet in width.
3. **Rear Yard** - There shall be a rear yard of no less than twenty (20) feet.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A Site Plan is required for all structures, additions, and parking areas.

### **SECTION 704. HEIGHT REGULATIONS**

No building shall exceed thirty-five (35) feet and two (2) stories in height.

**ARTICLE VIII  
B-2 GENERAL BUSINESS DISTRICT**

**SECTION 800. INTENT**

The General Business District is designed to cater to the needs of a larger consumer population than is served by the Neighborhood Business District, and is generally characterized by an integrated or planned cluster of establishments served by a common parking area and generating large volumes of vehicular and pedestrian traffic. Businesses of a larger size than in the B-1 zone are permitted where stated.

**SECTION 801. USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission:

1. All uses permitted in the B-1 zoning district.
2. Amusement enterprises.
3. Personal Service Businesses not exceeding 5000 square feet in floor area. This size limit does not apply to existing structures.
4. Automatic teller machines when inside a building and accessory to another use.
5. Retail Businesses not exceeding 5000 square feet in floor area. This size limit does not apply to existing structures.
6. Automobile and other vehicle sales with a special use permit according to Article XV.
7. Bank, loan and finance offices, including drive-in branches by special use permit.
8. Business or trade school, music and voice schools by special use permit.
9. Car wash by special use permit.
10. Religious institutions by special use permit.
11. Day nurseries, nursery schools and other group day care by special use permit per the standards of Section 1510.17
12. Electrical supplies - wholesale and storage.
13. Funeral home and ambulance service by special use permit
14. Garden center not exceeding 10,000 square feet by special use permit.
15. Automobile service and repair stations by special use permit subject to Section 1510.03..
16. Hotels when authorized as a special land use (see Section 1510.22 and Section 1738). (Amended 8/21/06, Ord. 946)
17. Libraries, museums, other municipal offices and municipal facilities.
18. Private clubs.

19. Malt beverage, liquor and wine distribution and sales.
20. Parking lots by special use permit.
21. Pool or billiard hall.
22. Newspaper printing and offices, printing and publishing, including processes related thereto, provided the facility is not larger than two thousand five-hundred(2,500) square feet.
23. Professional studio
24. Recreation centers (Outdoor) by special use permit.
25. Restaurants with outdoor seating, "drive in" or "drive through" facilities shall be permitted with a special use permit from the planning commission.
26. Accessory structures and buildings customarily incidental to the above uses.
27. Planned Unit Developments which contain a mix of land uses permitted by right in this district.
28. Professional Service Businesses not exceeding 5000 square feet. Professional Service Businesses over 5000 square feet may be allowed by special use permit.

## **SECTION 802. REQUIRED CONDITIONS**

1. More than two (2) uses on a single lot or parcel are permitted per the Planned Shopping Development special land use standards (see Section 1510.27).
2. Any site over two (2) acres shall be processed as a Planned Shopping Development per the special land use standards of Section 1510.27.
3. Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following with the selection of the option by the Planning Commission: 1) by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season, or 2) a solid wall or tight board fence or a privacy fence (which allows air to flow through) six (6) feet in height, or 3) if the provisions in Section 1709, 1713 or 1714 are more restrictive in an individual case, then the provisions of whichever section the Planning Commission believes will best protect abutting properties.
4. The minimum setback of any parking area, including drives within said parking area, from any property line or right-of-way shall be at least five (5) feet. All setback areas required by this paragraph must be landscaped.
5. The outdoor display or sale of goods or merchandise shall not interfere with any pedestrian or vehicular traffic within the parking area or entryway onto the property. Said display or sale shall not use any required parking spaces or fire lanes and shall be setback thirty-five (35) feet from the front lot line and twenty (20) feet from any side lot line.

### **SECTION 803. AREA REGULATIONS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement:

1. **Front Yard** - There shall be a front yard of no less than twenty-five (25) feet.
2. **Side Yard** - There shall be a side yard of no less than ten (10) feet in width.
3. **Rear Yard** - There shall be a rear yard of no less than twenty (20) feet.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A Site Plan is required for all structures, additions and parking areas.

### **SECTION 804. HEIGHT REGULATIONS**

No building shall exceed thirty-five (35) feet and two (2) stories in height.

**ARTICLE IX  
B-3 WATERFRONT BUSINESS DISTRICT**

**SECTION 900. INTENT**

The Waterfront Business District is designed to provide a location for diversified businesses having an orientation toward tourism, resort and water-related activities when in accord with the goals and objectives of the Comprehensive Plan for the City of South Haven.

**SECTION 901. B-3 USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission:

1. Automatic teller machines when inside a building and accessory to another use.
2. Beaches and recreation areas, either municipal or private by special use permit.
3. Boat launching ramp.
4. Campgrounds, subject to compliance with the standards and procedures for establishing a Planned Unit Development as regulated in Article XIII.
  - a. The minimum size of the campground shall be 3 acres.
  - b. Thirty (30%) percent of the campground shall be dedicated to open space for the common use of the residents. For purposes of calculating the open space percentage, areas set aside for common recreational use may be included; driveways and parking areas shall be excluded.
  - c. There shall be a traffic route which does not pass through a residential area, connecting the campground entrance with a public street with a minimum right of way of eighty (80') feet in width.
  - d. The campsites shall be set back from the property line a minimum distance of thirty (30') feet.
  - e. A recreational unit may be located at the campground for no more than twenty-one (21) consecutive nights. After five (5) nights out of the campground, the recreational unit may return again for no more than twenty-one (21) consecutive nights. A recreational unit shall not be located on the premises of a campground for more than forty-two (42) nights in any calendar year. Storage of recreational units for more than twenty-one (21) days is not permitted in a campground.
  - f. The recreational units (excluding tents) located at the campground shall be validly licensed as vehicles or trailers, and shall at all times be legal for use on roads and highways without requiring any special permits. The maximum allowable trailering width of a recreational unit is ninety six (96") inches. The campground owner shall establish the maximum allowable length of a recreational unit based on the available turning radii in the campground.
  - g. There shall be a security fence surrounding the campground, with a minimum height of six (6') feet. There shall be security gates at the entrances.
  - h. Accessory uses and structures are allowed as part of the campground under the following conditions:
    - i.* Allowed uses are convenience store, snack bar, laundromat, or similar uses.
    - ii.* The accessory use is intended for use of occupants of campground only.
    - iii.* The accessory use must be centrally located in the campground, it shall not abut or adjoin a public street.



- iv. No signs advertising the accessory use shall face public streets.
- v. The accessory use shall cease business operation when the campground is closed for the season; the accessory use shall only be open for business when the campground is operating.
- vi. One structure is allowed to be used as an office.
- vii. One mobile home is allowed in a campground as a caretaker's residence.
- i. Home occupations are not permitted within the campground.
- j. Campgrounds shall be licensed by the State of Michigan, including as required in Act 368 of 1978, the Public Health Code. The City may enforce the provisions of the Public Health Code.
- k. A Planned Unit Development shall not be licensed as both a campground and a seasonal mobile home campground.
- l. The maximum number of sites per acre of total campground area is 12 sites per acre.
- m. The minimum area of each site is one-thousand-three-hundred (1,300) square feet.
- n. All driveways and parking areas shall be paved with bituminous or concrete paving. Two paved parking spaces shall be provided for each campsite.
- o. Each entrance and exit to and from the campground shall be located at least twenty-five (25') feet distant from adjacent property located in any single-family residential district.
- p. There shall be no vehicle access to the campground except through designated common driveways, unless an access for use only by emergency vehicles is approved as a condition of development approval.
- q. Screening shall be provided along side yards, rear yards and any part of the parcel which abuts a public or private right of way. Screening shall be maintained in a living condition and shall consist of 1) a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season; or 2) a solid wall or tight board fence six (6) feet in height.
- r. The campground owner or applicant must research and show proof that the campground will not overload available roadways, utilities and drainage, including a study which estimates peak loads and shows that there is excess capacity in city utilities, streets and drainage to service the campground.
- s. The City Fire Marshal may prohibit campfires as part of site plan approval.
- 5. Dwelling above permitted use according to the standards in Section 601.16.
- 6. Marinas and marine services including seasonal boat storage.
- 7. Recreation centers (Outdoor) by special use permit.
- 8. Hotels or resorts authorized as a special land use (see Section 1510.22 and Section 1738).
- 9. Parking lots by special use permit.
- 10. Planned Unit Development which contains a mix of land uses including any use permitted by right in this district and one or more of the following land uses according to the requirements of Article XVIII:
  - a. Planned Unit Development which contains a mix of land uses including any use permitted by right in this district and one or more of the following land uses according to the requirements of Article XVIII:
    - 1. Each dwelling unit shall have one (1) floor at ground level.

2. No more than four (4) dwelling units shall be attached in any construction group, or contained in any single structure, except that where the roof ridge lines and building facades of any four (4) consecutive units are staggered or offset by at least ten (10) feet, then a maximum of eight (8) units may be permitted.

3. The site plan shall be so planned as to provide ingress and egress directly onto a major or minor thoroughfare, except when the Planning Commission finds, upon review of the site plan, that ingress and egress directly onto an adjacent minor street will not be detrimental to the harmonious development of the adjacent properties. Where feasible, the Planning Commission may require that ingress-egress to parking facilities be provided from adjacent alleys so as to minimize curb cuts directly onto the major or minor thoroughfares.

4. The site plan shall be so planned as to recognize yard and general development relationships with adjacent land uses. The Planning Commission may recommend physical features to be provided which will insure harmony in these relationships.

b. Multiple-family dwellings and apartments where not all units are at ground level.

11. Private clubs, fraternal organizations, lodge halls and convention halls.

12. Recreation centers and facilities by special use permit.

13. Restaurants, lounges or other places serving food or beverage, except those having the character of a drive-in.

14. Retail businesses.

15. Accessory buildings and structures customarily incidental to the above uses.

16. One family detached dwellings by special use permit, subject to the following conditions to be demonstrated by the applicant:

a. The proposed use will be of substantial benefit to the City and the waterfront business community.

b. No other use permitted in this zoning district is possible on the lot due its size or configuration.

c. The inability to use the lot for another use permitted in this zoning district was not the result of an action taken after January 1, 2014, by the applicant or any predecessor in interest in the property.

d. Special use permits shall not be granted under this subsection for any lot created by lot split occurring after January 1, 2014.

e. The site plan submitted with the application must satisfy all additional requirements for special use permits in Section 1502 of this ordinance.

f. The short-term rental of any dwelling unit in the B-3 district shall comply with all applicable provisions of the City Code including, without limitation, any applicable registration requirements.

17. Short-term rental business units within dwelling units permitted under this Section or other applicable provisions of the zoning ordinance, subject to the regulations in Section 1743.

18. Short-term rental personal units within dwelling units permitted under this Section or other applicable provisions of the zoning ordinance, subject to the regulations in Section 1744.

## SECTION 902. REQUIRED CONDITIONS

1. All dredging, construction and/or development shall be subject to the requirements of all relevant codes and ordinances of the City of South Haven, the State of Michigan, and the federal government.
2. The flushing or discharge of boat toilets and discarding of waste or refuse from boats in marinas into the water is prohibited. Each marina shall provide suitable, safe and sanitary toilet and refuse facilities within buildings designed for this purpose. No less than one (1) toilet facility shall be provided on the site for each fifty (50) boat spaces and not more than one thousand (1,000) feet of walking distance from each boat space. Refuse and garbage containers shall be provided and kept in clean and sanitary condition for the use of boat owners within not more than one hundred and fifty (150) feet of walking distance of each boat space. All such facilities shall be subject to the approval of the Van Buren County Health Department.
3. Public launchings permitted in any marina having a public launching ramp shall be limited as follows: The number of public launchings permitted shall be limited to the number of parking spaces available to the general public for the parking of vehicles and boat carriers in any such marina.

Before any use shall be made of the public launching ramp, a site plan for such ramp and attendant facilities shall be submitted to the Planning Commission to determine if all provisions of this section have been complied with.

4. All lighting for external illumination of the parking area, buildings, grounds or waters shall be directed away from, and shall be shielded from, adjacent residential districts and shielded from the sky.
5. Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following with the selection of the option by the Planning Commission: 1) by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season, or 2) a solid wall or tight board fence or a privacy fence (which allows air to flow through) six (6) feet in height, or 3) if the provisions in Section 1709, 1713 or 1714 are more restrictive in an individual case, then the provisions of whichever section the Planning Commission believes will best protect abutting properties.
6. The minimum setback of any parking area, including drives within said parking area, from any property line or right-of-way shall be at least five (5) feet. All setback areas required by this paragraph must be landscaped.

## SECTION 903. AREA REGULATIONS

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement:

1. **Front Yard** - There shall be a front yard of no less than twenty-five (25) feet.
2. **Side Yard** - Side yards shall be at least ten (10) feet in width.
3. **Rear Yard** - There shall be a rear yard of no less than twenty (20) feet.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A Site Plan is required for all structures, additions and parking areas.

**SECTION 904. HEIGHT REGULATIONS**

No building shall exceed thirty-five (35) feet and two (2) stories in height.

**ARTICLE X  
B-4 MAJOR THOROUGHFARE BUSINESS DISTRICT**

**SECTION 1000. INTENT**

The Major Thoroughfare Business District is designed to permit those uses that provide services and activities typically found along heavily traveled roads and interstate highways. These uses enjoy a close proximity to I-196, Blue Star Memorial Highway or Phoenix Road/County Road 388. The district regulations are designed to promote convenient retail and related uses to serve the residents of South Haven as well as providing commercial/retail services for persons traveling along major thoroughfares. This district also allows for developments such as planned shopping developments, malls, department stores, restaurants, and other retail uses.

**SECTION 1001. USE REGULATIONS**

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

1. All uses permitted in the B-2 zoning district.
2. Planned Shopping Developments, when authorized by the Planning Commission as a special land use. In considering such authorization, the Planning Commission shall ensure conformance with the standards of Article XV:
3. Outdoor theaters, when authorized as a special land use by the Planning Commission. In considering such authorization, the Planning Commission shall ensure the standards of Article XV are met:
4. Parking lots as a separate use by special use permit.
5. Personal Service Businesses without size limitations
6. Retail Businesses without size limitations
7. Professional Service Businesses without size limitations.
8. Car wash facilities by special use permit.
9. Garden Centers by special use permit
10. Restaurants and restaurants with drive in or drive through service or outdoor seating.
11. Banks and other financial institutions
12. Recreation centers (Indoor and Outdoor) by special use permit.
13. Accessory buildings and structures customarily incidental to the above uses.
14. Communication Towers by special use permit on property that does not have frontage on a major thoroughfare provided the requirements of Section 1709 (Plant Materials & Landscaping Requirements) are met. (Amended 9/2/03, Ord. 923)

**SECTION 1002. REQUIRED CONDITIONS**

1. The outdoor display or sale of goods or merchandise shall not interfere with any pedestrian or vehicular traffic within the parking area or entryway onto the property. Said

display or sale shall not use any required parking spaces or fire lanes and shall be setback thirty-five (35) feet from the front lot line and twenty (20) feet from any side lot line.

2. Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following with the selection of the option by the Planning Commission: 1) by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season, or 2) a solid wall or tight board fence or a privacy fence (which allows air to flow through) six (6) feet in height, or 3) if the provisions in Section 1709, 1713, or 1714 are more restrictive in an individual case, then the provisions of whichever section the Planning Commission believes will best protect abutting properties.
3. All lighting shall be installed in a manner so that no illumination source is visible beyond all property lines and must be directed down and shielded from the sky.
4. No signs shall be placed within a twenty (20) foot setback from any property line and/or right-of-way.
5. The minimum setback of any parking area, including drives within said parking area, from the front or rear property line or right-of-way shall be at least ten (10) feet. The minimum setback of any parking area, including drives within said parking area, from the side property line shall be at least five (5) feet. If the lot is a corner lot, then the minimum setback from a right-of-way shall be ten (10) feet. All setback areas required by this paragraph must be landscaped.

### **SECTION 1003. AREA REGULATIONS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement (unless specified elsewhere in this Article):

1. **Front Yard** - There shall be a front yard of no less than thirty-five (35) feet.
2. **Side Yard** - There shall be a side yard of no less than twenty (20) feet.
3. **Rear Yard** - There shall be a rear yard of no less than twenty (20) feet.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A site plan is required for all structures, additions and parking areas.
6. **Spacing** - Whenever two (2) or more buildings are built on the same lot, said buildings shall not be allowed to be erected closer than twenty (20) feet to one another.

### **SECTION 1004. HEIGHT REGULATIONS**

No building shall exceed forty-five (45) feet and three (3) stories in height.

**ARTICLE XI  
I - 1 LIGHT INDUSTRIAL DISTRICT  
I-1B INDUSTRIAL DISTRICT  
AND  
I-2 GENERAL INDUSTRIAL DISTRICT**

**SECTION 1100. INTENT OF THE I-1 DISTRICT**

The I-1 Light Industrial District is designed so as to primarily accommodate wholesale activities, warehouses and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect, in a detrimental way, any of the surrounding districts. The I-1 District is so structured as to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material. It is further intended that the processing of raw material for shipment in bulk form, to be used in an industrial operation at another location, not be permitted.

The general goals of this use district include, among others, the following specific purposes:

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

**SECTION 1101. USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission:

1. Any use charged with the principal function of basic research, design and pilot or experimental product development when conducted within a completely enclosed building.
2. Any of the following uses when the manufacturing, compounding, or processing is conducted wholly within a completely enclosed building. That portion of the land used for open storage facilities for materials or equipment used in the manufacturing, compounding, or processing shall be totally obscured by a wall on those sides abutting any residential or commercial zoning district, and on any front yard abutting a public thoroughfare, except as otherwise provided in Section 1712. In the I-1 District, the extent of such a wall may be determined by the Planning Commission on the basis of usage. Such a wall shall not be less than five feet in height and may, depending upon land usage, be required to be eight (8) feet in height, and shall be subject to the requirements of Article XVII. General Provisions, Section 1713. A chain link fence, with intense evergreen shrub planting, shall be considered an obscuring wall. The height shall be

determined in the same manner as determined above (see subsection 20.e. for additional screening requirements):

- a. Warehousing and wholesale establishments and trucking facilities.
  - b. The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to, bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery, tool, die, gauge and machine shops.
  - c. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials: bone, canvas, cellophane, cloth, cork, elastomers, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, rubber, precious or semiprecious metals or stones, sheet metal, shell, textiles, tobacco, wax, wire, wood and yarns.
  - d. The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity organs.
  - e. The manufacture of musical instruments, toys, novelties, and metal or rubber stamps, or other molded rubber products.
  - f. The manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.
  - g. Laboratories - experimental, film or testing.
  - h. The manufacturing and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
  - i. Central dry cleaning plants or laundries, provided that such plants shall not deal directly with consumer at retail.
  - j. All public utilities, including buildings, necessary structures, storage yards, and other related uses.
3. Warehouse, storage and transfer, and electric and gas service buildings and yards, public utility buildings, telephone exchange buildings, electrical transformer stations and substations, gas regulator stations, water supply and sewage disposal plants, water and gas tank holders, railroad transfer and storage tracks, railroad rights-of-way, and freight terminals.
  4. Storage facilities for building materials, sand, gravel, stone, lumber, and contractor's equipment and supplies, provided such is enclosed within a building or within an obscuring wall or fence on those sides abutting all residential or business districts, and on any yard abutting a public thoroughfare. In any I-1 District, the extent of such fence or wall may be determined by the Planning Commission on the basis of usage. Such fence or wall shall not be less than five (5) feet in height, and may, depending on land usage, be required to be eight (8) feet in height. A chain link type fence, with dense evergreen shrubbery inside of said fence, shall be considered to be an obscuring fence. See also Sections 1709, 1713 and 1714.
  5. Auto engine, paint and body repair, and undercoating shops when completely enclosed.
  6. Automatic teller machines when inside another building and accessory to another use.
  7. Commercial kennels.
  8. Electrical, plumbing and heating suppliers
  9. Factory and mill supplies.
  10. Farms.
  11. Greenhouses.



12. Incubator: Mix of uses including any in the B-2 District and this District by special land use permit, provided there are at least six (6) individual tenants. No new review and approval is required for a change of land use within an approved incubator, if within the same building and/or on the same site.
13. Municipal facility and municipal vehicle maintenance garage.
14. Office buildings
15. Parking lots
16. Printing plants.
17. Radio and television towers, public utility microwaves and public utility TV transmitting towers, and their attendant facilities by special use permit, provided said use shall be located centrally on a continuous parcel of not less than one and one-half (1-1/2) times the height of the tower measured from the base of said tower to all points on each property line.
18. Stadium, sports arena.
19. Trade or industrial schools.
20. Other similar light industrial uses when authorized by the Planning Commission as a special land use. In considering any site plan to establish a use in this district, the Planning Commission shall ensure conformance with the following standards and for special land uses, those of Article XV:
  - a. Ingress and egress to the lot and the proposed buildings and structures thereon, with particular reference to automotive, truck, and pedestrian access shall be safe and convenient. Traffic flow and control, and access in case of fire or catastrophe shall also be safe and convenient.
  - b. Off-street parking and loading areas where required, shall be located with particular attention to the items in subparagraph (a) above, and the economic, noise, glare, odor or other nuisance effects of the use on adjoining properties and the surrounding neighborhood. The minimum setback of any parking area, including drives within said parking area, from the front or rear property line or right-of-way shall be at least twenty (20) feet. The minimum setback of any parking area, including drives within said parking area, from the side property line or right-of-way shall be at least five (5) feet. If the lot is a corner lot, then the minimum setback from a right-of-way shall be twenty (20) feet. All setback areas required by this paragraph must be landscaped.
  - c. Refuse and service areas shall be located with particular reference to the items in subparagraphs (a) and (b) above.
  - d. Utilities shall be located in safe and convenient locations and buried below ground wherever feasible.
  - e. Screening and buffering, with reference to type, dimensions, and character shall conform to the requirements of Sections 1709, 1713 and 1714 of this Ordinance. Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following with the selection of the option by the Planning Commission: 1) by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season, or 2) a solid wall or tight board fence or a privacy fence (which allows air to flow through) six (6) feet in height, or 3) if the provisions in Section 1709, 1713 or 1714 are more restrictive in an individual case, then the provisions

of whichever section the Planning Commission believes will best protect abutting properties.

- f. Signs, if any, and proposed exterior lighting shall be located to reduce glare, ensure traffic safety, preserve economic viability, and achieve compatibility and harmony with adjoining and surrounding neighborhood properties.
- g. Required yards and other open spaces shall conform with the requirements of Section 1102.
- h. There shall be general compatibility with adjacent properties and the surrounding neighborhood.

21. Accessory buildings and structures customarily incidental to the above uses.

## **SECTION 1102. AREA REGULATIONS**

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements:

- 1. **Front Yard** - There shall be a front yard of no less than forty (40) feet. Off-street parking for visitors, over and above the number of spaces required under Article XVIII, may be permitted within the required front yard, provided that such off-street parking is not located within twenty (20) feet of the front lot line.
- 2. **Side Yard** - There shall be total side yards of forty (40) feet, provided that no yard shall be less than twenty (20) feet. In no event shall a building be located closer than seventy-five (75) feet to a residential district. Off-street parking shall be permitted in the required side yard setback if adequately screened from an adjacent residential district as determined by the Planning Commission.
- 3. **Rear Yard** - There shall be a rear yard of no less than fifty (50) feet.
- 4. **Lot Area and Width** - No minimum required.
- 5. **Site Plan** - A Site Plan is required for all structures, additions and parking areas.
- 6. **Landscaping** - Within the industrially zoned areas, landscaping requirements must adhere to Article XVII, Section 1709. (Amended 12/14/89; Ord. No. 728)

## **SECTION 1103. HEIGHT REGULATION**

No building or structure shall exceed forty (40) feet in height.

## **SECTION 1104. PERFORMANCE STANDARDS**

Before the issuance of any building permit in this Zone, the applicant shall sign an agreement with the City Manager that the use of the property will meet the following Performance Standards, that no nuisance will be created, and that any violation of these standards in subsequent operations will be corrected in an expeditious manner:

- 1. **Fire and Explosion Hazards** - All buildings, storage and handling of flammable materials, and other activities shall conform to County and City building and fire ordinances and to any applicable State and Federal regulations or requirements. No use of building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street.
- 2. **Smoke, Fumes, Gases, Dust, and Odors** - There shall be no emission of any smoke, radiation, fumes, gases, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as

to cause property damage or hazards to public health or to be detrimental to the property rights of other property or to be obnoxious to the general public.

3. **Liquid or Solid Waste** - No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage disposal and industrial waste treatment and disposal shall be approved by the City and by the County and Michigan State Health Departments.
4. **Vibration** - There shall be no vibration which is discernible to the human sense of feeling beyond the boundaries of the lot on which such use is conducted.
5. **Noise** - There shall be no noise emanating from the operation which will adversely affect an adjoining permitted use.
6. **Glare** - There shall be no direct or sky-reflected glare harmful to the human eye at the property line of the lot occupied by such use.
7. **Industrial Park Covenants** - That any industrial park covenants applicable to the property will be conformed with.

**SECTION 1105.** Reserved for Future Use.

#### **SECTION 1106. INTENT OF THE I-2 DISTRICT**

General Industrial Districts are designed primarily for manufacturing, assembling and fabrication activities, including large scale or specialized industrial operations whose external physical effects will be felt to some degree by surrounding districts. The I-2 District is so structured as to permit the manufacturing, processing, and compounding of semifinished or finished products from raw materials as well as from previously prepared material.

#### **SECTION 1107. USE REGULATIONS**

Land, buildings, or structures in this zoning district may be used for the following purposes only, subject to review and approval of a site plan by the Planning Commission:

1. Any principal use permitted in an I-1 District subject to the same conditions.
2. Heating and power generating plants.
3. Any of the following production or manufacturing uses (not including storage of finished products), provided that they are located not less than two hundred (200) feet distant from any residential district and not less than two hundred (200) feet distant from any other district and further subject to the regulations contained below in Section 1108, Special Conditions :
  - a. Junk yards, auto salvage and parts reconditioning provided such are entirely enclosed within a building.
  - b. Incineration of garbage or refuse when conducted within an approved and enclosed incinerator plant.
  - c. Blast furnace, steel furnace, blooming or rolling mill.
  - d. Manufacture of corrosive acid or alkali, cement, lime, gypsum or plaster of paris.
  - e. Petroleum or other inflammable liquids, production, refining or storage.
  - f. Smelting of aluminum, copper, iron or zinc.
  - g. Ferrous and nonferrous foundries.
  - h. Stamping plants.
4. Any other use which shall be determined by the City of South Haven, after recommendation from the Planning Commission, to be of the same general character as

the above permitted uses in Section 1107. The City of South Haven may impose reasonable setback and/or Performance Standards so as to insure public health, safety and general welfare.

5. Radio and television towers, public utility microwaves and public utility T.V. transmitting towers, and their attendant facilities, provided said use shall be located centrally on a continuous parcel of not less than one and one-half (1-1/2) times the height of the tower measured from the base of said tower to all points on each property line.
6. Accessory buildings and structures customarily incidental to the above uses.
7. Adult Entertainment Facilities when authorized by the Planning Commission as a special use in accordance with Section 1510.01.

#### **SECTION 1108. SPECIAL CONDITIONS**

1. Any production or manufacturing use permitted in Section 1107 (3) that was in operation or under construction prior to the adoption of this Ordinance is exempt from the locational requirements as stated in the same section and paragraph.
2. Should the existing uses or structure be removed or destroyed by any means, buildings may be rebuilt along the same building line. Uses may be changed within the same building lines subject to uses permitted in Section 1107.
3. Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following with the selection of the option by the Planning Commission: 1) by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season, or 2) a solid wall or tight board fence or a privacy fence (which allows air to flow through) six (6) feet in height, or 3) if the provisions in Section 1709, 1713 or 1714 are more restrictive in an individual case, then the provisions of whichever section the Planning Commission believes will best protect abutting properties.
4. The minimum setback of any parking area, including drives within said parking area, from the front or rear property line or right-of-way shall be at least twenty (20) feet. The minimum setback of any parking area, including drives within said parking area, from the side property line or right-of-way shall be at least five (5) feet. If the lot is a corner lot, then the minimum setback from a right-of-way shall be twenty (20) feet. All setback areas required by this paragraph must be landscaped.

#### **SECTION 1109. AREA REGULATIONS**

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements:

1. **Front Yard** - There shall be a front yard of no less than sixty (60) feet. Off-street parking for visitors, over and above the number of spaces required under Article XVIII may be permitted within the required front yard, provided that off-street parking is not located within twenty (20) feet of the front lot line.
2. **Side Yard** - There shall be total side yards of sixty (60) feet, provided that no yard shall be less than thirty (30) feet. In no event shall a building be located closer than seventy-five (75) feet to a residential district. Off-street parking shall be permitted in the required side yard setback if adequately screened from an adjacent residential district as determined by the Planning Commission.

3. **Rear Yard** - There shall be a rear yard of no less than fifty (50) feet.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A Site Plan is required for all structures, additions and parking areas.
6. **Landscaping** - Within the industrially zoned areas, landscaping requirements must adhere to Article XVII, Section 1709. (Amended 12/14/89; Ord. No. 728)

#### **SECTION 1110. HEIGHT REGULATIONS**

No building or structure shall exceed sixty (60) feet in height.

#### **SECTION 1111. PERFORMANCE STANDARDS**

Before the issuance of any building permit in this Zone, the applicant shall sign an agreement with the City Manager that the use of the property will meet the following Performance Standards and that any violation of these standards in subsequent operations will be corrected expeditiously:

1. **Fire and Explosion Hazards** - All buildings, storage and handling of the flammable materials, and other activities shall conform to County and City building and fire ordinances and to any applicable State and Federal regulations and requirements. No use of building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street.
2. **Smoke, Fumes, Gases, Dust, and Odors** - There shall be no emission of any smoke, radiation, fumes, gases, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to cause property damage or hazards to public health or to be detrimental to the property rights of other property or to be obnoxious to the general public.
3. **Liquid or Solid Waste** - No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage disposal and industrial waste treatment and disposal shall be approved by the City and by the County and Michigan State Departments.
4. **Vibration** - There shall be no vibration which is discernible to the human sense of feeling beyond the boundaries of the lot on which such use is conducted.
5. **Noise** - There shall be no noise emanating from the operation which will adversely affect an adjoining permitted use.
6. **Glare** - There shall be no direct or sky-reflected glare harmful to the human eye at the property line of the lot occupied by such use.
7. **Industrial Park Covenants** - That any industrial park covenants applicable to the property will be conformed with.

**SECTION 1112.** Reserved for Future Use.

#### **SECTION 1113. INTENT OF THE I-1B INDUSTRIAL DISTRICT**

The I-1B Industrial District is designed so as to primarily accommodate wholesale activities, warehouses and industrial operations whose external, physical effects are restricted to the area of the district and in no manner affect, in a detrimental way, any of the surrounding districts. The I-1B District is so structured as to permit, along with any specified uses, the manufacturing,

compounding, processing, packaging, assembly and/or treatment of finished or semifinished products from previously prepared material.

The general goals of this use district include, among others, the following specific purposes:

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

#### **SECTION 1114. USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission:

1. Any use permitted in the I-1 Light Industrial District.
2. Nonferrous smelting and casting.

#### **SECTION 1115. AREA REGULATIONS**

No building or structure, nor any enlargement thereof, shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements:

1. **Front Yard** - There shall be a front yard of no less than forty (40) feet. Off-street parking for visitors, over and above the number of spaces required under Article XVIII, may be permitted within the required front yard, provided that such off-street parking is not located within twenty (20) feet of the front lot line.
2. **Side Yard** - There shall be total side yards of forty (40) feet, provided that no yard shall be less than twenty (20) feet. In no event shall a building be located closer than seventy-five (75) feet to a residential district. Off-street parking shall be permitted in the required side yard setback if adequately screened from an adjacent residential district as determined by the Planning Commission.
3. **Rear Yard** - There shall be a rear yard of no less than fifty (50) feet.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A Site Plan is required for all structures, additions and parking areas.
6. **Landscaping** - Within the industrially zoned areas, landscaping requirements must adhere to Article XVII, Section 1709. (Amended 12/14/89; Ord. No. 728)

## SECTION 1116. HEIGHT REGULATION

No building or structure shall exceed forty (40) feet in height.

## SECTION 1117. PERFORMANCE STANDARDS

Before the issuance of any building permit in this Zone, the applicant shall sign an agreement with the City Manager that the use of the property will meet the following Performance Standards, that no nuisance will be created, and that any violation of these standards in subsequent operations will be corrected in an expeditious manner:

1. **Fire and Explosion Hazards** - All buildings, storage and handling of flammable materials, and other activities shall conform to County and City building and fire ordinances and to any applicable State and Federal regulations or requirements. No use of building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street.
2. **Smoke, Fumes, Gases, Dust, and Odors** - There shall be no emission of any smoke, radiation, fumes, gases, dust, odors, or any other atmospheric pollutant which will disseminate beyond the boundaries of the lot occupied by such use in such a manner as to cause property damage or hazards to public health or to be detrimental to the property rights of other property or to be obnoxious to the general public.
3. **Liquid or Solid Waste** - No industrial operations shall directly discharge industrial waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage disposal and industrial waste treatment and disposal shall be approved by the City and by the County and Michigan State Health Departments.
4. **Vibration** - There shall be no vibration which is discernible to the human sense of feeling beyond the boundaries of the lot on which such use is conducted.
5. **Noise** - There shall be no noise emanating from the operation which will adversely affect an adjoining permitted use.
6. **Glare** - There shall be no direct or sky-reflected glare harmful to the human eye at the property line of the lot occupied by such use.
7. **Industrial Park Covenants** - That any industrial park covenants applicable to the property will be conformed with.

**ARTICLE XII  
PB-1 PROFESSIONAL BUSINESS DISTRICT AND HSD  
HEALTH SERVICES DISTRICT**

**Division 1 – PB-1 Professional Business District**

**SECTION 1200. INTENT**

The purpose of this district is to accommodate office uses, office sales uses, and business services. The district is intended as a transition area between residential areas and more intensive business development and is intended principally for daytime business activities that are compatible with adjacent residential districts in the City.

**SECTION 1201. USE REGULATIONS**

Land, buildings or structures in this zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission.

- 1 Professional offices for the practice of medicine, dentistry, law, engineering and architectural design, accounting, advertising, brokerage and other related professional services.
2. Publicly owned office and meeting buildings, and public utility offices, but not including storage yards, substations or regulator stations.
3. Financial, real estate and management offices, including banks, credit unions, savings and loan institutions, real estate offices, abstract and title offices, business consulting and management offices and similar office functions, but not including drive-in facilities for such uses.
4. Single family dwellings meeting the requirements of the R-1 Single-Family Residential District.
5. Pharmacies and medical supply stores offering retail sales.

**SECTION 1202. REQUIRED CONDITIONS**

1. Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following with the selection of the option by the Planning Commission after consulting with the neighbors: 1) by a compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in height and five (5) feet in width after one growing season, or 2) a solid wall or tight board fence or a privacy fence (which allows air to flow through) six (6) feet in height, or 3) if the provisions in Section 1709, 1713 or 1714 are more restrictive in an individual case, then the provisions of whichever section the Planning Commission believes will best protect abutting properties.
2. The minimum setback of any parking area, including drives within said parking area, from any property line or right-of-way shall be at least five (5) feet. All setback areas required by this paragraph shall be landscaped.
3. There shall be no outdoor display or sale of goods.

**SECTION 1203. AREA REGULATIONS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot area, and building coverage requirements are provided and



maintained in connection with such building, structure or enlargement.

1. **Front Yard** - There shall be a front yard of no less than twenty-five (25) feet.
2. **Side Yard** - There shall be a side yard of no less than ten (10) feet in width.
3. **Rear Yard** - There shall be a rear yard of no less than twenty (20) feet.
4. **Lot Area and Width** - No minimum required.
5. **Site Plan** - A Site Plan is required for all structures, additions and parking areas.

### **Division 2 – HSD Health Services District**

#### **SECTION 1204. INTENT**

The purpose of this district is to accommodate, promote, and expand the health services industry in the City of South Haven by providing a setting in which the physical design and supporting amenities are attractive to the health service business sector.

#### **SECTION 1205. USE REGULATIONS**

Land, buildings, or structures in this zoning district may be used for the following purposes only, subject to the review and approval of a site plan by the Planning Commission.

1. Professional office for the practice of medicine, dentistry, or alternative and homeopathic medicines. (this does not include medical marijuana facilities subject to licensure under the Michigan Medical Marijuana Facilities Licensing Act);
2. Laboratories;
3. Medical equipment and orthopedic/prosthetic facilities;
4. Ambulance services;
5. Assisted living and skilled nursing homes;
6. Hospitals;
7. Diagnostic and treatment facilities;
8. Outpatient surgery facilities;
9. Urgent care facilities;
10. Health clubs and private recreation facilities for employees/patients;
11. Psychiatric and behavioral medical facilities;
12. Psychological and substance abuse clinics;
13. Heliports;
14. Pharmacies, including but not limited to pharmacies engaging in the on-site compounding of drugs;
15. Other retail establishments (aside from those expressly listed above) as accessory uses or

as principal uses on lots under 35,500 square feet in size;

16. Restaurants, cafeterias, coffee shops as accessory uses or as principal uses on lots under 20,000 square feet in size;
17. Educational or conference facilities for in-house training of medical staff and personnel; may be in conjunction with an institution of higher learning such as a college or university;
18. Convalescent facilities;
19. Hospice facilities;
20. Support offices and facilities serving a hospital or other medically related businesses (e.g., offices for administrative or information technology (IT) support personnel);
21. Funeral home and ambulance service by special use permit;
22. Historical institutions.

#### **SECTION 1206. REQUIRED CONDITIONS**

1. Side yards and rear yards adjoining any residential zoning district shall be screened by one of the following: 1) compact hedge of deciduous or evergreen trees which reach a minimum of five (5) feet in width after one growing season, or 2) a solid wall or tightboard fence or a privacy fence (which allows air to flow through) six (6) feet in height.
2. The minimum setback of any parking area, including drives within said parking area, for any property line or right-of-way shall be at least five (5) feet. All setback areas required by this paragraph shall be landscaped.
3. There shall be no outdoor display or sale of goods.

#### **SECTION 1207. AREA REGULATIONS**

No building or structure, nor the enlargement of any building or structure, shall be hereafter erected unless the following yards, lot areas, and building coverage requirements are provided and maintained in connection with such building, structure, or enlargement.

1. **Front Yard Setback** - Minimum twenty-five (25) feet.
2. **Side Yard Setbacks** - Minimum ten (10) feet.
3. **Rear Yard Setback** - Minimum twenty (20) feet.
4. **Lot Area** - No minimum.
5. **Lot Width** - No minimum.
6. **Site Plan** - A site plan and review is required for all structures, additions, and parking areas.

#### **SECTION 1208. HEIGHT REGULATIONS**

1. **Height** - No building shall exceed thirty-five (35) feet or two and one-half (2-1/2) stories.

**ARTICLE XIII  
PUD - PLANNED UNIT DEVELOPMENT**

**SECTION 1300. DESCRIPTION AND PURPOSE**

1. It is the purpose of this Article to encourage innovation and variety in land use, design, layout, and type of structures constructed; to achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage useful open space, and provide better housing opportunities particularly suited to the needs of the residents of the City, County and State, provided such opportunities do not unreasonably create any adverse economic, social or environmental impact on surrounding landuses.
2. The use, area, height, bulk and placement regulations of this Ordinance are primarily applicable to the usual situation of one (1) principal building on a lot. In certain developments, including but not limited to condominium, townhouse, and apartment developments, these requirements might result in design and land use arrangements with multiple buildings on a lot and a design less in the interest of public health, safety and welfare than if a controlled degree of flexibility in the regulation of land development were allowed.
3. The Planned Unit Development (PUD) is intended to permit and control the development of preplanned areas for various compatible uses allowed by the City Zoning Ordinance and for other uses not so provided. It is a discretionary review and approval procedure that results in an approved development if all standards of this Article are met and denial if they are not. A PUD approval is a special land use and, as such, has all the rights and privileges of an approved use by right as long as all conditions attached to the approval are complied with.
4. It is intended that uses in a PUD shall afford each type of land use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to a PUD.

**SECTION 1301. PUD OBJECTIVES**

The following Objectives shall be met by any application for any PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, and long-range planning and development:

1. To provide more desirable living, shopping and working environments by preserving as much of the natural character of the property as possible, including, but not limited to, open space, stands of trees, brooks, ponds, river and lake shorelines, floodplains, hills and similar natural assets. Developments having water frontage should be designed to preserve public vistas to the maximum extent possible.
2. To encourage the provision of open space and the development of recreational and, where included in the site plan, other support facilities in a generally central location within reasonable distance of all living units and other land uses.
3. To encourage applicants to use a more creative and imaginative approach in the design and operation of development projects including combining and coordinating architectural styles, building forms and relationships, flexibility in design, and planned diversification in the location of structures.
4. To allow phased PUDs with the knowledge that each phase will be constructed as originally approved by the City.

5. To promote the use of land that facilitates economic and efficient design and use of public and private infrastructure, buildings, circulation systems, and land use.
6. To ensure a quality of construction that is equal to or better than other new developments within the City.
7. To ensure there are recognizable and substantial benefits to the community achieved by the PUD. These benefits must otherwise be unfeasible or unlikely to be achieved by development under normal zoning requirements taking into consideration the reasonably foreseeable detriments of the proposed development and use(s); including, without limitation:
  - a. The long-term protection and/or preservation of natural resources and natural features and/or historical and/or architectural features of a significant quantity and/or quality in need of protection or preservation on a local, state and/or national basis;
  - b. Reducing to a significant extent the nonconformity of a nonconforming use or structure, i.e., modification of a nonconforming use or structure so that, to a significant extent, it conforms more closely to the requirements of the zoning district in which it is situated.
  - c. The provision of additional amenities that would not otherwise be provided in a conventional development, including but not limited to more usable open space, recreational facilities, higher quality building materials, etc.

**SECTION 1302. PUD ELIGIBILITY REQUIREMENTS**

No PUD application shall be approved unless the following eligibility requirements are met:

1. Compliance with the requirements of this Ordinance and the underlying zoning district, unless a request for modification meeting the requirements of Section 1306, 2b is submitted and approved for a RPUD.
2. All land for which application is made must be owned or under control of the applicant(s) and remain under control until final action on the PUD application.
3. The parcel of land that is the subject of the PUD application must be capable of being planned and developed as a single, integral land use unit. Noncontiguous parcels separated by a road or waterway may be considered by the Planning Commission and City Council where other benefits to the public are sufficient to warrant their consideration.

**SECTION 1303. APPLICATION, REVIEW AND APPROVAL PROCEDURES**

1. An application for a Planned Unit Development shall be submitted and acted upon in accordance with the procedures of Section 1501, 1-3 and this Section.
2. Required Information – The following documents and information shall be submitted with the PUD application:
  - a. The Required Information of Section 1501, 2.
  - b. A statement with regard to compliance with the Objectives of a PUD stated in Section 1301, the Eligibility Requirements of Section 1302, the criteria required for approval in Section 1304, and other criteria imposed by this Ordinance affecting the Planned Unit Development under consideration.
  - c. Any fee as specified in Section 2106.
  - d. A preliminary site plan may be submitted for a PUD or a phase of a PUD. However, a final site plan must be submitted and approved prior to receiving a Planned Unit Development Permit.

- e. A parallel development plan, as required and described in Sec. 1306, 3 for RPUDs.
3. Public Hearing
    - a. Upon receipt of a complete application for a final site plan review for a Planned Unit Development a public hearing shall be set for the purpose of receiving comments relative to the Planned Unit Development application.
    - b. The public hearing shall be noticed in accordance with the requirements of Section 1501, 3.
  4. Review and Approval
    - a. Within forty-five (45) days of the public hearing, the Planning Commission shall review the application for a Planned Unit Development, comments received at the public hearing, the site plan, the reports of any City departments or consultants, and other materials submitted in relation to the application, and make a recommendation to the City Council to deny, approve, or approve with conditions, the Planned Unit Development application, based on the standards of Section 1304, 1. The forty-five (45) day time period may be extended with the mutual consent of the Planning Commission and the applicant.
    - b. The Planning Commission may elect to hold additional hearings if it determines that changes to the application are significant enough to warrant additional public input.
    - c. The Planning Commission shall prepare a written report stating its findings and conclusions on the request for a Planned Unit Development, any conditions relating to an affirmative decision, for submission to the City Council for final action.
    - d. The City Council shall review the report of the Planning Commission and any other material submitted to them and shall deny, approve, or approve with conditions, the Planned Unit Development application, based on the standards of Section 1304, 1.
    - e. Should the City Council's decision be contrary to the Planning Commission's recommendation, the Council shall report to the Planning Commission which review standard(s) were or not satisfied, as applicable, along with the Council's reasoning for the decision.
    - f. Three (3) copies of the final approved site plan for the PUD shall be signed and dated by the Mayor or his designated representative and the applicant. One (1) of these approved copies shall be kept on file by the City Clerk, one (1) shall be kept on file by the Zoning Administrator, and one (1) shall be returned to the petitioner or his designated representative.
    - g. In those instances in which Act 591, Public Acts of 1996, as amended, the Land Division Act, is involved, the owner shall, after PUD approval, submit the preliminary and final plats in conformance with Act 591, and in accordance with all other applicable codes, acts and ordinances. Any plat shall remain in conformance with the approved PUD.
    - h. An appeal of a decision by the City Council to deny, approve, or approve with conditions a Planned Unit Development may be taken to Circuit Court, and may not be appealed to the Zoning Board of Appeals.
  5. Phased PUDs
    - a. When proposed construction is to be phased, the PUD shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each PUD phase shall contain the necessary components to insure protection of natural resources and the health, safety, and welfare of the users of the open space development and the residents of the surrounding area.
    - b. A preliminary site plan may be submitted for the entire PUD, in accordance with the provisions of Section 1403. A final site plan shall be approved prior to the construction of any phase.

- c. If a preliminary site plan was approved for the PUD, a final site plan for the first phase of the PUD shall be submitted and approved within twelve (12) months of the approval of the preliminary PUD plan.
  - d. If a final site plan for any phase is not approved within the twelve (12) month period a single, six (6) month extension may be granted by the City Council, provided that the request for extension is submitted in writing prior to the expiration of the original approval.
  - e. An extension may be withheld only where harm to adjacent lands or uses would occur, there have been significant changed conditions in the area, or in the case of fraud or violation of the terms of the original approval.
  - f. Subsequent phases submitted after the first phase shall follow the same requirements of this subsection.
6. Planned Unit Development Permit - Following final approval of a Planned Unit Development final site plan and final approval of the engineering plans by the City Engineer, a permit may be obtained from the Zoning Administrator provided the applicant has obtained all other applicable City, County, State or Federal permits.
7. Recording of Action - The applicant shall record an affidavit which has received the approval of the City Attorney with the County Register of Deeds for the County in which the property is located, containing the full legal description of the project site, specifying the date of final City approval, and declaring that all improvements will be carried out in accordance with the approved PUD site plan unless an amendment is approved by the City. In addition, all deed restrictions and easements shall be duly filed with the Register of Deeds of the County in which the property is located and copies of recorded documents presented to the Zoning Administrator. See also Section 2111.
8. Continuing Adherence to Approved Site Plan - Following approval of the PUD, the requirements, conditions, and standards applicable to the PUD shall apply to all owners whether by easement, common-fee ownership, single-fee ownership, condominium arrangement, license, or lease. Any person who fails to develop and maintain an approved PUD according to the approved site plan shall be deemed in violation of the provisions of this Ordinance and shall be subject to the penalties for same.
9. Amendments - Changes to the approved PUD shall be permitted only under the following circumstances:
- a. The holder of an approved site plan shall notify the Zoning Administrator in writing of any proposed change to an approved site plan.
  - b. Minor changes may be approved by the Zoning Administrator upon determining that the proposed revision(s) will not alter the basic design nor any specified conditions imposed as part of the original approval. Minor changes shall include only the following:
    - 1) Reduction in the building size, up to five percent (5%) in total floor area.
    - 2) Movement of buildings or other structures by no more than two (2) feet, provided that the change in location does not encroach on the approved site boundary setbacks.
    - 3) Replacement of plant material specified in the landscape plan with comparable materials of an equal or greater size.
    - 4) Changes in building materials to a comparable or higher quality.
    - 5) Changes in floor plans that do not alter the character of the use or any other zoning requirements (parking, signs, etc.).
    - 6) Changes in site grading and elevation, provided that drainage patterns are unaffected and views are not impeded to a greater degree than the originally approved PUD,
    - 7) Changes required or requested by the City, or any County, State, or

Federal regulatory agency in order to conform to other laws or regulations.

- c. A proposed change not determined by the Zoning Administrator to be minor shall be submitted to the Planning Commission as a PUD amendment and shall be reviewed in the same manner as the original application. The Zoning Administrator may elect to send any change to the Planning Commission if it is determined that the change may have an effect on adjacent properties or the overall character of the PUD.
- d. The Zoning Administrator shall report any requests for minor changes to the Planning Commission, along with the final disposition of those requests.

#### **SECTION 1304. BASIS OF DETERMINATION**

1. The Planning Commission and City Council shall review the particular circumstances of the Planned Unit Development application under consideration in terms of the following standards and shall approve, or recommend approval of, a Planned Unit Development only upon finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
  - a. Compliance with the Objectives of a PUD stated in Section 1301 and the Eligibility Requirements of Section 1303;
  - b. The General Standards of Section 1502, 1;
  - c. Compliance with the other requirements of this Ordinance, except as may be modified by the provisions of Section 1304, 3;
  - d. The Standards for Review of Preliminary and Final Site Plans of Section 1404; and
  - e. PUD General Standards:
    - 1) Landscaping shall ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
    - 2) The PUD shall be designed so that its pedestrian, non-motorized and vehicular circulation systems are safely and conveniently integrated with those of abutting property.
    - 3) The PUD shall provide that vehicular and pedestrian traffic within the site shall be safe and convenient and that parking layout will not adversely affect the flow of traffic within the site or to and from the adjacent streets. Safe and adequate access for emergency vehicles and adequate space for turning around shall be provided.
    - 4) The PUD shall not result in any greater stormwater runoff to adjacent property after development, than before. The open space shall be provided with ground cover suitable to control erosion.
    - 5) The PUD shall be designed such that phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility services, and drainage or erosion control.
2. Conditions - The City Council may impose conditions with the approval of a PUD that are necessary to ensure compliance with the standards for approval stated in this Section and any other applicable standards contained in this Ordinance. Any conditions shall be considered an integral part of the PUD approval and shall be enforced by the Zoning Administrator.
3. Waiver of PUD Requirements

- a. Except as provided in this subsection, the dimensional standards, including building setbacks, building height, parking requirements of the underlying zoning district shall be used as the dimensional requirements of the PUD.
  - b. To encourage flexibility and creativity consistent with the intent of the PUD regulations, the City Council, after receiving a recommendation or failure to recommend of the Planning Commission, may alter or waive any of the requirements for a Planned Unit Development contained in this Article or any other applicable requirements found elsewhere in this Ordinance.
  - c. Where changes or waivers of Ordinance requirements are requested, the applicant shall provide a table that clearly states each requested change or waiver. This shall include the reasons for the request and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which the changes or waivers are sought.
  - d. The request shall be approved after the following findings are documented by the City Council, including the rationale for the decision, indicating that the changes or waivers:
    - 1) Result in a higher quality of development than would be possible using conventional zoning standards.
    - 2) Are consistent with the PUD Objectives of this Article.
    - 3) The permitted changes or wavers do not impede the continued use or development of surrounding properties for uses that are permitted by this Ordinance.
    - 4) That for reductions in the minimum requirement of the underlying zoning district for single family residential lot area and/or width results in usable open space (not including wetlands, detention, greenbelts, etc.) within the PUD that equals or exceeds the total area of lot area reduction.
  - e. As a condition of approving these changes or waivers, the City Council may attach additional conditions deemed necessary for the protection of the public health, safety, and welfare in lieu of the regulations. Unless the changes or waivers are specifically requested and approved by the Council, the site plan or subdivision plan shall comply with the requirements of this Ordinance.
4. Limitations on Variances from Zoning Board of Appeals: The decision to grant PUD approval or any changes or waivers are not subject to variance approval of the Zoning Board of Appeals. No part of a PUD may be appealed to the Zoning Board of Appeals nor shall an application for variance be accepted. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the PUD, provided the variance does not involve alterations to open space areas as shown on the approved PUD site plan and otherwise meets the applicable review standards applicable to variances of Article XXII.

## **SECTION 1305. DEVELOPMENT REQUIREMENTS**

The following shall be required of all PUDs.

- 1. All utilities provided for the PUD shall be underground.
- 2. Minimum yard restrictions of the zoning district in which the project is located shall be maintained around the perimeter of the PUD site.
- 3. Open Space Requirements



- a. With the exception of MPUDs in the CBD, the total area of dedicated open space shall equal at least fifteen (15) percent of the parcel.
- b. Dedicated open space shall not include areas utilized for buildings, parking lots, driveways, roads and public right-of-ways.
- c. Dedicated open space may include ponds, streams and floodplain areas, but no more than forty (40) percent of the required dedicated open space may be wetlands and no more than twenty (20) percent of the required dedicated open space may be submerged on a year-round basis.
- d. All land within a development that is not devoted to a dwelling unit, individual yard in a lot, or the undivided portion of a condominium project, an accessory use, vehicle access, vehicle parking, a roadway, or an approved land improvement, shall be set aside as common land for recreation or conservation, or preserved in an undeveloped state.
- e. Dedication of Open Space
  - 1) The dedicated open space shall be set aside by the applicant through an irrevocable conveyance that is reviewed and approved by the City Attorney, such as: recorded deed restrictions, covenants that run with the land, transfer to a nonprofit land trust, a recorded conservation easement such as that provided in the State of Michigan Conservation and Historic Preservation Act, Public Act 197 or 1980, as amended (ML.A. 399.251) or dedication to and acceptance of the open space by the City or other public entity.
  - 2) Any open space conveyance shall assure, unless the land is dedicated to the City and accepted by it, that the City will not be liable for any uses or activities occurring within the dedicated open space and that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use unless mutually agreed by the written consent of the City Council and the property owner or Association formed within the PUD.
  - 3) The open space conveyance shall also:
    - a) Indicate the proposed allowable use(s) of the dedicated open space.
    - b) Require that parties who have an ownership interest in the open space in the manner specified in the PUD approval maintain the dedicated open space.
    - c) Provide for maintenance to be undertaken by the City in the event that the dedicated open space is inadequately maintained, or is determined by the City to be a public nuisance, with the assessment of costs upon the property owners or Association.
    - d) Bind all successors and future owners in fee title to commitments made as a part of the PUD.
- f. All dedicated open space must have a minimum width of twenty (20) feet.
- g. Dedicated open space must be easily accessible.
- h. The dedicated open space shall remain open space, subject only to uses approved by the City Council on the approved site plan. Further subdivision of open space land or its use for other than recreation or conservation purposes, except for easements for utilities, shall be strictly prohibited.
- i. Any structure(s) or building(s) accessory to a recreation or conservation use, such as open-air pavilions, open-air gazebos, swimming pools and tennis courts, or other similarly used structures or buildings may be erected within the dedicated open space, if a part of the approved PUD. These accessory structure(s) or building(s) shall not exceed, in the aggregate, five (5) percent of the dedicated open space area unless the City Council determines, upon the recommendation of the Planning Commission that additional open space used for an accessory building or structure

will significantly benefit owners and visitors to the PUD more than the loss of the open space will harm them or abutting property owners.

4. Parking: To encourage a true integration of mixed uses and improved efficiency in land use, an overlap in parking requirements may be permitted between uses that have alternating peak-parking demands or where the mixture of uses on a site would result in multi-purpose trips.
5. Pedestrian gathering and seating plazas, greenways and tree lined drives shall be within parking lots and throughout the site to provide an inviting pedestrian environment, protection of the pedestrian from vehicular circulation for improve traffic operations and views. Other site amenities to create a pedestrian scale environment shall be provided such as bike racks, benches, information kiosks, art, planters, or streetscape elements to separate main buildings from the parking lots.
6. Streets: Any public or private street within a PUD shall provide parking along at least one side of the street, unless a comparable amount of off-street parking is provided instead. Travel lane and parking space dimensions shall meet the requirements of Section 1801.2.

#### **SECTION 1306. RESIDENTIAL PUDS (RPUD)**

1. RPUDs may only be approved in the R-1, R-2 and RM-1 Districts on properties of at least two (2) acres. The Planning Commission may consider and recommend a development on lesser acreage, provided that the PUD Objectives of this Article are substantially forwarded and the developer demonstrates to the Planning Commission that there are measurable benefits to the RPUD plan not available under a normal zoning classification.
2. Uses: All uses proposed for an RPUD shall comply with those permitted in the underlying zoning district only except as provided in Section 1306-4.
3. The following uses are permitted only when accessory to a residential development included within the PUD:
  - (a) Private recreational and accessory facilities, such as golf courses, swimming pools, or other recreational facilities.
  - (b) Marinas, in accordance with the provisions of Section 1510.20.
  - (c) Accessory buildings and uses, in accordance with the requirements of Section 1708.
4. Limited nonresidential uses or structures may be established as part of a RPUD provided that the following requirements are met:
  - 1) Commercial uses as permitted in the B-1 Neighborhood Business District, either as a use permitted by right or a special land use, which are compatible with the residential development and which form an integral part of the RPUD.
  - 2) All non-residential uses allowed in the RPUD, shall occupy no more than ten percent (10%) of the RPUD project's gross developable area, provided, however, areas associated with recreational activities such as golf courses, marinas, and like uses shall not be counted as part of the ten percent (10%).
  - 3) All uses shall be integrated into the design of the project with similar architectural and site development elements, such as signs, landscaping, etc., and be designed to be compatible with the residential character of the neighborhood and/or the RPUD.

- 4) All merchandise for display, sale or lease shall be entirely within an enclosed building(s).
- 5) The nonresidential use of the RPUD must be located with direct access to a primary street (see Figure 2-8).
- 6) Non-residential uses shall be established according to the following requirements:
  - (a) If the entire RPUD contains fewer than twenty (20) dwelling units, seventy-five percent (75%) of these units must be constructed prior to the establishment of any non-residential use.
  - (b) If the RPUD contains more than twenty (20) dwelling units, fifty percent (50%) of these units, but no fewer than fifteen (15) units, shall be constructed prior to the establishment of any non-residential use.

5. Residential density:

- a. Residential density shall be computed using the lot area and density requirements of the District in which the RPUD is proposed.
- b. The Planning Commission shall review a “parallel plan” showing a lot layout complying with the lot area, lot width, streets, easements and setback requirements of the underlying zoning district. The purpose of the parallel plan is to establish a base density of residential development that could practically be located on the site.
- c. The parallel plan shall contain sufficient detail to allow the Planning Commission to determine the overall feasibility of the plan. Generally, the parallel plan shall be a plan that would otherwise be approved by the City in the absence of a RPUD submission.
- d. The parallel plan shall be used to establish the density to be permitted on the site, as approved by the City Council, after receipt of a recommendation by the Planning Commission, in accordance with the requirements of this Article.
- e. Density bonus: For each ten (10) percent increment of additional open space above that required by this Section the City Council may permit up to an equal percentage increase in the number of dwelling units permitted within the RPUD. The bonus densities may be accommodated through alterations to the lot and yard requirements applicable to the appropriate residential use within the RPUD, including lot area and lot width.

**SECTION 1307. MIXED USE PUDS (MPUD)**

1. Mixed Use PUDs may only be approved in the CBD, B-2, and B-3 Districts.
2. Uses: All uses proposed for an MPUD shall comply with those permitted in the underlying zoning district only.
  - a) The list of permitted uses shall be established in the MPUD approval.
  - b) Residential uses are not permitted on the ground floor of buildings that also contain non-residential uses. Within the CBD, residential uses may be allowed on the first floor when they abut a residential zone.
  - c) Parking may be permitted on the ground floor of the building, provided that the site development requirements of 3, below, are met.
  - d) In the CBD, at least thirty (30) percent of the ground floor area of all buildings within the MPUD shall contain retail uses, offices, lodging, restaurants or entertainment related uses.
3. Site development requirements: The following requirements apply only to development within the CBD.

a. Building design

- 1) New buildings shall be designed to blend with the architectural character of existing buildings and shall reflect traditional design details. Those traditional details are expressed around building entrances, window openings, and by building height and scale.
- 2) Community amenities such as patio/seating areas, water features, art work or sculpture, clock towers, pedestrian plazas with park benches or other features located adjacent to the primary entrance to the building(s) are highly encouraged.
- 3) The minimum height shall be two (2) stories.
- 4) Walls

- (a) All walls visible from public streets should be designed using materials that are generally consistent with the character of the buildings in the general vicinity, using such materials as brick, cast concrete, stone, approved metal paneling (no more than twenty [20] percent of a building wall), or material similar in appearance or texture.
- (b) Building walls facing the street should be designed to assure articulation and architectural design variation. This variation should be used at regular intervals of thirty (30) feet of horizontal distance. Variations that could be used include, but are not limited to, the following:
  - (1) Recess and projections along the building façade.
  - (2) Variations in depth for a minimum of ten (10) feet.
  - (3) Architectural details or features.
  - (4) Enhanced ornamentation around building entryways.
  - (5) Streetscape elements.
  - (6) Variations in building height.

5) Roofs

- (a) Roofs should be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building.
- (b) Variations in architectural style are highly encouraged. Visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground are highly encouraged, with a minimum overhang of twelve (12) inches. Any overhang into the public right-of-way shall be subject to approval of a License Agreement by the City.
- (c) Architectural methods shall be used to conceal flat roof tops and mechanical equipment.
- (d) Overhanging eaves, sloped roofs and multiple roof elements are highly encouraged.

6) Facade Transparency

- a) Facades on the first floor should be designed to encourage and complement



**Transparency Measurement**

pedestrian-scale activity. It is intended that this be accomplished principally by the use of windows and doors arranged so that the uses within the building are visible from and/or accessible to the street. Active uses of visual interest to the pedestrian may be displayed, including office or lobby areas, retail spaces, etc. Parking areas, truck loading areas, and vehicular access ways are not active uses.

- b) Facade transparency designs should apply to the area of the façade between two (2) and eight (8) feet above the sidewalk. Only clear or lightly tinted, non-reflective glass in windows, doors, and display windows are considered transparent.
- c) Transparency is one method that can be used to avoid blank, windowless walls that are out of character with the Central Business District. A minimum of sixty (60) percent transparency for the street level facade on the front of a building is encouraged to fulfill this intent. For the same reasons, a minimum of forty (40) percent of the street level facade on all other sides of a building facing public rights-of-way (except alleys) or plazas should be transparent.
- d) Facade transparency is not necessary for the assembly area of theaters, auditoriums, religious institutions, and similar uses, provided that facade is enhanced by architectural detailing, artwork, landscaping or similar features.

7) Setbacks

- a) Buildings shall be placed on the front property line with a sidewalk having a minimum width that conforms to the widths of existing sidewalks on either side, or an average thereof, unless community amenities as described in Section 1307, 3, a (2) are included.
- b) Where developed commercial frontage has established a setback on that or an adjacent block, the setback shall be in line with adjacent setbacks. In no case shall the front setback be greater than ten (10) feet.
- c) Buildings on commercial/office lots shall have the facade built directly on the build-to line along at least seventy percent (70%) of its length.
- d) Setbacks from front or side lot lines are not required, provided that lots bordering on a Residential District or use lot shall have a minimum setback of ten (10) feet. The City Council may require installation of a continuous masonry wall at the side and rear lot lines no less than six (6) feet in height for lots bordering a residential district or use lot.

8) Height of Buildings: Except as may otherwise be provided in this Article, no building shall exceed forty-five (45) feet and three and one-half (3½) stories.

9) Parking

- a) Except as provided in this subsection, all parking provisions of Article XVIII shall apply.
- b) Required spaces:
  - i. There shall be one (1) parking space per five hundred (500) square feet of usable floor area for retail uses, one (1) space per three hundred (300) square feet of gross floor area for office and personal service uses, and two (2) spaces per residential unit.
  - ii. The parking requirements may be waived for retail uses of two thousand (2,000) square feet or less, that portion of restaurant seating which is outdoors and adjacent to the street, and other uses generally considered as accessory to other principal uses.
  - iii. All other parking requirements shall be determined in accordance with the provisions of Section 1800, 12, f.
- c) Parking shall not be located forward of the front wall of the building being served.
- d) In no case shall ground level parking areas use more than fifty (50) percent of the gross site area.

- e) Shared parking is encouraged for non-residential uses. Where formal shared parking arrangements are made, the individual calculation of the required spaces may be reduced by up to twenty-five (25) percent with City Manager approval. A written agreement between the participating property owners for shared parking shall be submitted to the Manager prior to approval.
- 10) Residential Density (B-3 District):
- a) Residential density shall be computed using the area of the PUD designated for residential use. Areas under water, within public or private rights-of-way or other easement, and areas within regulated wetlands, or within a floodplain shall not be counted toward residential density calculations.
  - b) Residential density shall not exceed seven (7) dwelling units per acre.
  - c) The open space requirements of Section 1305, 3 shall be met. (Article XIII amended in its entirety 12/5/05; Ord. #938)

**ARTICLE XIV  
SITE PLAN REVIEW**

**SECTION 1400. PURPOSE**

The intent of this section is to provide for consultation and cooperation between the applicant and the City Planning Commission in order that the applicant may accomplish his objectives in the utilization of his land within the regulations of this Zoning Ordinance and with minimum adverse affect on the use of adjacent streets and highways, and on existing and future uses and the environment in the immediate area and vicinity. It is further the intent of this section that where a site plan is required, the size, shape, placement and design of buildings, parking lots, landscaping, fencing and related changes to a lot or parcel are all made consistent with a site plan which is submitted and reviewed to establish conformance or nonconformance with the requirements of this Ordinance and any other applicable local, county, state or federal regulations. To these ends, specific data submittal requirements, review procedures and standards to guide review and approval of site plans are set forth.

**SECTION 1401. USES REQUIRING SITE PLAN APPROVAL**

The Zoning Administrator shall not issue a zoning permit or a certificate of zoning compliance, nor shall the Building Inspector issue a building permit for any principal use listed below, nor for any accessory use on a lot or parcel for which site plan approval was previously granted or is required, until a site plan covering the entire lot or parcel has been reviewed and approved:

1. The Planning Commission shall review and approve, deny, or approve with conditions all site plans involving the following, except those provided in 1401.2 and 1401.3below:
  - a. Any new principal use or any expanded principal use requiring more than ten (10) parking spaces;
  - b. All uses requiring a special use permit as specified in each zoning district.
  - c.. All new or substantially redeveloped uses within the RM-1 Multiple Family Residential District, , CBD Central Business District, B-1 Neighborhood Business District, B-2 General Business District, B-3 Waterfront Business District, B-4 Major Thoroughfare Business District, I-1 Light Industrial District, I-2 General Industrial District, PB-1 Professional Business District and for erection of new principal buildings on all public lands.
  - d. All planned unit developments.
  - e. Anytime a building increases in height, except where a single family home is increased from one to two stories and is below the maximum permitted height requirement.
  - f. Any subdivision plat, condominium subdivision or development with two (2) or more dwelling units.
2. The Zoning Administrator, or the Planning Commission when requested by the Zoning Administrator, shall review and approve, deny, or approve with conditions site plans for expansion of all uses listed in Section 1401.1(c) that are under 20% of the existing structure size, and all expansions requiring less than ten (10) new parking spaces.
3. The Zoning Administrator, or Planning Commission when requested by the Zoning Administrator, may waive site plan review and action thereon where:
  - a. a change of use requires no new buildings or structures, no expansion in area or height of existing structures or buildings and no new parking;
  - b. an expansion of an existing use involves only either: the erection of an accessory structure of a size and location that meets all applicable nondiscretionary standards of this Ordinance; or minor building alterations in the discretion of either the Zoning Administrator or Planning Commission;

- c. all such waivers are recorded by the Zoning Administrator in a log, along with the rationale for the waiver.

## **SECTION 1402. APPLICATION PROCEDURES**

1. All land for which site plan approval is sought must be owned or under the control of the applicants who must have a majority ownership interest if there is more than one owner. The Zoning Administrator may research the parcel ownership and if unsatisfied that the applicant(s) have the majority ownership interest in the property, may require proof thereof. No review of a site plan application may proceed if the Zoning Administrator is unsatisfied that an application has been filed by a person(s) with a bona fide majority ownership interest in the parcel.
2. An application for preliminary or final Site Plan Review by the Planning Commission, along with, the required fee, an electronic copy of the complete application and three (3) copies of the preliminary or final site plan to be reviewed shall be submitted to the Zoning Administrator at least thirty-one (31) days prior to the date of the Planning Commission meeting at which the review is to be conducted. If electronic copies are not possible, fifteen (15) paper copies shall be submitted unless otherwise required by the Zoning Administrator.
3. An application for Site Plan Review by the Zoning Administrator for projects covered by Section 1401.2, along with the required fee and five (5) copies of the site plan to be reviewed shall be submitted to the Zoning Administrator.
4. All information depicted on a preliminary or final site plan shall be prepared by, or under the direct supervision of a professional engineer, architect, land surveyor, or landscape architect licensed in Michigan or an AICP or PCP certified professional community planner as indicated by the signature and seal of the professional. This requirement may be waived by the Zoning Administrator for site plans involving only accessory structures or minor building alterations as documented by the Zoning Administrator in the official log of waivers.
5. The Zoning Administrator shall record the date of the receipt of all materials. When all required materials have been received and are determined by the Zoning Administrator to be complete, the Zoning Administrator shall conduct a review of the site plan, attempt to resolve areas of noncompliance and concern with the applicant, and then for projects covered by Section 1401.1, forward the application, the preliminary or final site plan, and the review thereof to the Planning Commission prior to the meeting at which it will be considered.
6. The Zoning Administrator shall review and approve or approve with conditions, all other site plans within thirty (30) days, unless the Zoning Administrator requests Planning Commission input prior to approval. The Zoning Administrator shall document, prior to approval of any site plan within his authority to approve, that conformance with the site plan submittal requirements applicable to final site plans in Section 1405 and the standards in Section 1404 have been met. The authority granted to the Planning Commission in Section 1406 also rests with the Zoning Administrator on those site plans he has the authority to approve. (Amended 7/17/86; Ord. No. 687).

## **SECTION 1403. PRELIMINARY SITE PLAN REVIEW AND SUBMITTAL REQUIREMENTS**

Preliminary site plans may be submitted for review to the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the degree to which the proposed preliminary site plan conforms with Ordinance requirements prior to incurring extensive



engineering and other costs which might be necessary to receive final site plan approval. The Planning Commission shall review a preliminary site plan and make recommendations to the applicant at a regular Planning Commission meeting based on the purposes, objectives and requirements of this Ordinance and, specifically, the standards in Section 1404 when applicable. In addition to the property owners and applicant's full name, address, telephone, fax and E-mail numbers and signature(s), as well as those of the preparer of the site plan, the following data is required to be depicted on every preliminary site plan, except if waived by the Zoning Administrator:

1. Legal description of the property.
2. Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
3. A generalized map showing any existing or proposed arrangement of:
  - a. Streets.
  - b. Lots.
  - c. Access points and parking areas.
  - d. Other transportation arrangement.
  - e. Buffer strips, landscaping, screening and fenced areas.
  - f. Natural characteristics, including, but not limited to, open space, stands of trees, brooks, ponds, floodplains, hills, dune classifications, dune crest, and similar natural assets.
  - g. Location of any trees with a trunk diameter of 6 inches or greater that the applicant is proposing to remove.
  - h. Signs - location and lighting.
  - i. Buildings.
  - j. Easements.
4. Sketch building elevations.
5. A narrative describing:
  - a. The overall objectives of the proposed development.
  - b. Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/ or private streets and drives, recreational and open space.
  - c. Dwelling unit densities by area, number and type. Total number, type and square footage of structures by structure that are not dwelling units; employees by shift and related information as pertinent or otherwise required by this Ordinance.
  - d. Proposed method of providing sewer and water service, as well as other public and private utilities.
  - e. Proposed method of providing storm drainage, sump drainage, roof and gutter drainage.
  - f. Proposed method of revegetating open land areas, both pre-existing and newly created, to a stable condition.
  - g. Applications made and approvals received, including all conditions, from other County, State and Federal authorities, as well as any that have not yet been granted or have been denied.
  - h. Project completion and phasing schedule. The concept for all phases after the first shall be submitted along with the site plan for the first (or the current) phase.

In addition to the above, said applicant shall submit a fee in accordance with Section 1407 to cover the normal and specially incurred expenses of the Planning Commission. For site plans reviewed by the Planning Commission, one half of said fee shall be paid upon submission of the preliminary site plan and the balance upon submission of the final site plan. Fees for all other site plan reviews shall be paid upon submission of the site plan.

## SECTION 1404. STANDARDS FOR REVIEW OF PRELIMINARY AND FINAL SITE PLANS

Prior to approval of any preliminary or final site plan by the Planning Commission, or by the Zoning Administrator, conformance with the following standards shall be ascertained:

- 1) Ingress and egress to the property and proposed structures thereon shall provide motor vehicle and pedestrian safety and convenience, efficient traffic flow and control, and easy access in cases of fire, catastrophe, or emergency. Sidewalks, bicycle paths and/or a trail system linking the property to abutting property, trails, or public rights-of-way shall be provided.
- 2) Off-street parking and loading areas where required, shall be satisfactory in size, shape, and design and not present significant noise, glare, odor, or other nuisance effects on adjoining properties and properties in the proposed development.
- 3) Sewer, water, and storm drainage shall be sited in locations, which provide suitable availability and compatibility with adjacent structures. Sump, roof, and gutter drainage shall be provided to prevent drainage from these sources into the sanitary system.
- 4) The type, dimensions, and character of open spaces, landscaping, screening, and buffering shall enhance the design, character, use and value of the property and abutting lands and waters. Any exterior lighting shall be designed to prevent unnecessary illumination of the night sky and shall be shielded from adjacent properties.
- 5) Signs, if any, and their proposed size, shape, height, and lighting relative to glare, traffic safety, and economic effect, shall be aesthetically pleasing, compatible and in harmony with signs, structures, and uses of adjoining properties.
- 6) The number, size and height of dwellings, buildings, and structures, as well as their locations with reference to required yards shall be compatible with existing or planned development in the area and shall be designated consistent with all applicable fire and safety codes.
- 7) Proposed uses and structures shall be generally compatible with adjacent properties.
- 8) The site plan shall be consistent with the general purposes and spirit of the Ordinance and the Comprehensive Master Plan of the City.
- 9) The Planning Commission may require the applicant to develop a scale model of the proposed project including the area within one hundred (100) feet of the site as a condition to the review of a final site plan. (Amended 1/17/85; Ord. No. 663)
- 10) The applicant may be required by the Planning Commission to place property corner stakes and building corner stakes as a condition to the review of a final site plan. (Amended 1/17/85; Ord. No. 663)
- 11) Garbage storage and disposal and recycling bins shall be designed to ensure no vermin or rodent infestation and easy access to facilities which are screened from view from the street or abutting properties when not in use.
- 12) The applicant shall demonstrate that reasonable precautions will be made to prevent hazardous substances from entering the soil or water including:
  - a. Sites at which hazardous substances are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.
  - b. Secondary containment for above ground areas where hazardous substances are stored or uses shall be provided. Secondary containment shall be sufficient to store the substances for the maximum anticipated period necessary for the recovery of any released substances.
  - c. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, and on-site closed holding tank (not a septic system) or regulated through the State of Michigan groundwater discharge permit.

- d. Keeping of, emergency response for, transport and disposal of hazardous substances shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
  - e. Underground storage tank installation, operation, maintenance, closure, and removal shall be in accordance with the requirements of the State Police Fire Marshal Division and the Department of Environment, Great Lakes, and Energy.
  - f. Bulk storage facilities for pesticides and fertilizers shall follow requirements of the Michigan Department of Agriculture.
- 13) Earth moving activities necessary to reshape land consistent with the site plan shall be in compliance with requirements of the Natural Resources and Environmental Protection Act, PA 453 of 1994, and shall minimize soil erosion and sedimentation, alteration, of protected sand dunes, wetlands, high risk erosion areas, and related natural features, as applicable.
  - 14) The site plan shall fully conform with the Ordinance, and all applicable City, County, State, and Federal statutes, rules, and regulations.
  - 15) Traffic studies may be required for new development generating traffic counts over a certain threshold (see Section 1737). These studies shall be paid for by the applicant using a traffic engineer of their choice. If there appear to be discrepancies in the report or if the Planning Commission would like a second opinion on the study, that shall also be at the cost of the applicant.
  - 16) The Planning Commission shall require an Environmental Impact Statement (EIS) for any residential, commercial, or industrial development as part of its review of any site pertaining to a site that is five (5) acres or larger in area or contains a structure or structures that are cumulatively 85,000 square feet or greater in floor area (see Section 1718 Environmental Impact Statement). (Amended 7/19/21; Ord. No. 1070)

#### **SECTION 1405. FINAL SITE PLAN SUBMITTAL REQUIREMENTS**

In addition to the property owners and applicant's full name, address, telephone, fax and E-mail numbers, and signature(s) as well as those of the preparer of the site plan, the following data, and such items as may be requested by the Planning Commission from its review of the optional preliminary site plan is required to be depicted on every final site plan submitted for review and approval, except if waived by the Zoning Administrator:

1. Legal description of the property and a survey including plat name, lot numbers, property lines including angles, dimensions, and a reference to a section corner, quarter corner, or point on a recorded plat. Include a copy of any existing deed restrictions or previous zoning approval which limits use of the property, as well as any proposed deed restrictions, or in the case of a condominium development, the proposed master deed.
2. Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area including driveway locations of uses across the street.
- 3) A map at a scale not to exceed one (1) inch equals two hundred (200) feet (1" = 200') with a north arrow. The following items shall be shown on the map:
  - a. Existing zoning classification of the site and surrounding properties and any variances to be requested.
  - b. Name, address, and seal of the preparer and date the site plan was prepared or last updated.
  - c. The topography of the site at a minimum of two (2) foot intervals and its relationship to adjoining land. (Amended 1/17/85; Ord. No. 663)
  - d. Existing man-made features and existing natural features, including all trees and woods on site and all drains streams, lakes, ponds, floodplains, sand dunes, high risk erosion areas, and similar features on the site with an indication as to which will be retained and which will be removed by earth changes.

- e. Dimensions of yards, setbacks, locations, heights, size, use, and shape of all buildings and structures. Lot area, coverage, floor area, floor elevation, and building height by side of building shall all be indicated.
  - f. Location and width of alleys, sidewalks, easements, and street rights-of-way, indicating proposed access routes, acceleration, deceleration, special right or left turn lanes, parallel access drives, internal circulation, and relationship to existing rights-of-way. The inside radii of all curves including driveway curb returns shall be indicated. All proposed traffic control measures (including signs) and the name of the proposed streets or driveway shall also be indicated.
  - g. Proposed grading, drainage systems, on-site retention and detention basins, and the direction of drainage flow.
  - h. Location of any wetlands that may be located on the property. (Amended 7/19/21; Ord. No. 1070)
  - i. Location and type of drainage, sanitary sewers, storm sewers, sump, roof and gutter drains, water, electric and gas lines, and any other utilities as well as any easements that exist or are proposed for the installation, repair, and maintenance of utilities. Any septic systems, drain fields, dry wells, catch basins, water wells (active or abandoned), and underground storage tanks (active or abandoned) shall also be indicated, as well as the point of discharge for all drains and pipes.
  - j. Location and type of open space and recreational areas, fences, landscaping, buffer strips, and screening on a landscape plan which includes the following:
    - i. Location, spacing, size, and root type [bare root (BIR) or balled and burlaped (BB)] and descriptions for each plant type proposed for use within the required landscape area.
    - ii. Minimum scale: 1" = 200'
    - iii. Typical straight cross-section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
    - iv. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain natural drainage.
    - v. Identification of existing trees and vegetative cover to be preserved.
    - vi. Identification of grass and other ground cover and method of planting.
    - vii. Identification of landscape maintenance program including statement that all diseased, damaged, or dead materials shall be replaced in accordance with the standards of this Ordinance.
  - k. Location and type of signs and on-site lighting.
    - l. Proposed parking areas and drives including maneuvering lanes, loading areas and surface materials. Parking areas shall be designed showing individual spaces and shall conform with the provision of Article XVIII.
  - m. Existing and proposed trash receptacles and dumpsters and the location and specification of any proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials, as well as any containment structures or clear zones required by government authorities.
  - n. Dimensions and number of proposed lots or condominium units.
  - o. Any other information necessary to establish compliance with City Ordinances.
4. Building elevations.
  5. A narrative describing the items indicated in Section 1403 (5) as pertinent to final site plan review.
  6. The Planning Commission may require the applicant to develop a scale model of the proposed project, including the area within one hundred (100) feet of the site. (Amended 1/17/85; Ord. No. 663)

7. The applicant may be required by the Planning Commission to place property stakes and building corner stakes. (Amended 1/17/85; Ord. No. 663)

#### **SECTION 1406. PLANNING COMMISSION REVIEW OF FINAL SITE PLAN AND PERFORMANCE GUARANTEE**

The Planning Commission shall review the final site plan and either approve, deny, or approve with conditions the final site plan based on the purposes, objectives and requirements of this Ordinance and, specifically, the standards listed in Section 1404. Any conditions required by the Planning Commission shall be shown on the site plan, as well as stated in writing and delivered to the applicant. The Planning Commission shall document its conclusions, the rationale for the conclusions, and if an application is denied, but approval appears feasible, what must be done to obtain approval.

1. Further, the Planning Commission is empowered to require a performance bond, certified check and/or cash bond in the amount equal to the estimated cost of improvements associated with the project. Such performance guarantee shall be deposited with the Clerk of the City at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not faithfully completed, said performance bond shall be forfeited. The City shall rebate a proportional share of the performance guarantee when requested by the depositor, based on the percent of improvements completed, as attested by the depositor and verified by the Zoning Administrator. In cases where the provisions of Section 1406 (2) have not been met, the amount of the aforementioned performance guarantee shall be used by the City to return the property to a safe and healthy condition, including completion of required improvements; and the balance of the performance guarantee, if any, shall be returned to the applicant. See the procedure in Section 2107.
2. Each development for which site plan approval is required shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the Commission may grant a sixty (60) day extension, provided the applicant has an opportunity, preceded by at least ten days notice, to present reasonable evidence, which is discussed at a public meeting of the Planning Commission, to the effect that said development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired without construction underway, the site plan shall be null and void. It may be reconsidered only upon reapplication and payment of all fees.
3. Upon approval of said site plan, the Zoning Administrator shall sign and date three (3) copies thereof. One (1) signed copy shall be made part of the Commission's files and one (1) shall be forwarded to the Building Inspector for issuance of a building permit. The third copy shall be returned to the applicant. If any variances from the Zoning Ordinance have been obtained from the Zoning Board of Appeals relative to the property for which site plan approval was granted, the minutes concerning the variances, duly signed and dated, shall also be filed with the Commission records as a part of the approved site plan and a copy delivered to the applicant.

#### **SECTION 1407. FEES**

The applicant shall submit a Site Plan and Application for Site Plan Review to the Zoning Administrator, along with a fee as specified in Section 2106. (Amended 9/1/85; Ord. No. 673)

#### **SECTION 1408. SITE PLAN AMENDMENT**

Site Plan amendments shall be subject to the same submittal, review, and approval procedural requirements as the original Site Plan being amended. (Amended 1/17/86; Ord. No. 663) Site plan amendments require the mutual agreement of the body or official approving the original site plan and the applicant.

#### **SECTION 1409. CONFORMITY TO APPROVED SITE PLANS**

Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan and any amendments thereto which have received the approval of the permit issuing authority. If construction and development does not conform with such approved plans, the owner shall be cited with a violation of the Ordinance and notified that following a hearing, the permit may be revoked. Upon revocation of such approval, all construction activities shall immediately cease upon the site, other than for the purpose of correcting the violation.

#### **SECTION 1410. APPEALS OF SITE PLAN DECISIONS**

An appeal of a site plan decision made by the Zoning Administrator may be taken to the Board of Appeals in the same manner as other administrative decisions. An appeal of a site plan decision by the Planning Commission or City Council may be taken to the Circuit Court. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any decision by the Zoning Administrator, or to decide in favor of the applicant. The appeal may be taken by any person aggrieved or by any officer, department, board, or bureau of the City, County, or State. The Board of Appeals shall state the grounds of each determination.

#### **SECTION 1411. AS BUILT SITE PLANS**

Once a project for which a site plan was approved is completed, two (2) sets of "as built" site plans showing the exact building footprints, driveways, parking areas, landscaping, utilities, sidewalks, bike paths and trails shall be signed by the licensed professional who prepared them and delivered to the Zoning Administrator within one (1) month of receipt of a certificate of zoning compliance (for each phase of a project if multi-phased). The Zoning Administrator may waive this requirement, except where major utilities, new streets and/or large buildings are involved.

**ARTICLE XV  
SPECIAL LAND USES**

**SECTION 1500. PURPOSE**

Special land uses are those uses of land which are not essentially incompatible with uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special land uses. The criteria for decision and requirements provided for under the provisions of the chapter shall be in addition to those required elsewhere in this Ordinance which are applicable to the special land use under consideration.

**SECTION 1501. APPLICATION PROCEDURES**

An application for permission to establish or expand a special land use shall be submitted and acted upon in accordance with the following procedures:

1. **Application** - Applications for a special use permit shall be submitted thirty-one (31) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness. If the application is complete, it shall be transmitted to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with Section 1504.
2. **Required Information** - An application for a special use permit shall be accompanied by the following documents and information:
  - a. A special use permit application form supplied by the Zoning Administrator, which has been completed in full by the applicant.
  - b. A final site plan, as specified in Article XIV.
  - c. A statement with regard to compliance with the criteria required for approval in Section 1502 and other criteria imposed by this Ordinance affecting the special land use under consideration.
3. **Public Hearing** - Upon receipt of an application for a special use permit, a public hearing shall be scheduled by the Zoning Administrator for the purpose of receiving comments relative to the special use permit application. A notice shall be published in a newspaper which circulates in the City, and sent by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure. The notice shall be given not less than fifteen (15) days before the date the application will be considered. The notice shall:
  - a. Describe the nature of the special use permit application.
  - b. Indicate the property which is the subject of the special use permit application.
  - c. State when and where the special use permit application will be considered.
  - d. Indicate when and where written comments will be received concerning the application.

4. **Review and Approval** - Within thirty (30) days following the public hearing, provided all materials are complete, the Planning Commission shall review the application for a special use permit, comments received at the public hearing, the site plan, and other materials submitted in relation to the application, and make a determination on the special use permit application in accordance with the criteria for the approval stated in Section 1502, and such standards contained in this Ordinance which relate to the special land use under consideration. It may deny, approve, or approve with conditions the application for special land use approval. Its decision shall be incorporated in a statement of conclusions relative to the special land use under consideration, and shall specify the basis for the decision and any conditions imposed. A request for approval of a land use or activity which is in compliance with Ordinance standards, other applicable ordinances, and state and federal statutes shall be approved. Upon the approval, or approval with conditions, by the Planning Commission, the applicant may apply for a building permit.

## **SECTION 1502. BASIS OF DETERMINATION**

Prior to approval of a special use permit application, the Planning Commission shall ensure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special land use under consideration.

1. **General Standards** - The Planning Commission shall review the particular circumstances of the special use permit application under consideration in terms of the following standards and shall approve a special use permit application only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
  - a. The special land use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
  - b. The special land use shall not change the essential character of the surrounding area.
  - c. The special land use shall not be hazardous to the adjacent property, property values, or involve uses, activities, processes, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes, ground vibration, water runoff, odors, light, glare or other nuisance.
  - d. The special land use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.
  - e. The special land use is consistent with the intent of the Comprehensive Plan.
  - f. The special land use shall meet the site plan review requirements of Article IV.
  - g. The special land use shall conform with all applicable state and federal requirements for that use.
  - h. The special land use shall conform with all standards in this Ordinance and other applicable City Ordinances, including but not limited to parking (see Article XVIII), signs (see Article XX), and standards particular to the special land use found in the District provisions, Schedule of Regulations, or elsewhere.
2. **Conditions** - The Planning Commission may impose conditions with approval of a special use permit which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the special use permit and shall be enforced by the Zoning Administrator.



## **SECTION 1503. PREVIOUSLY APPROVED SPECIAL CONDITION USES AND SPECIAL USES**

Uses of land and/or development projects granted special condition or special use status by the City prior to the adoption or amendment of this Zoning Ordinance, may continue this status as permitted uses, provided the rules, regulations, requirements, and conditions of the permit issued for the special condition use or special use are met. Any changes to a previously approved special condition use or special use shall be processed according to the procedures and standards of this Ordinance for special land uses, if the use is listed as a special land use in this Ordinance.

## **SECTION 1504. FEES**

The applicant shall submit a formal application to Zoning Administrator, along with a fee as specified in Section 2106. (Amended 9/1/85; Ord. No. 673)

## **SECTION 1505. APPEAL TO CIRCUIT COURT**

An appeal on a Special Use Permit decision may be taken to the Circuit Court.

## **SECTION 1506. PERMITS**

1. **Validity of Permit** - A Special Use Permit issued under Article XV shall be valid for a period of one (1) year from the date of the issuance of said permit. If construction has not commenced and proceeded meaningfully toward completion by the end of this one (1) year period, the Zoning Administrator shall notify the applicant in writing of the expiration or revocation of said permit, provided, however, that the Planning Commission may waive or extend the period of time in which the permit is to expire if: a) it is satisfied that the owner or developer is maintaining a good faith intention to proceed with construction; b) no significant changes to applicable regulations have occurred; or c) there have been no significant changes in the condition of abutting property or services. This determination of the Planning Commission shall be forwarded to the applicant with a recommended action.
2. **Permit Revocation** - The Planning Commission shall have the authority to revoke any Special Use Permit following a hearing, after it has been demonstrated that the holder of the permit has failed to comply with one or more of the applicable conditions specified in the permit. The reasons for any revocation shall be documented in writing and shall accompany the motion to terminate. After a revocation notice has been given, the use for which the permit was granted must cease within sixty (60) days. Failure to terminate the use for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance. See Section 2800.
3. **Permit Transferability** - A special use permit may be transferred from one owner of the property to which it is affixed to the next owner of the same property. A special use permit may not be transferred from one property to another property. A new owner may continue to use the property for the purposes to which the special use permit was granted as long as all conditions and terms of the permit are adhered to. Permit transfer is automatic, provided the new owner submits in writing to the Zoning Administrator, his or her new address, and telephone number on a form established for that purpose. The Zoning Administrator shall review with the new owner all the applicable Ordinance requirements that apply to the property and any special conditions imposed upon the special land use when the transfer form is submitted.
4. **Termination of a Special Use Permit if the Use Changes** - If the use of a property for which a special condition permit or a special use permit was issued is no longer for the

land use authorized by either of those permits, the special condition or special use authorization shall automatically be terminated and the property shall only be used for a use permitted in the district in which the property is located. Discontinuance of a seasonal use for which a special use permit was issued is also subject to termination of the Special Use Permit, if the season passes in which the permit would normally apply and a different use is in place instead.

5. **Recording with Register of Deeds** - A special use permit and all conditions attendant thereto, may be recorded by the City with the Register of Deeds and attached to the property record of the property for which it was issued as may a notice that such permit no longer is valid. See Section 2111.

#### **SECTION 1507. REAPPLICATION**

No application for a Special Use Permit for the same or a very similar use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of two (2) years or more from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions. A reapplication shall require a new fee and the process will have to begin all over again.

#### **SECTION 1508. AMENDMENT OF THE SITE PLAN**

The site plan, as approved, shall become part of the record of approval, and subsequent actions relative to the activity authorized shall be consistent with the approved site plan, unless a change conforming to this Ordinance receives the mutual agreement of the landowner and the Planning Commission. See also Section 1408.

#### **SECTION 1509. RESERVED FOR FUTURE USE**

#### **SECTION 1510. STANDARDS FOR SPECIAL LAND USES**

The following standards apply to the uses of land permitted by Special Use Permit in this Ordinance. The regulations contained in this Section shall be applied in addition to any other applicable standard or regulation contained elsewhere in this Ordinance (such as for site plans in Article XIV) unless specifically noted.

##### **SECTION 1510.01. ADULT ENTERTAINMENT FACILITIES**

1. **Purpose** - Because some uses are recognized as having a deleterious effect upon adjacent areas, causing blight, a chilling effect upon other businesses and occupants, and a disruption in neighborhood development, especially when concentrated in a confined area, it is considered necessary and in the best interest of the orderly and better development of the community to prohibit the overcrowding of such uses into a particular location and require, instead, their dispersal throughout certain commercial and industrial zones of the City to thereby minimize their adverse impact on any specific neighborhood.
2. **Location and Use Requirements** - Adult entertainment businesses are permitted in the I-2 District, provided they meet the following spacing requirements as listed. In order to prevent undesirable concentration of such uses, the following uses and activities shall not be located within one-thousand 1,000 feet of two (2) other such uses nor within three-hundred (300) feet of any residentially zoned district, school or religious institution as measured along a line forming the shortest distance between any portion of the respective properties of the existing and proposed following specified uses and activities and between such uses and the adjoining residentially zoned district, school or religious institution:
  - a. adult book store;

- b. adult motion picture theater;
  - c. adult mini motion picture theater;
  - d. adult smoking or sexual paraphernalia store;
  - e. massage parlor, except those employing professional massage therapists with certification of membership in a professional massage therapist association;
  - f. host or hostess establishments offering socialization with a host or hostess for a consideration;
  - g. tavern or cabaret providing live or projected entertainment where intoxicating liquors may or may not be sold for consumption on the premises. "Projected entertainment" shall not include standard television reception;
  - h. any combination of the foregoing.
3. **Definitions** - For the purpose of interpreting the application of the foregoing limitations on certain business locations, the following terms or designations shall have the following meanings:
- a. **adult bookstore**: an establishment having, as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined, or an establishment with a segment or section devoted to the sale or display of such material;
  - b. **adult mini motion picture theater**: an enclosure with a capacity for less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined for observation by patrons therein;
  - c. **adult motion picture theater**: an enclosure with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined for observation by patrons therein;
  - d. **adult smoking or sexual paraphernalia store**: an establishment having, as a portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal or for smoking, ingesting or inhaling marijuana, narcotics or other stimulating or hallucinogenic drug-related substances;
  - e. **massage parlor**: an establishment where persons conduct or permit to be conducted or engaged in, massages of the human body or parts thereof by means of pressure, imposed friction, stroking, kneading, rubbing, tapping, pounding, vibrating or otherwise stimulating the same with hands, other parts of the human body, mechanical devices, creams, ointments, oils, alcohol or any other means of preparations to provide relaxation or enjoyment to the recipient;
  - f. **body piercing**: the creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.
  - g. **body piercing studio**: a facility in which body piercing is performed.
  - h. **tattoo**: the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment.
  - i. **tattoo studio**: an establishment or facility in which tattooing is performed.
  - j. **host or hostess establishment**: establishments or clubs offering socialization with a host or hostess for a consideration to the host or hostess or for an admission or membership fee;
  - k. **specified sexual activities**:
    - 1) acts of human masturbation, sexual intercourse, or sodomy;
    - 2) fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts;
    - 3) human genitals in a state of sexual stimulation or arousal.

- l. **specified anatomical areas:**
  - 1) less than completely and opaquely covered human genitals, pubic regions, buttocks and female breasts below a point immediately above the top of the areola;
  - 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
4. **Site Requirements** - All adult entertainment facilities shall conform to the lot, setback, height, bulk, area and other requirements that apply to lots and uses in the district proposed.
5. **Buffering Requirements** - Screening and outdoor storage of trash or rubbish shall comply with the requirements of Section 1709.
6. **Performance Standards**
  - a. No betting or gambling shall be allowed on the premises.
  - b. Children under eighteen (18) shall not be permitted on the premises at any time at an Adult Entertainment Facility.
  - c. The operator shall document either a past history of, or submit an acceptable plan of his/her methods for, preventing potential noise, litter, loitering, and/or crowd problems.

#### **SECTION 1510.02. AUTOMATIC TELLER MACHINES (ATM)**

1. **Locational Requirements**
  - a. ATM machines inside of a business do not require a special use permit.
  - b. ATM machines outside a business shall conform with the standards of drive-in establishments in Section 1510.10.
  - c. ATM machines outside a business are permitted in the B-1, B-2, B-3 and B-4 Districts.
2. **Site Requirements** - Same as Section 1510.10.
3. **Buffering Requirements** - Same as Section 1510.10.
4. **Performance Standards**
  - a. There shall be adequate lighting and visibility to ensure safe use.
  - b. A shelter may be built, provided it meets the setbacks of the District.

#### **SECTION 1510.03. AUTOMOBILE SERVICE AND REPAIR STATIONS**

1. **Locational Requirements**
  - a. Automobile service and repair stations are permitted by Special Use Permit in the B-2 General Business and B-4 Major Thoroughfare Business districts.
  - b. Ingress and egress to the facility shall be only from a paved major thoroughfare, or from a shared access drive to such roadway.
  - c. No driveway or curb cut shall be located less than ten (10) feet from any lot line, measured from the edge of the driveway to the lot line.
  - d. No more than two (2) driveways onto a roadway shall be permitted per lot. Driveway approach width shall not exceed thirty-five (35) feet. (See also Section 1716).
  - e. The site shall be no less than two hundred (200) feet from any place of public assembly, including any hospital, sanitarium, school, church or other institution. Measurement shall be the closest distance between exterior lot lines.
2. **Site Requirements**
  - a. The minimum lot width and frontage shall be one hundred thirty-two (132) feet.

- b. All gasoline pumps shall be located not less than fifteen (15) feet from any lot line or within thirty (30) feet from the street right-of-way and shall be arranged so that motor vehicles using them will not be parked on or overhanging any public sidewalk or street right-of-way.
  - d. The entire area used for vehicle service shall be hard-surfaced and adequately drained.
  - e. There shall be no above-ground outdoor storage/dispensing tanks on the site without leakproof secondary containment sufficient to accommodate one hundred twenty (120) percent of the volume of the tank.
3. **Buffering Requirements**
- a. Screening shall comply with the requirements of Section 1709.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.
  - c. The view of all restroom doors shall be shielded from adjacent streets and residential districts.
  - d. All lighting shall be shielded from adjacent streets and residential districts.
4. **Performance Standards**
- a. Hydraulic hoists, service pits, lubricating, greasing, washing, and repair equipment and operations shall be located within a completely enclosed structure.
  - b. Storage of vehicles rendered inoperative for any reason, and vehicles without current license plates and registration, shall be limited to a period of not more than thirty (30) days and then only for the purpose of temporary storage pending transfer to a junk yard. Such storage shall not occur in front of the building.
  - c. Sales of new and used motorized vehicles shall not be permitted.
  - d. No public address system shall be audible from any abutting residential parcel.
  - e. All floor drains shall be connected to a public sanitary sewer system with the approval of the sewer authority or connected to an approved holding tank.
  - f. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating groundwater shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
  - g. All handling of flammable or hazardous substances shall be in accordance with state and federal laws and all required state and federal permits shall be obtained and the establishment shall remain in conformance therewith.
  - h. A car wash may be established as part of the principal structure or as a separate structure but shall conform to all setback requirements for a principal structure.
  - i. Full compliance with the City Sign regulations in Article XX.

**SECTION 1510.04. BED AND BREAKFAST HOTEL**

- 1. **Locational Requirements** - Bed and Breakfast hotels are permitted by Special Use Permit in the RM-1 districts. It is the intent of this Ordinance to allow for the construction of new Bed and Breakfast establishments as well as the conversion of old residential homes of suitable size into Bed and Breakfast establishments. Nonresidential buildings may also be converted to a Bed and Breakfast establishment pursuant to the relevant standards of this Section.
- 2. **Site Requirements**
  - a. One (1) parking space per room to be rented shall be provided on site, in addition to the parking required for a single family dwelling. Parking shall be arranged so as not to pose negative impacts on adjacent properties or necessitate on-street parking.

**3. Performance Standards**

- a. The primary use of a bed and breakfast must be as a residence for the owner or manager, who operates and occupies said structure. The bed and breakfast facility may have up to fifteen (15) bedrooms used for transient guests for compensation and by pre-arrangement.
- b. The applicant shall provide a scaled floor plan of the premise as part of the special use application.
- c. The exterior appearance of the structure shall not be altered from its residential district character.
- d. Each sleeping room shall have a separate smoke alarm as required in the building code.
- e. A fire escape plan shall be developed and graphically displayed in each guest room.
- f. A minimum of one (1) fire extinguisher, in proper working order, shall be located on each floor.
- g. The establishment shall contain at least two exits to the outdoors.
- h. No guest room shall be located in a basement or cellar.
- i. No transient occupant shall reside on the premises for more than one hundred (100) days in any one hundred-twenty (120) day continuous interval.
- j. Lavatories and bathing facilities shall be available to all persons using the premises.
- k. No separate or additional kitchen facilities shall be provided for the guests.
- l. Retail sales are not permitted beyond those activities serving the registered overnight patrons.
- m. Meals shall not be served to the public at large but only to registered guests. Meal preparation and service shall conform with all applicable public health requirements.
- n. No receptions, private parties or activities for which a fee is paid shall be permitted except for those which involve only registered guests.
- o. Parking spaces and street entry shall be paved.
- p. Parking shall be provided in conformance with the parking requirements of Article XVIII.
- q. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.
- r. The rental sleeping rooms shall have a minimum size of one-hundred (100) square feet for each two (2) occupants, excluding bathrooms, with an additional thirty (30) square feet for each occupant, to a maximum of four (4) occupants per room.

**SECTION 1510.05. CEMETERIES, COLUMBARIUM CREMATORIES AND/OR MAUSOLEUMS**

**1. Locational Requirements**

- a. Cemeteries and mausoleums are permitted by Special Use Permit in the R-1, RM-1, B-3 and I-1 districts. Crematories are permitted in the I-1 district as a separate Special Use that may be added to a cemetery. Crematories are permitted in the B-2 and CBD districts as a separate Special Use that may be added to a funeral home.
- b. All ingress and egress to the site shall be from a major thoroughfare and all internal roads, streets and drives shall be paved.
- c. The site shall not interfere with the future development of a system of major thoroughfares or larger streets in the vicinity.

**2. Site Requirements**

- a. The minimum lot or parcel size for cemeteries, crematories, columbariums and/or mausoleums shall be five (5) acres.
- b. No more than five (5) percent of the site area shall be occupied by buildings.

- c. All burial plots and all structures including but not limited to a mausoleum shall be set back no less than thirty (30) feet from any lot line or street right-of-way.
  - d. Adequate parking shall be provided on the site for any structures, at least fifty (50) feet from any lot line, and no cemetery parking shall be permitted on any public street.
3. **Buffering Requirements** - A ten (10) foot buffer zone containing screening plant materials approved by the Planning Commission is to be provided adjacent to all interior lot lines pursuant to the requirements of Section 1709.
  4. **Performance Standards** - All facilities for the ground burial area of the site shall be designed and constructed in accordance with the requirements of the Van Buren County Health Department and the State of Michigan.

**SECTION 1510.06. RELIGIOUS INSTITUTIONS**

1. **Locational Requirements**
  - a. Religious institutions shall be permitted by Special Use Permit located in the R-1, RM-1 CBD, B-2, B-3 and B-4 zoning districts.
  - b. The site, except for religious institutions already in existence on the effective date of the amendment that added this provision shall have at least one (1) lot line on a major thoroughfare.
  - c. All ingress and egress for the site shall be from a major thoroughfare.
2. **Site Requirements**
  - a. The site shall be at least two (2) acres in size, plus one-half (1/2) acre per one hundred (100) seats in the main sanctuary.
  - b. No more than twenty-five (25) percent of the site area shall be covered by buildings. No more than sixty percent (60%) of the site shall be covered by impervious surfaces. Signs identifying a religious institution, advertising a function or activity, or displaying a message on a religious institution are permitted.
3. **Buffering Requirements**
  - a. Parking areas shall be screened from adjacent residential areas pursuant to Section 1709.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709.
4. **Performance Standards**
  - a. Use of the structure shall not result in accrual of distributable profits, realization of private gain resulting from payment or compensation in excess of a reasonable and customary allowance for salary or other compensation for services rendered, or realization of any other form of private gain.
  - b. No day care center, private school, or other use requiring a Special Use Permit shall be allowed without a separately approved Special Use Permit for each use.
  - c. Expansion of a religious institution in existence prior to the effective date of the Ordinance adding this amendment, shall be permitted without a special use permit, if the expansion conforms with all requirements of the district in which the religious institution is located, otherwise, a special use permit is required.

**SECTION 1510.07. RECREATION CENTER (OUTDOOR)**

1. **Locational Requirements** - Recreational uses are permitted in the B-3 and B-4 zoning districts.

**2. Site Requirements**

- a. The site shall be located on a major thoroughfare
- b. Minimum site area shall be one (1) acre with one hundred fifty (150) feet of frontage on a major thoroughfare.

**3. Buffering Requirements**

- a. No building or spectator seating facility shall be located within twenty (20) feet of a lot line of adjoining residentially zoned property.
- b. Front, side and rear yards shall conform with district regulations.
- c. Whenever parking areas are adjacent to land zoned or used for residential purposes, a five (5) foot fence or landscaping shall be provided along the sides of the parking area adjacent to such residential land.
- d. Animal racing tracks and go-cart tracks shall be enclosed around the entire periphery with an obscuring screen fence at least eight (8) feet in height. Fences shall be of permanent finished construction, painted or otherwise finished neatly, attractively and inconspicuously.
- e. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.

**4. Performance Standards**

- a. The applicant shall provide evidence of compliance with all appropriate federal, state, county and local permits as appropriate.
- b. Facilities shall provide off-street parking and passenger loading areas.
- c. Adequate stacking area shall be provided for vehicles waiting to enter the lot.
- d. Facilities which have a participant capacity greater than 500 people shall provide letters of review from the County Sheriff and County Road Commission with respect to the proposed project.
- e. Exterior lighting shall be installed in such a manner that so that it does not impede the vision of traffic along adjacent streets or impair the view of the night sky.
- f. Facilities using night lighting adjoining a residentially zoned property shall deflect lighting away from these areas.
- g. Excessive dust, noise, traffic, and trespassing shall not be inflicted on adjacent properties.
- h. Outside storage shall be screened.
- i. Landscaped areas shall be maintained in a healthy condition pursuant to Section 1709.
- j. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- k. In no case shall a recreational accessory use predate the installation and operation of the principal use. When the principal use ceases to operation, the accessory use shall immediately cease.
- l. Accessory commercial activities shall be limited to those necessary to serve only the seasonal patrons of the facility.
- m. Not more than sixty five (65%) of the land area shall be covered by recreational uses.
- n. Central loudspeakers/paging systems are prohibited within one-hundred 100 feet of residentially zoned property.
- o. The intensity level of sounds shall not exceed seventy (70) decibels (dBA) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the lot line of residential uses. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- p. No temporary sanitary facility or trash receptacle shall be located within two hundred (200) feet of an existing dwelling.
- q. Security fencing shall be provided adjacent to residential districts or uses.
- r. All sanitary facilities shall be designed and constructed in strict conformance with



County Health Department regulations.

- s. Adequate trash receptacles shall be provided, as needed throughout the site.
- t. Operating hours for all uses shall be determined by the Planning Commission based on the nature of the use and the nuisance potential to adjoining property owners. The maximum range of hours is Monday through Sunday from 7:00 a.m. to 12:00 a.m. (midnight). and may be prohibited on legal holidays.

## **SECTION 1510.08. COMMUNICATION TOWERS**

1. **Locational Requirements** - Communication towers are permitted by Special Use Permit in the B-4, Major Thoroughfare Business District, I-1 Light Industrial, and I-2 General Industrial zoning districts. (Amended 9/2/03, Ord. 923)
2. **Site Requirements** - A minimum site of three (3) acres except on municipally owned or leased property, and in the B-4 District, it may be less. (Amended 9/2/03, Ord.923)
3. **Buffering Requirements**
  - a. The communication tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse would be completely contained on the property.
  - b. five (5) foot solid or woven fence.
4. **Performance Standards**
  - a. All structures shall be located at least two hundred (200) feet from any single family dwelling.
  - b. All towers shall be equipped with an anti-climbing device or fence to prevent unauthorized access.
  - c. The plans of the tower construction shall be certified by a registered structural engineer.
  - d. The applicant shall provide verification that the antenna mount and structure have been reviewed and approved by a professional engineer and that the installation is in compliance with all applicable codes.
  - e. All towers must meet the standards of the Federal Aviation Administration and the Federal Communications Commission.
  - f. Accessory structures are limited to uses associated with operation of the tower.
  - g. Communication towers in excess of one-hundred (100) feet in height above grade level shall be prohibited within a two (2) mile radius of a public airport.
  - h. No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, in or upon any required setback area for the district in which the antenna or tower is to be located.
  - i. Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
  - j. Antennae and metal towers shall be grounded for protection against a direct strike by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
  - k. Towers with antennae shall be designed to withstand a uniform wind loading as prescribed in the building code.
  - l. All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight (8) feet above the ground at all points, unless buried underground.
  - m. Towers shall be located so that they do not interfere with reception in nearby residential areas.
  - n. Towers shall be located so there is room for vehicles doing maintenance to maneuver on the property.
  - o. The base of the tower shall occupy no more than five hundred (500) square feet and the top of the tower shall be no larger than the base.

- p. Minimum spacing between tower locations shall be 1/4 mile.
- q. Height of the tower shall not exceed two hundred (200) feet from grade.
- r. Towers shall not be artificially lighted unless required by the Federal Aviation Administration.
- s. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- t. There shall not be display advertising or identification of any kind intended to be visible from the ground or other structures.
- u. The antenna shall be painted to match the exterior treatment of the structure. The chosen paint scheme should be designed to minimize off-site visibility of the antenna.
- v. Structures shall be subject to any state and federal regulations concerning nonionizing electromagnetic radiation. If more restrictive state or federal standards are adopted in the future, the antenna shall be made to conform or the Special Use Permit will be subject to revocation by the City Council. Cost for testing and verification of compliance shall be borne by the operator of the antenna.
- w. There shall be no employees located on the site on a permanent basis to service or maintain the antenna. Occasional or temporary repair and service activities are excluded from this restriction.
- x. All applications for new towers shall include a statement that the applicant shall allow co-location.

**SECTION 1510.09. CONVALESCENT OR NURSING HOMES AND ORPHANAGES**

- 1. **Locational Requirements** - Convalescent or nursing homes, and orphanages are permitted by Special Use Permit in the RM-1 Multiple Family Residential District.
- 2. **Site Requirements**  
There shall be a minimum of one thousand five-hundred (1,500) square feet of open site area for each bed in the facility to provide for landscaping, parking, service drives, loading space, yards, recreational areas and accessory uses, but shall not include the area covered by main or accessory buildings.
- 3. **Buffering Requirements**
  - a. Shall conform to the requirements of Section 1709.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.
- 4. **Performance Standards**
  - a. All facilities shall be licensed by the Michigan Department of Public Health and shall conform to applicable state and federal laws.
  - b. The site shall be served by a major thoroughfare.
  - c. Buildings shall conform to the height limitations of the district.

**SECTION 1510.10. DRIVE-IN ESTABLISHMENTS**

- 1. **Locational Requirements** - Drive-in establishments and carry-out food establishments are permitted by Special Use Permit in the B-2, General Business and B-4 Major Business Thoroughfare Districts.
- 2. **Site Requirements**
  - a. Minimum lot area shall be twenty thousand (20,000) square feet.
  - b. The minimum lot width shall be one hundred twenty (120) feet.
  - c. The site shall have at least one (1) lot line on a paved major thoroughfare.
- 3. **Buffering Requirements**
  - a. Shall meet the requirements of Section 1709.
  - b. The outdoor storage of trash and rubbish shall be screened in accordance with

Section 1709 of this Ordinance.

**4. Performance Standards**

- a. The outdoor space used for parking and vehicle stacking, shall be hard surfaced and adequately drained.
- b. An adequate number of outdoor trash receptacles shall be provided in convenient locations at drive-in and carry-out food establishments. Drive-in restaurant management shall provide adequate trash and litter policing for the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary to keep them free of litter.
- c. No drive shall be closer to any other drive than (twenty-five) 25 feet and the maximum number of driveways permitted on a major thoroughfare is two (2).
- d. Vehicular circulation patterns into and out of such businesses shall be located and designed to minimize disruption of and conflicts with through traffic movement on abutting streets.
- e. Devices for the transmission or broadcasting of voices or music shall be so directed or muffled as to prevent said sound or music from being audible beyond the boundaries of the site.
- f. Bathroom facilities shall be provided at food establishments for use by patrons even if no indoor seating is provided.
- g. A pedestrian walk-up window for ordering and an adequate number of tables to sit at shall be provided if there is no inside seating.
- h. There shall be convenient parking for patrons equal to the number of spaces for employees if there is no indoor seating.
- i. There shall be at least two (2) temporary vehicle stopping spaces after the delivery window so motorists may prepare themselves for a safe exit onto the public roadway.

**SECTION 1510.12. FARMS**

- 1. **Locational Requirements** - Farms in existence in any district on the effective date of this Ordinance are permitted, provided their characteristics conform with the standards that follow, all others are permitted only by Special Use Permit.
- 2. **Site Requirements** - The parcel must be at least five (5) acres of size or larger and may not be in a platted subdivision or a supervisor's plat.
- 3. **Buffering Requirements** - All animals, other than household pets which reside inside the farmhouse, shall be sheltered in an enclosed barn or other building located not closer than one hundred (100) feet from any lot line.
- 4. **Performance Standards**
  - a. All farms are subject to the health and sanitation provisions of the City of South Haven.
  - b. No farms shall be operated as piggeries, or other intensive livestock operations, or for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals, except such animals as have been raised on the premises or been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption by persons residing on the premises.

**SECTION 1510.13. FARM MARKETS**

- 1. **Locational Requirements** - Farm markets are permitted by Special Use Permit on major thoroughfares in the B-2, B-4 and CBD districts for the sale of produce, fruit and farm

products only.

**2. Site Requirements**

- a. Minimum lot size of the district. In addition, it is permissible for a farm market to occupy a lot that has another use provided all requirements of this Ordinance are met.
- b. No activity or structure shall be located within twenty-five (25) feet of the public road right-of-way.
- c. A minimum of six (6) spaces for off-street parking, outside of the public road right-of-way shall be required for the exclusive use of the farm market with additional spaces at the rate of one (1) space for each three-hundred (300) square feet of gross floor area (paving not required).
- d. Suitable containers for rubbish shall be placed on the premises for public use.
- e. A storage structure shall be permitted provided it does not exceed two hundred (200) square feet in area.
- f. Farm markets shall be located no closer than one-hundred (100) feet from any lot line which abuts a residential zone or dwelling unit.
- g. There shall be at least one access drive which shall be wide enough to accommodate two vehicles side-by-side.

**3. Buffering Requirements**

- a. Shall comply with requirements of Section 1709.
- b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709.

**4. Performance Standards**

- a. Hours of operation shall be between the hours of 7:00 a.m. and 7:00 p.m.
- b. Any structure used as a farm market shall not be more than one (1) story high unless it is an existing barn

**SECTION 1510.14. GENERAL HOSPITAL**

- 1. **Locational Requirements** - Hospitals are permitted by Special Use Permit on major thoroughfares in the PB-1 Professional Business District.
- 2. **Site Requirements** - The minimum area for a hospital shall be two (2) acres.
- 3. **Buffering Requirements** - Hospitals shall conform with the landscaping and buffering requirements of Section 1709.
- 4. **Performance Standards**
  - a. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least twenty-five (25) feet for front, rear and side yard.
  - b. No hospital shall exceed sixty (60) feet in height.

**SECTION 1510.15. GOLF COURSES AND COUNTRY CLUBS**

- 1. **Locational Requirements** - Golf courses and country clubs are permitted by Special Use Permit in the R-1, and RM-1 Residential Districts.
- 2. **Site Requirements**
  - a. Minimum site shall be twenty (20) acres for a nine hole course or driving range.
  - b. Minimum site shall be forty (40) acres for an 18 hole course.
  - c. The minimum site for tennis, racket sport and swimming facilities shall be one (1) acre.

**3. Buffering Requirements**

- a. A landscaped buffer zone shall be provided between the parking and principal building area and any adjacent residential development.
- b. A 30 foot minimum natural vegetation strip between turf areas and natural water bodies, watercourses or wetlands must be maintained. The natural vegetation strip shall not be chemically treated on a regular basis.
- c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.

**4. Performance Standards**

- a. Accessory uses may include; clubhouse/pro shop, managerial facilities, maintenance shed, toilets, lockers, standard restaurant and drinking establishments, tennis, racket sport, and swimming facilities.
- b. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick of the abutting property is primarily residential.
- c. Major accessory uses such as a restaurant and bar shall be housed in a single building with the club house. Minor accessory uses strictly related to the operation of the golf course itself, such as maintenance garage and pro shop or golf shop may be located in separate structures.
- d. Reserved
- e. A site plan of the proposed development shall be reviewed and approved in accordance with Article XIV of this Ordinance. Such site plan shall indicate the location of service roads, entrances, driveways and parking areas and shall be so designed in relationship to the public streets that pedestrian and vehicular traffic safety is maximized.
- f. Development features shall be shown on said site plans; including the principal and accessory buildings, structures and parking areas, and shall be so located as to minimize possible adverse effects upon adjacent property.
- g. All principal or accessory buildings and parking areas shall be not less than forty (40) feet from any lot line or abutting residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the Planning Commission may modify this requirement.
- h. Access shall be so designed as to provide all ingress and egress directly onto or from a major thoroughfare.
- i. No building shall be erected to a height greater than that permitted in the district in which it is located.
- j. The total lot area covered with principal and accessory buildings shall not exceed 15 percent.
- k. Additional parking is required for accessory uses that may be allowed.
- l. All parking areas shall be surfaced or so treated as to prevent any dust nuisance.
- m. All artificial lights shall be directed away from adjoining properties.
- n. No outdoor loudspeaker or call system shall be audible on adjoining property.
- o. Outside storage shall be properly screened.
- p. No dwelling units shall be provided on the premises except for living quarters for a resident manager, watchman or caretaker or other dwelling units permitted by Special Use Permit under the requirements of this Ordinance. Those living quarters, if any, shall be constructed as part of the principal building.
- q. A golf driving range accessory to the principal use of the golf course is permitted provided the area devoted to this use shall maintain a seventy-five (75) foot front yard and a one hundred (100) foot side and rear yard setback. The area shall be buffered by natural vegetation and fencing to minimize the impact upon adjoining properties.
- r. Toilet facilities for use by patrons shall be located conveniently. Such facilities shall be approved by the Van Buren County Health Department.

- s. In the consideration of golf driving ranges additional buffering conditions necessary to minimize the impact of possible safety threats from projectiles upon adjacent land uses may be imposed by the Planning Commission.
- t. A minimum of two satellite restrooms or other acceptable facilities are required for each nine holes. The satellites are to be centrally located away from lotlines and painted or finished in an earth tone color.
- u. Golf courses shall retain and preserve native vegetation over at least thirty (30) percent of the total upland area of the course to reduce water demand, excessive soil erosion and heavy nutrient run-off.
- v. Water quality protective measures are required as follows:
  - 1) Maintenance of erosion control barriers during construction and until all ground cover is established.
  - 2) To the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises.
  - 3) Site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on-site ponding area.
  - 4) A chemical storage area must be designated within an accessory building. The area must provide secondary containment to prevent the spread of spills.
  - 5) All herbicide, insecticide, fungicide and rodenticide chemicals must be stored in a locked enclosure.
  - 6) An inventory manifest of stored chemicals must be posted at the entrance of the accessory building. Said listing must also be filed with the City.
  - 7) At any time widespread or non-spot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs must be posted at lot lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information.
  - 8) All chemical applications must be by a Michigan Department of Agriculture Licensed Applicator.
  - 9) Chemicals shall meet the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Environmental Protection Agency (EPA), and all appropriate state statutes and administrative directives.
  - 10) In order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the City may require posting of a performance guarantee or other acceptable security (see Section 2107).
- w. Swimming pools shall conform with the requirements of Section 1725.

**SECTION 1510.16. GREENHOUSES**

**1. Locational Requirements**

- a. Greenhouses which may include flower shops are permitted by Special Use Permit in the B-2 and B-4 districts.
- b. Ingress and egress to the business shall be only from a paved road or from a shared access to such a road.

**2. Site Requirements**

- a. The minimum lot size shall be eight thousand seven hundred twelve (8712) square feet if a greenhouse is located on the site.
- b. Off-street parking in accordance with Article XVIII.

**3. Buffering Requirements**

- a. Shall comply with the requirements of Section 1709.
- b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709.

## SECTION 1510.17. GROUP DAY CARE FACILITIES

1. **Locational Requirements**  
Nursery schools and day nurseries are permitted by Special Use Permit in the RM-1, R-1, R-2 and B-2 districts.
2. **Site Requirements**
  - a. Each child cared for shall be provided a minimum of one hundred (100) square feet of well maintained outdoor play area. The total minimum play space shall not be less than two thousand (2000) square feet. All outdoor play areas shall be enclosed with fencing, a minimum of four (4) feet high. Screening may be required at the discretion of the Planning Commission.
  - b. An off-street drop-off area is to be provided with the capability to accommodate at least one (1) automobile in addition to the parking normally required for the dwelling. A driveway may be used for this purpose.
  - c. At least one on-site parking space shall be provided for any assistant provider or caregiver not a resident on the premises.
  - d. Playground equipment shall not be located in front or side yards
3. **Buffering Requirements** - Adequate provision shall be made to reduce noise impacts on surrounding residential properties pursuant to the requirements of Section 1709.
4. **Performance Standards**  
Operation and maintenance of all group day care facilities shall conform to existing applicable county and state regulations.

## SECTION 1510.18. JUNK YARDS

1. **Locational Requirements**
  - a. Junk yards are permitted by Special Use Permit in the I-2, General Industrial zoning district. Junk yards shall not be located adjacent to residentially zoned properties, schools, day care facilities, religious institutions, hospitals, and convalescent or nursing homes.
  - b. Ingress and egress to the facility shall be only from a major thoroughfare. The Planning Commission may approve access other roads if the Commission finds that such access point will further minimize impacts on other properties.
2. **Site Requirements**
  - a. The minimum lot or parcel size for junk yards shall be five (5) acres.
  - b. Setbacks
    - 1) All enclosed areas shall be set back at least one hundred (100) feet from any lot line.
    - 2) Junk yards shall not be located closer than two hundred (200) feet from the border of an industrial district
  - c. Adequate parking and unloading facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
  - d. Whenever the installation abuts a residential district, a buffer strip at least two hundred (200) feet in width shall be provided between the enclosed area and the adjoining district. Such strip shall contain plants, grass, and structural screens of a type approved by the Zoning Administrator.
3. **Buffering Requirements**
  - a. The front yard shall be planted with trees, grass, and shrubs. The spacing and type of plant materials shall be consistent with the provisions of Section 1709 of this Ordinance.
  - b. A solid fence, wall or earthen berm at least eight (8) feet in height shall be provided around all sides of the area used to store junk to screen said site from surrounding property. Such fence, wall or berm shall be of sound construction,

painted or otherwise finished neatly and inconspicuously. Such fence, wall or berm shall be of permanent finish and construction.

**4. Performance Standards**

- a. All activities shall be confined within the enclosed area. There shall be no stocking of material above the height of the fence, wall, or berm, except that moveable equipment used on the site may exceed that height. No equipment, material, signs, or lighting shall be used or stored outside the enclosed area.
- b. No open burning shall be permitted and all industrial processes involving the use of equipment for cutting, compressing, or packaging shall be conducted within a completely enclosed building.
- c. All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, watered, or chemically treated so as to limit the nuisance caused by wind-borne dust on adjoining lots and public roads.
- d. The operation shall be licensed by the Michigan Secretary of State to sell used vehicle parts or tow non-operational vehicles. Before the state will issue the licenses, the Zoning Administrator and the County Sheriff shall certify that the facility is in a properly zoned area and that the operators have not been previously convicted as felons.
- e. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources.

**SECTION 1510.19. KENNELS**

1. **Locational Requirements** - Kennels are permitted by Special Use Permit in the I-1 Light Industrial district.

**2. Site Requirements**

- a. Commercial kennels shall be on a lot with at least two hundred (200) feet of frontage, have a minimum lot size of one (1) acre for the first 11 animals and an additional 1/3 acre for each animal thereafter.

3. **Buffering Requirements** - Buildings where animals are kept, runs, and exercise areas shall not be located nearer than one hundred feet (100) to any adjacent residential lot line or any adjacent building used by the general public and shall not be located in any required front yard.

**4. Performance Standards**

- a. All kennels shall be operated in conformance with all applicable county, state and federal regulations.
- b. The main kennel building used to house the animals shall be insulated in such a manner that animal noises are minimized.
- c. Habitual barking or unusual noise from the kennel which results in a nuisance to neighboring land owners or residents is prohibited.
- d. The intensity level of sounds shall not exceed seventy (70) decibels (dBA) at the lot line of industrial uses; sixty five (65) decibels at the lot line of commercial uses and fifty-five (55) decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
- e. Exercise yards, when provided for training or exercising shall not be used between the hours of 10:00 p.m. and 7:00 a.m.
- f. During the hours of 7 a.m. until 10 p.m. animals shall be permitted in outdoor runs or pens. Animals shall be kept confined and not allowed to run at large on the property, except as part of supervised training.



- g. Runs and/or exercise areas, and buildings where the animals are maintained shall be located in the rear yard only.
- h. The kennel area shall be screened from view by appropriate screening as determined by the Planning Commission in conformance with Section 1709.
- i. The outside perimeter of the run and/or exercise area of a hobby or commercial kennel shall be enclosed by chain link or cyclone fencing at sufficient height or completely covered on sides and top having to prohibit the escape of animals.
- j. All animals must be licensed and maintained in a healthful and careful manner.
- k. Outdoor runs and breeding areas in commercial kennels shall have concrete surfaces, suitable for cleaning by high-pressure water, and shall be provided with an adequate septic system.
- l. The premises shall be kept in a clean and sanitary manner to prevent the accumulation of flies, the spread of disease or offensive odor.
- m. Animal odors shall not be detectable beyond the lot lines of the property in which the kennel is located.
- n. Dust and drainage from the kennel enclosure shall not create a nuisance or hazard to adjoining property or uses.

## **SECTION 1510.20. MARINAS, DOCKS AND BOAT STORAGE**

### **1. Locational Requirements**

New marinas shall be located only in the B-3 Waterfront Business District. Expansion of any marina lawfully in existence on the effective date of this Ordinance that is not in a B-3 District may be permitted by Special Use Permit if compliance with the standards of this Section are achieved. Any new construction in or over a waterway, and any expansion or change in materials of existing structures in or over a waterway, requires a review of the site plan by the City of South Haven Harbor Commission which shall make a recommendation thereon to the City of South Haven Planning Commission.

- a. A new marina may be located in the RM-1, Multiple-Family Residential District when included as an accessory use in a residential Planned Unit Development, where the residences are constructed on the land, on property with frontage along the Black River, in compliance with the standards of this section and as regulated by Article XIII. In addition to the requirements and standards set out in Section 1510.20 for all marinas, the following additional conditions apply in the RM-1 District:
  - 1. The marina must be an accessory use in a residential Planned Unit Development.
  - 2. Use of the marina is restricted to owners of residential units in the PUD.
  - 3. Limit of one boat slip per dwelling unit. Boat slips and docks must be deeded with residential units and may not be sold independently of a residence in the PUD. No outside ownership, renting or leasing of the slips is permitted.
  - 4. No fuel dock is permitted.
  - 5. Sanitary Facilities (restrooms) do not need to be provided at the marina site unless they are required by the Michigan Department of Environmental Quality or other regulating agency.
  - 6. Parking is required per Section 1800.12(c)7 The Planning Commission may waive all or part of the required parking if it is demonstrated that no significant benefit is gained by providing parking at the marina site.
  - 7. Access to the marina must be through the PUD. No separate entrance to the marina is permitted.
  - 8. The marina must comply with all applicable local, state and federal regulations.
- b. Permission to construct a marina in any district does not indicate that the city or other slip owners accept any responsibility to maintain open navigation to the new marina. Navigability issues are at the developer's risk. (Amended 7/7/03, Ord.918)

2. **Site Requirements**
  - a. Adequate standing and parking facilities shall be provided at the site so that no loaded vehicle at any time stands on a public right-of-way awaiting entrance to the site.
  
3. **Buffering Requirements**
  - a. Fences and screening in accordance with Article 1709 and 1714 of this Ordinance may be required to mitigate potential negative impacts on adjacent properties.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.
  
4. **Performance Standards**
  - a. Sanitary facilities (restrooms) shall be provided on the site.
  - b. Adequate secondary containment shall be employed if any petroleum or other such products are sold on the premises.
  - c. Any materials listed on the Michigan Critical Materials Register (gasoline and solvents) require secondary containment and a Pollution Incident Protection Plan filed with the Michigan Department of Natural Resources.
  - d. There shall be no externally visible evidence of commercial activity from accessory uses.
  - e. A permit to erect, maintain, or operate a marina shall be secured from the Michigan Department of Natural Resources, in conjunction with any other approvals.
  - f. All such uses shall conform with the Marine Safety Act, the Inland Lakes and Streams Act, and all other county, state, and federal regulations.
  - g. All such uses shall comply with the harbor regulations in the Code of Ordinances Chapter 38.
  - h. No structure shall be built past the harbor lines.
  - i. No vessel shall extend past the harbor lines when docked.
  - j. Rack boat storage shall be located indoors.
  - k. Boat storage structures shall be set back 35' from property lines.
  - l. Required parking areas may be used for outdoor boat storage (but not rack storage) from Labor Day to Memorial Day.
  - m. Residential use of an accessory building is not permitted.

**SECTION 1510.21. MINI STORAGE (WAREHOUSE) FACILITIES**

1. **Locational Requirements**
  - a. Mini storage facilities shall be permitted only in I-1 Light Industrial districts.
  - b. The facility shall have direct access to a major thoroughfare
  
2. **Site Requirements**
  - a. The individual areas used principally for storage, warehousing, or distribution shall not exceed five thousand (5,000) square feet in gross floor area or twenty-five (25) feet in height.
  - b. Off street parking shall be in accordance with Article XVIII.
  - c. There shall be a minimum of twenty-four (24) feet between warehouses for driveway and fire lane purposes. Traffic direction and parking shall be designated by signaling or painting.
  - d. The lot area used for parking and access shall be provided with a permanent, durable, dustless surface and shall be graded and drained so as to dispose of all surface water.
  
3. **Buffering Requirements**
  - a. When adjoining a residential district, a six (6) foot high wall, fence, or dense

vegetation strip shall be erected and maintained along the connecting interior lot line.

- b. All lighting shall be shielded from adjacent residential districts.
- c. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.

**4. Performance Standards**

- a. No retail, wholesale, fabrication, manufacturing, or service activities shall be conducted from the storage units by the lessees.
- b. Outdoor storage is permitted on asphalt or concrete paved surfaces only, and screening shall be provided for any adjacent residential use.
- c. No residential or office use shall be allowed in any storage unit.
- d. The exterior of mini-storage buildings shall be of finished quality and maintained so as not to be offensive to adjacent property or abutting streets.
- e. No storage of hazardous substances, toxic, or explosive materials shall be permitted at the facility. Signs shall be posted at the facility describing such limitations.

**SECTION 1510.22. HOTELS AND RESORTS**

**1. Locational Requirements**

- a. Hotels and resorts are permitted by Special Use Permit in the CBD, B-2, B-3 and B-4 districts and as part of a mixed use planned Unit Development [See Section 1307.2(a)9]. (Amended 8/21/06, Ord. 946.)
- b. Ingress and egress to the motel shall be only from a paved major thoroughfare.

**2. Site Requirements**

- a. The minimum lot size shall be one (1) acre with a minimum width of one hundred thirty-two (132) feet.
- b. Off-street parking and loading is as required in accordance with Article XVIII.

**3. Buffering Requirements**

- a. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.

**4. Performance Standards**

- a. No kitchen or cooking facilities shall be provided in guest rooms.
- b. The minimum floor area of each guest unit shall be two hundred-fifty (250) square feet.
- c. No guest shall establish permanent residence at the motel.
- d. See also the standards in Section 1738.

**SECTION 1510.23. MULTIPLE FAMILY DEVELOPMENT**

1. **Locational Requirements** - Multiple family dwellings are permitted by Special Use Permit in the RM-1 Multiple Family District as a use by right provided the site plan meets the requirements of this section. If a multiple family development is requested per the requirements of Article XIII, the standards of this section shall be met, but no separate special use permit is required.

2. **Site Requirements** – There shall be a twenty (20) foot setback from structures to any property line adjacent to a single-family residential use or district. There shall be a five (5) foot setback from any paved surface to a property line.

3. **Buffering Requirements**
  - a. Any multiple family development adjoining any single family residential district or any developed nonresidential district shall provide a buffer zone planted pursuant to the requirements of Section 1709.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.
  
4. **Performance Standards**
  - a. All developments for multiple family dwellings shall have direct access to a paved major thoroughfare or paved City street.
  - b. Provisions shall be made for safe and efficient egress and ingress to public streets and highways serving any development which shall be designed to minimize congestion and interference with normal traffic flow.
  - c. There shall be provided easily accessible and useable open space in the development in an amount of ten (10%) of the site area or two thousand (2,000) square feet per four dwelling units, whichever is greater.
  - d. All group off-street parking facilities shall be adequately lighted during hours of darkness.
  - e. All developments shall provide for underground installation of all utilities.
  - f. Only the following accessory land and/or building uses shall be permitted:
    - 1) One (1) office space not greater than one thousand (1,000) square feet for conducting the business of the development.
    - 2) Utility areas for laundry facilities and auxiliary storage for tenants.
    - 3) Recreation area such as community buildings, playgrounds, swimming pools and open space for tenants.

#### **SECTION 1510.24. OPEN AIR BUSINESSES**

Open air businesses shall include the following:

1. Automobile, truck, recreational vehicle and boat sales.
  2. Agricultural equipment sales.
  3. Nursery, landscaping supplies.
  4. Lumber yards.
  5. Home and garden centers.
  6. Mobile home sales
1. **Locational Requirements** - Open air businesses are permitted by Special Use Permit in the B-2 and B-4 Districts.
  
  2. **Site Requirements**
    - a. The minimum frontage shall be one hundred thirty-two (132) feet.
    - b. No loading activities shall be permitted within thirty-five (35) feet of any lot line abutting a residential land use.
    - c. All buildings shall be set back a minimum of twenty (20) feet from any lotline.
    - d. Ingress and egress to the facility shall be only from a major thoroughfare, or from an approved shared access drive to such thoroughfare.
    - e. No more than two (2) driveways onto a thoroughfare shall be permitted per site. Driveway approach width shall not exceed thirty-five (35) feet.
  
  3. **Buffering Requirements**
    - a. Trucking, outside storage, loading and dock areas shall be fenced and screened, pursuant to the requirements of Section 1709.
    - b. If the site is immediately adjacent to a residential district screening shall comply with the requirements of Section 1709.
    - c. Storage yards associated with home and garden centers, lumber yards and nurseries shall be completely obscured from view from public streets.

- d. The outdoor storage of trash or rubbish shall be screened in compliance with Section 1709 of this Ordinance.

**4. Performance Standards**

- a. The site shall be kept in a neat and orderly fashion.
- b. Not more than seventy (70%) of the parcel shall be covered by buildings and outdoor storage of materials and goods.
- c. Christmas tree sales associated with nurseries need not comply with the requirements of Section 1731.5.
- d. Displays are to be limited to front yards only.
- e. No public address system shall be audible from any abutting residential parcel.
- f. All lighting shall be shielded from adjacent streets and residential districts.
- g. All flammable liquids, solvents, cleaners, and other hazardous substances capable of contaminating the soil, ground or surface water shall be stored within the building and secondary containment measures shall be installed and utilized to prevent spilled materials from contacting the ground.
- h. The storage of any soil, fertilizer, or similar loosely packaged materials shall be sufficiently contained to prevent any adverse affect on adjacent properties, water bodies, wetlands and drainageways.
- i. Off-street loading and parking facilities shall be provided pursuant to the requirements of Article XVIII. Required parking spaces shall not be used for storage, and display, or sale of merchandise.
- j. In the case of auto, truck or recreational vehicle sales:
  - 1) No vehicles which are inoperative shall be stored on the premises for more than two (2) weeks.
  - 2) All repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building except minor maintenance, including tire replacement, adding oil and wiper replacement.
  - 3) For facilities with new underground storage tanks, the site shall be three-hundred (300) feet from any residential well, eight hundred (800) feet from a non-community public water well and two-thousand (2,000) feet from any public water well.
  - 4) All areas subject to vehicular use shall be paved with a durable dust-free surface, with appropriate bumper-guards where needed.

**SECTION 1510.25. (OUTDOOR) PUBLIC RECREATION**

- 1. **Locational Requirements** - Private noncommercial recreation areas, institutional, community or municipal recreation centers, nonprofit swimming pool clubs and other public recreational facilities that are largely outdoors, such as parks and playgrounds are permitted in the R-1, RM-1, B-2, B-3, and B-4 districts. They shall have direct access to a public street.
  - a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one (1) property line abutting a major thoroughfare as designed on the street and Highway Classification Map (see Figure 2-8), and the site shall be so planned as to provide all access in accordance with Section 1716.
- 2. **Site Requirements** - The site shall be at least twenty thousand (20,000) square feet in size.
  - a. Front, side and rear yards shall be at least twenty (20) feet wide, and shall be landscaped in trees shrubs and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these

yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

- b. Off-street parking shall be provided so as to accommodate not less than one-half (1/2) of the number of the families and/or individual members. The Planning Commission may modify the off-street parking requirements in those instances wherein it is specifically determined that the users will originate from the immediately adjacent areas, and will therefore be pedestrian. Prior to the issuance of a building permit, bylaws of the organization (if applicable) shall be provided in order to establish the membership involved for computing the off-street parking requirements. In those cases wherein the proposed use or organization does not have bylaws or formal membership, the off-street parking requirement shall be determined by the Planning Commission on the basis of estimated peak usage.

**3. Performance Standards**

- a. Facilities shall provide off-street parking and passenger loading areas sufficient to meet the needs of those using the facility which shall be located at least twenty-five (25) feet from residential lot lines.
- b. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- c. Not more than thirty-five (35) % of the land area shall be covered by recreational structures.
- d. Screening shall be provided adjacent to residential districts or uses in accordance with the requirements of Sections 1709 and 1714.
- e. All buildings shall be of a residential character and exterior materials are to be primarily wood or brick.
- f. All parking areas shall be paved.
- g. Facilities using lighting adjoining a residentially zoned property shall deflect lighting away from these areas.
- h. Excessive dust, noise, traffic, and trespassing shall not be inflicted on adjacent properties.
  - i. All sports fields shall be a minimum of one hundred (100) feet from any lot line and two hundred (200) feet from any dwelling.

**SECTION 1510.26. OUTDOOR THEATER**

1. **Locational Requirements** - Outdoor theaters are permitted in the B-4 Major Thoroughfare Business District. Ingress and egress shall be only from a major thoroughfare.
2. **Site Requirements** - The site shall be at least five (5) acres in size.
3. **Buffering Requirements** - A landscaped buffer strip, at least fifty (50) feet wide conforming to the requirements of Section 1709 shall be established around the perimeter of the site.
4. **Performance Standards**
  - a. The proposed street design and structure location shall receive approval from both the Zoning Administrator and City Engineer as to adequacy of drainage, lighting, and other technical aspects.
  - b. All vehicles waiting to enter the facility shall be provided off-street waiting space. No vehicle shall be permitted to wait within a dedicated public right-of-way.
  - c. The area shall be laid out so as to prevent the movie screen from being viewed from residential areas or adjacent major thoroughfares.
  - d. All lighting used to illuminate the area shall be so installed as to be confined within, and directly onto, the premises of the outdoor theater site, and not off-site.

- e. There shall be no noise emanating from the operation which will adversely affect an adjoining permitted use.

#### **SECTION 1510.27. PLANNED SHOPPING DEVELOPMENT**

1. **Locational Requirements** - Planned shopping developments are permitted in the B-2 and B-4 Major Thoroughfare Business District. Ingress and egress shall be only from a major thoroughfare.
2. **Site Requirements** - Shall be at least 20,000 square feet in size.
3. **Buffering Requirements** - A landscaped area shall be provided and maintained between the parking lot and the property line, with a width of twenty-five (25) feet on the front and rear property lines, and twenty (20) feet on the side property lines. If the lot is a corner lot, a landscaped area of ten (10) feet shall be provided and maintained along any property line which fronts a public street.
4. **Performance Standards**
  - a. Due to the nature of Planning Shopping Developments, traffic flows may be increased. The Planned Shopping Development must provide adequate safety measures in traffic flow design through limited ingress and egress points to the property and parking areas. Said traffic flow increase must not present a dangerous impediment to existing thoroughfares or streets.
  - b. The maximum widths of all driveways at the public sidewalk crossing or road shall be no more than thirty-six (36) feet. All Planned Shopping Developments must provide an unobstructed drive of a minimum of twenty-four (24) feet in width. Said drive must be located not further than 35 feet from the wall line, running the entire perimeter of said buildings. Said drive must be posted with markings on the pavement or signs that state "No Parking - FireLane."
  - c. Minimum angle or driveway intersection with the roadway from the curb line to the lot line shall be no less than sixty (60) degrees.
  - d. The minimum distance between roadway curb cuts or driveways shall be no less than forty (40) feet on any property or adjacent properties owned in common by an individual.
  - e. The minimum setback from any road or street right-of-way to a building within a Planned Shopping Development shall be thirty-five (35) feet.
  - f. If a Planned Shopping Development is adjacent to another major traffic use (i.e., Department Store, Grocery Store, another Planned Shopping Development), every attempt must be made to create an access from the Planned Shopping Development to the other major traffic use without using public right-of-way (i.e., an internal drive between the two uses).
  - g. All uses within the Planned Shopping Development must be uses that would be allowed in the B-2 district. Any change of use within the Planned Shopping Development must apply for a certificate of zoning compliance from the Zoning Administrator before business commences.

#### **SECTION 1510.28. PRIVATE, CLUBS AND RELATED PRIVATE RECREATIONAL**

Such uses shall include, but need not be limited to, the following:

1. Private recreation centers
  2. Private clubs or lodges
1. **Locational Requirements** - Private recreational uses are permitted by Special Use Permit in the B-2, B-3 and CBD districts, but not on the ground floor in the CBD.

2. **Site Requirements**

- a. The site shall be located on a major thoroughfare.
- b. Minimum lot size shall be one acre, except in the CBD.

3. **Buffering Requirement**

- a. Shall comply with the requirements of Section 1709
- b. The outdoor storage of trash or rubbish shall be screened in compliance with Section 1709 of this Ordinance.

4. **Performance Standards**

- a. Facilities shall provide off-street parking and passenger loading areas.
- b. Sites shall be periodically cleared of debris so that litter does not accumulate on adjacent properties.
- c. Not more than thirty-five (35)% of the land area shall be covered by recreational structures.
- d. Central loudspeakers/paging systems are prohibited adjacent to residential property.
- e. The design of the structure(s) should be compatible in size, scale, materials and character with those on neighboring properties.
- f. Screening may be required at the discretion of the Planning Commission.
- g. Whenever a swimming pool is to be provided, said pool shall conform with the requirements of Section 1725.
- h. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick.
- i. All parking areas shall be paved.

**SECTION 1510.29. PUBLIC FACILITIES**

1. **Locational Requirements** - Public facilities are permitted by Special Use Permit in any zoning district.

2. **Site Requirements**

- a. Setbacks and lot coverage shall conform with the regulations of the district in which the proposed public facility or utility would be located.
- b. Lot area and width shall not be less than that specified for the district in which the proposed use would be located.
- c. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located.

3. **Buffering Requirements**

- a. Where mechanical equipment is located in the open air, it shall be screened from the surrounding residential area by suitable plant material and it shall be fenced with a chain link fence six (6) feet in height.
- b. All buildings housing mechanical equipment shall be landscaped and maintained in accordance with the requirements of Section 1709.

4. **Performance Standards**

- a. All buildings shall be harmonious in appearance with the surrounding area and shall be similar in design and appearance to other buildings on the same lot.
- b. No adverse environmental conditions such as noise, air pollution, lighting or other disruptions result.
- c. Outdoor storage areas shall be located a minimum of twenty (20) feet from any residentially zoned property.
- d. The outdoor storage of trash or rubbish shall be screened in compliance with Section 1709 of this Ordinance.



## SECTION 1510.31. SCHOOLS

1. **Locational Requirements**
  - a. Schools are permitted by Special Use Permit in the R-1, R-2, RM-1, B-2 and B-4 districts.
  - b. Ingress and egress to the site shall be only from a paved major thoroughfare and in accordance with Section 1716.
  - c. A preferential location is one which would offer natural or man-made barriers or a buffer zone that would lessen the effect of the schools use on adjoining uses.
2. **Site Requirements**
  - a. The minimum lot or parcel size for schools shall be forty thousand (40,000) square feet..
  - b. No more than thirty-five (35) percent of the site area shall be covered by buildings.
  - c. No more than sixty (60) percent of the site shall be covered with impervious surface. The remainder shall be suitably landscaped.
  - d. No service areas or service facilities, outdoor recreation facilities, or any building or accessory structure larger than four (400) hundred square feet shall be located within eighty (80) feet of a property line.
  - e. Student drop-off and vehicular turn-around facilities shall be provided on the site so that vehicles will not interfere with traffic.
  - f. No parking shall be allowed within the minimum front yard setback of fifty (50) feet.
  - g. The principal building shall be no closer than seventy-five (75) feet from any lot line or right-of-way.
3. **Buffering Requirements**
  - a. Parking areas shall be screened from surrounding residential areas by a wall or fence, in combination with suitable plant materials as specified in Sections 1709, 1713 and 1714 of this Ordinance
  - b. All lighting shall be shielded away from public right-of-way and neighboring residential lots.
4. **Performance Standards** - All activities conducted on the site shall conform to county, state, and federal laws.

## SECTION 1510.32. VEHICLE WASH FACILITIES

1. **Locational Requirements**

Vehicle washing facilities shall be permitted only in B-2 and B-4 Districts with direct vehicular access to the Blue Star Highway.
2. **Site Requirements**
  - a. The minimum lot or parcel size for vehicle washing facilities shall be ten thousand (10,000) square feet.
  - b. The minimum front yard setback for the structure shall be thirty-five (35) feet; minimum side yard setback shall be twenty-five (25) feet; minimum rear yard setback shall be twenty-five (25) feet.
  - c. The entrances and exits of the facility shall not be from an adjoining residential street or alley. A street or alley shall not be used as a maneuvering or parking area for vehicles using the facility.
  - d. The entire site, other than the portion occupied by the building and landscaping, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage.
  - e. There shall be no above-ground outdoor storage/dispensing tanks on the site.

3. **Buffering Requirements**
  - a. When adjoining a residential district, a six (6) foot high wall or fence shall be erected and maintained along the connecting interior lot line or other landscaping providing a six (6) foot high barrier may be approved by the Planning Commission.
  - b. All lighting shall be shielded from adjacent residential districts or residential uses.
  - c. The outdoor storage of trash or rubbish shall be screened in compliance with Section 1709 of this Ordinance.
4. **Performance Standards**
  - a. All washing activities shall be conducted within an enclosed structure, except for one tall vehicle washing area.
  - b. Vacuuming activities shall be at least twenty-five (25) feet from any lot line except where the property abuts a residential zone in which case a fifty foot (50) separation shall be maintained.
  - c. All drains shall be connected to a public sanitary sewer system.
  - d. Adequate provision shall be made to keep all drainage water from washing operations on the site.

### **SECTION 1510.33. VETERINARY CLINICS**

1. **Locational Requirements** - Veterinary clinics with outdoor paddocks are permitted by special use in the I-1 district. Clinics which are completely enclosed shall be permitted by special use in the B-2 and B-4 zoning districts.
2. **Buffering Requirements**
  - a. Buildings where animals are kept, dog runs, paddocks, and/or exercise areas shall not be located nearer than one hundred feet (100) to any adjacent residential district lot line or any adjacent building used by the general public and shall not be located in any required yard.
  - b. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.
3. **Performance Standards**
  - a. Uses permitted include medical treatment, retail sales of animal supplies and boarding. Boarding of wild animals is prohibited unless in an AAZPA accredited facility.
  - b. All activities must be confined within a fully enclosed building that is soundproofed except for large animal paddock.
  - c. All principal use activities shall be conducted within a totally enclosed principal building.
  - d. There shall be no storage or boarding of animals outside of the fully enclosed and soundproofed building.
  - e. No dogs shall be permitted in open run areas between the hours of 10:00 p.m. and 7:00 a.m.
  - f. An adequate, enclosed method of refuse storage and disposal shall be maintained to that no public nuisance shall be created at anytime.

### **SECTION 1510.34. OUTDOOR SIDEWALK CAFÉ**

1. **Locational Requirements** – Outdoor Sidewalk Cafes are permitted by Special Use Permit on public or private property in the CBD and B-2 Districts. Cafes shall be an accessory use to food establishments and eating or drinking places which are located in a structure on private property, including restaurants, delicatessens, cafes, or similar establishments.

2. **Application, Review and Licensing Requirements** –

- a. A special use permit application shall be submitted to the Planning Commission for review and approval. The Planning Commission shall use the standards, restrictions and conditions of the Outdoor Sidewalk Café License Agreement in the review of the special use permit.
- b. The planning commission shall also review photographs of all proposed Outdoor Sidewalk Café furniture and proposed barriers prior to approval of the special use permit.
- c. An Outdoor Sidewalk Café shall not begin operation until the applicant has entered into an Outdoor Sidewalk Café License Agreement with the South Haven City Council.

**SECTION 1510.35 WIND TURBINES**

Wind Turbines proposed pursuant to Section 1742 shall be subject to the following additional application requirements in addition to those required by Section 1500 in total:

- a) Name, address and contact information for the Facility Owner, Operator and landowner along with notarized signature of same on application form.
- b) An overview of the project; the project location; type and height of Wind Turbine to be constructed, dimensions and respective manufacturers, and a description of ancillary facilities.
- c) An affidavit or similar evidence of agreement between the landowner and the Facility Owner or Operator demonstrating that the Facility Owner or Operator has the permission of the landowner to apply for necessary permits for construction and operation of the Wind Turbine.
- d) The legal description and tax identification numbers of the properties on which the proposed Wind Turbine will be located.
- e) A site plan showing the planned location of each Wind Turbine, property lines, setback lines, access road and turnout locations, substation(s), electrical cabling from the Wind Turbine to the substation(s), ancillary equipment, building, and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures within the geographical boundaries of any applicable setback.
- f) Documents related to decommissioning pursuant to this Section 1500.
- g) Other relevant studies, reports, certifications and approvals as may be reasonably requested by the City of South Haven when required to ensure compliance with this Section 1500 including but not limited to noise analysis, shadow flicker evaluation, and vibration analysis.

**1. PURPOSE and INTENT:**

The purpose of this Section 1510.35 is to establish standards and procedures by which installment and operation of Wind Turbines shall be governed. The intent of this Section 1510.35 is:

- a) To promote public safety with the establishment of Wind Turbines installed for the purpose of creating renewable energy sources.
- b) To reduce potential adverse impacts Wind Turbines may have on residential areas and land uses through appropriate design, siting, and nuisance controls.
- c) To minimize any potential impact on adjacent properties from Wind Turbine failure through appropriate engineering and siting of Wind Turbine structures.

**2. DEFINITIONS:** As used in this Section 1510.35:

- a) “Ambient Sound Level” means the amount of background noise at a given location prior to the installation of a Wind Turbine which may include, but is not limited to, traffic, machinery, lawnmowers, human activity, and interaction of the wind with the landscape as measured on the dB(A) weight scale defined by the American National Standards Institute.
- b) “Anemometer Tower” means a structure and equipment used to determine the potential for the placement for a Wind Turbine.
- c) “Applicant” is the person or entity filing an application pursuant to Section 1742, as well as the applicant’s successor(s), assign(s), heir(s) and/or transferee(s) as to any approved Wind Turbine. An applicant shall have the legal authority to represent and bind the landowner and

lessee who

- d) will construct, own and operate the Wind Turbine. The duties and obligations regarding a zoning approval for any approved Wind Turbine shall be with the landowner.
- e) "Facility Owner" means the entity or entities having an equity interest in a Wind Turbine, including their respective successors and assigns. The Facility Owner shall be legally responsible to the landowner.
- f) "Hub Height" means the distance measured from the average grade around the foundation to the highest element of the Wind Turbine hub, to which the blade is attached.
- g) "Operator" means the entity responsible for the day-to-day operation and maintenance of a Wind Turbine.
- h) "Occupied Building" means a residence or a building used for public gathering such as a school, hospital, religious institution, or public library any of which is occupied or in use when the permit application is submitted.
- i) "Rotor Diameter" means the cross-sectional dimension of the circle swept by the rotating blades of a Wind Turbine.
- j) "Shadow Flicker" means the moving shadow created by a light source shining through the rotating blades of a Wind Turbine.
- k) "Tower" means the support structure for the various components of a Wind Turbine including the nacelle, tail, rotor, blades, and may include an anemometer.
- l) "Turbine Height" means the distance measured from the average grade around the foundation to the highest point of the turbine rotor blade.
- m) "Wind Turbine" means a single wind energy conversion system that converts wind energy into electricity through the use of a Wind Turbine generator, and includes the nacelle, rotor, tower, tail, foundation, and transformer, if any, may also include an anemometer.
- n) "Wind Energy Facility" means an electric generating facility, being the primary use of a property whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.
- o) "Non-participation Landowner" means any landowner not included within a specific Wind Turbine Site.
- p) "Setback distance" means that horizontal distance measured from the center of the Wind Turbine base to the nearest fixed edge or point of an identified element that is the subject of a specific setback regulation.
- q) "Wind Turbine Site" means that property which is subject to an agreement with the Facility Owner or Operator, or is controlled through ownership or easement rights by the Facility Owner or Operator.

### 3. LOCATION REQUIREMENTS:

- a. **Category One:** A Wind Turbine 40 feet in Turbine Height or less shall be considered an accessory structure requiring a special use permit which may be allowed in all zoning districts, subject to the standards and requirements of this Section 1500.
- b. **Category Two:** A Wind Turbine greater than 40 feet and less than 200 feet in Turbine Height shall be considered an accessory structure requiring a special use permit which may be allowed in the B-4, I-1 and I-2 zoning districts, subject to the standards and requirements of this Section 1500.

### 4. SITE REQUIREMENTS:

- a. All Wind Turbines shall be classified as an accessory structure to the primary use on the site and a Wind Energy Facility is not allowed within the corporate limits of the City of South Haven.
- b. To minimize potential impact of noise or vibration, all Wind Turbines shall be set back from the nearest Occupied Building on a Non-participation Landowner property a distance not less than the normal setback requirements for the applicable zoning classification or a distance equal to three (3) times the Turbine Height, whichever is greater. The setback distance shall be measured from the center of the Wind Turbine base to the nearest point on the foundation of the Occupied Building.
- c. To minimize potential impact from ice throw, all Wind Turbines shall be set back from the

nearest Non-participation Landowner property line a distance of not less than the normal setback

- d. requirements for the applicable zoning classification or a distance equal to one and half (1.5) times the Hub Height combined with the Rotor Diameter, whichever is greater.
- e. To minimize potential impact from ice throw, all Wind Turbines shall be setback from a public right-of-way, or private road/access easement controlled by those other than the Facility.
- f. The minimum Wind Turbine Height shall be two (2) acres and must met required setbacks and all other standards of this Section 1510.35.
- g. All Wind Turbines require a "wind access buffer" equal to a minimum of five (5) rotor diameters from any other Wind Turbine.

#### **5. WAIVER OF SECTION 1510.35(4) REQUIREMENTS:**

- a. In the event that an application for a Special Use Permit is submitted to the City requesting approval of a Wind Turbine that does not meet the minimum Site Requirements of Section 1510.35 subparagraph 4 above, said application shall be reviewed by the Planning Commission pursuant to Section 1500 with the additional requirement that said application must also be approved by the City Council and the action of the Planning Commission shall serve as a recommendation to the City Council which shall take final action on the application within 60 days of the Planning Commission's recommendation. Any such approval by the City Council shall be subject to the following requirements:
  - b. Written evidence shall be provided to the City that documents how the proposed Wind Turbine shall not violate the Buffering Requirements of Section 1510.35 subparagraph 6 below.
  - c. The Wind Turbine Operator shall install sound detection instrumentation that
  - d. continuously collects data on a 24 hour/365 days a year basis to be located at a point along the proposed Wind Turbine Site boundary that is nearest to the closest Occupied Building of a Non- participation Landowner. Said data shall be maintained by the Wind Turbine Operator and provided to the City within 24 hours of the City requesting said data in written form.
  - e. A written agreement shall be executed between the City and the Applicant for the proposed Wind Turbine that specifies how the operation of the wind Turbine shall be discontinued should the data indicate failure to meet the Buffering Requirements.

#### **6. BUFFERING REQUIREMENTS:**

- a. Audible sound from a Wind Turbine shall not exceed the Ambient Sound Level plus 5dB(A) or 55dB(A), whichever is lower and both as measured at the perimeter property lines on which the Wind Turbine is proposed by more than three (3) minutes in any hour of the day. Said sound level limitation shall not be exceeded at the exterior of an Occupied Building on the nearest Nonparticipating Landowner's property. Wind Turbines greater than 40 feet in Turbine Height shall provide a noise analysis that shows the proposed turbine will not exceed this noise standard. Said Ambient Sound Level shall be established at time of application and stated within the permit issued for a Wind Turbine.
- b. The applicant for a Wind Turbine greater than 40 feet in Wind Turbine Height shall provide a shadow analysis of the proposed Wind Turbine demonstrating that said shadow does not fall on any Occupied Building on a Non-participating Landowner's property.

- c. The applicant for a Wind Turbine greater than 40 feet in Wind Turbine Height shall provide a vibrations analyses which demonstrates that vibrations shall not be produced that are measurable at the perimeter Non-participation Landowner property lines that coincide with those on which the Wind Turbine is proposed.
- d. The applicant for a Wind Turbine greater than 40 feet in Wind Turbine Height shall provide analysis demonstrating that there will be no disruption or loss of radio, telephone, television or similar signals, caused by the Wind Turbine.
- e. All Special Use Permits approved pursuant to Section 1510.35 do hereby automatically include the authorization of the Zoning Administrator to order immediate operational shut down of any Wind Turbine found to be violating the above stated standards, and shall not allow said turbine to re-start until corrective action has been taken by the Facility Owner or operator.
- f. The applicant for a Wind Turbine greater than 40 feet in Turbine Height shall provide an avian and wildlife impact analysis finding that no significant impact is anticipated and that the proposed location conforms to Michigan's Endangered Species Protection Law.

**7. PERFORMANCE STANDARDS:**

- a. Building permits for all Wind Turbines must be issued to a licensed contractor and applications shall be accompanied by standard drawings of the Wind Turbine structure, including the tower, base, and foundation. An engineering analysis of the tower showing structural stability and compliance with the Building Code certified by a licensed professional engineer is required.
- b. All Wind Turbines shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection, and shall not be utilized.
- c. All electrical components of the Wind Turbine shall conform to relevant and applicable local, state and national codes, and relevant industry standards.
- d. Visual Appearance of a Wind Turbine Site shall conform to the following:
  - 1. All Wind Turbines shall be supported by a monopole (monolithic tube style construction), painted a non-obtrusive color such as white, off-white or gray, or be supported by a building.
  - 2. Wind Turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.
  - 3. Wind Turbines shall not display advertising, except for one (1) sign no greater than two (2) square feet identifying the Turbine manufacturer, and one (1) sign no greater than two (2) square feet providing the owner's name, address and telephone number for emergency calls. Both signs must be located on the lowest 10 feet of the structure.
  - 4. All on-site transmission and power lines shall be placed underground.
- e. Installation Safety
  - 1. A clearly visible warning sign concerning voltage must be placed at the base of all transformers and substations.
  - 2. Guy wires for a temporary lattice tower supporting an anemometer shall have brightly colored and visible / reflective markings (i.e. flags, reflectors, or tape) placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground. Guy wires shall not be utilized for permanent Wind Turbine Towers.
  - 3. Towers shall not be climbable up to twenty (20) feet above ground surface.
  - 4. All access doors to Towers and electrical equipment shall be locked to prevent entry by non- authorized persons.
  - 5. The lowest extension of any blade or other moving component of a Wind Turbine shall be a minimum of fifteen (15) feet above ground surface.
  - 6. Wind Turbines greater than 40 feet in Turbine Height shall be equipped with ice detection sensors and rotor imbalance detection to trigger shut down of the Wind Turbine when ice or imbalance is present.
- f. Applications for Wind Turbines greater than 40 feet in Wind Turbine Height shall be accompanied with a survey by a licensed surveyor. Said survey shall show locations and heights

of all adjacent buildings, structures and above ground utilities located within a distance equal to three

(3) times the Wind Turbine Height from the base of the Wind Turbine.

- g. A site plan shall also accompany any application for Wind Turbines. In addition to all standard site plan requirements, said site plan shall show existing and proposed setbacks for the Wind Turbine from all structures located on the property where the Wind Turbine will be located. The site plan shall depict the setback of the Wind Turbine from any building and/or structure within a distance equal to three (3) times the Wind Turbine Height from the base of the Wind Turbine, regardless of whether or not the building is on the same property as the proposed Wind Turbine.
- h. No Wind Turbine shall be installed until evidence has been provided that the applicable utility company has agreed in writing to the applicant's intent to install an interconnected generator. Off-grid systems shall be exempt from this requirement.
- i. In the event that decommissioning is necessary, the following shall apply:
  1. The landowner, Facility Owner and Operator (if any) shall remain jointly and severally liable for the cost of the complete decommissioning of a Wind Turbine within twelve (12) months after the end of the useful life of the individual Wind Turbine. The individual Wind Turbine will presume to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
  2. Decommissioning shall include removal of Wind Turbines, building, cabling, electrical components, roads, foundations to a depth of 36 inches, and any other associated facilities.
  3. Disturbed earth shall be graded and re-seeded.

#### **SECTION 1510.36. MARIJUANA BUSINESSES.**

1. Definitions - The following words and phrases have the meanings ascribed to them below when used in this section unless the context clearly indicates otherwise:
  - a. *LARA* means the department of licensing and regulatory affairs and any successor agency to the department.
  - b. *Marijuana* means the same thing as "marihuana" as defined in the MMMFLA.
  - c. *Marijuana business* is a land use that requires one or more state operating licenses issued under the MMMFLA, the MRTMA, or both.
  - d. *MMMFLA* means the Michigan medical marihuana facilities licensing act, 2016 PA281, as amended, MCL 333.27102 *et seq.*
  - e. *MRTMA* means the Michigan regulation and taxation of marihuana act, 2018 IL 1, as amended MCL 333.27951 *et seq.*
  - f. *Safety compliance facility* means a business licensed as a safety compliance facility under the MMMFLA, the MRTMA, or both.
    - I. *Medical marijuana safety compliance facility* means a business licensed as a safety compliance facility under the MMMFLA.
    - II. *Adult-use marijuana safety compliance facility* means a business licensed as a safety compliance under the MRTMA.
  - g. *State operating license* or *license* means a license that is issued under the MMMFLA or MRTMA to operate a marijuana business.
2. Locational Requirements
  - a. Medical marijuana safety compliance facilities and adult-use safety compliance facilities are permitted as special uses in the Marijuana Business Overlay District.
  - b. All other marijuana businesses are prohibited in the City.
3. Buffering Requirements

Medical marijuana safety compliance facilities shall comply with the setback requirements of the

underlying zoning district in which they are located.

4. Performance Standards

- a. Marijuana businesses must comply with the MMMFLA or MRTMA as applicable, and any other applicable rules or statutes of the State of Michigan.
- b. No marijuana business may operate without first obtaining final authorization for each state operating license from the city clerk pursuant to Chapter 14, Article IV of the City Code.
- c. A special use permit granted for a medical marijuana safety compliance facility shall be valid and shall authorize use as an adult-use safety compliance facility so long as such business operates pursuant to a valid state operating license, and so long as the business operations on the site are not physically expanded through the enlargement of existing buildings or the addition of new buildings. To the extent a new proposed use involves such a physical expansion, a new or modified special use permit shall be required.
- d. The building in which a marijuana business is located shall be sufficiently setback from property lines or screened or buffered with a fence, wall, or landscape screen to minimize light spillage, odor, and noise (including noise associated with truck traffic or other machinery), affecting adjacent properties.
- e. Special use applicants must provide a plan for the storage and disposal of marijuana or chemicals associated with marijuana cultivation, so as to minimize the risk of theft or harm resulting from chemical exposure.
- f. No marijuana may be stored overnight outside of an enclosed building. By way of example and without limitation, it is unlawful to store marijuana overnight in an outdoor wastebin.
- g. The outdoor storage of trash or rubbish shall be screened in accordance with Section 1709 of this Ordinance.
- h. Signage for marijuana businesses will be approved pursuant to the generally applicable procedures and standards provided in Article XX, with the additional restriction that signage may not depict marijuana, marijuana-infused products, or marijuana-related paraphernalia.
- i. Notwithstanding any other provision to the contrary, penalties for violations of this section shall be as follows:
  - I. If at any time an authorized marijuana business violates this section, any condition imposed through a special use permit, or any other applicable city ordinance, the City Council may request that LARA revoke or refrain from renewing the business's state operating license.
  - II. It is unlawful to disobey, neglect, or refuse to comply with any provision of this section or any condition of a special use permit issued pursuant to this section. A violation is a municipal civil infraction subject to a fine of \$500.
  - III. The foregoing sanctions are in addition to the city's right to seek other appropriate and proper remedies, including actions in law or equity.



**ARTICLE XVI  
HIGH RISK EROSION OVERLAY ZONE  
AND FLOOD PLAIN REGULATIONS**

**SECTION 1600. PURPOSE OF HIGH RISK EROSION REGULATIONS**

The purpose of this overlay zone and its accompanying standards and requirements is to prevent the placement of structures in areas designated as high risk due to erosion consistent with the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended (formerly the Shorelands Protection and Management Act, P.A. 245 of 1970, as amended). It is, furthermore, the purpose of this zone to:

1. Establish minimum required setbacks for principal and accessory structures from an eroding bluff which, based on the erosion studies prepared by the Department of Environmental Quality will reduce property loss and damage.
2. Minimize the economic hardships which individuals and South Haven may face in the case of property loss due to erosion.
3. Protect public health and safety from effects of shoreland erosion.
4. Protect water and beach quality.
5. Preserve bluff vegetation in order to help stabilize bluffs and slow erosion.
6. Provide for the administration of this Ordinance and to determine the powers and duties of the Zoning Board of Appeals as relates to this Section.

The standards and requirements contained in this Article, and on the zoning map, are intended to further the purposes of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 323, as amended.

**SECTION 1601. AREA AFFECTED**

The boundaries of those stretches of shoreland affected by the high risk erosion overlay zone shall be consistent with the affected properties described in Section 1602 of this Ordinance. This area is shown on the official South Haven Zoning Map which is part of this Ordinance. This area extends landward from the ordinary high water mark to the required setback line for permanent structures. The setback line is not a fixed line over time, it moves landward as erosion continues. For the purpose of the high risk erosion overlay zone, the minimum required setback distance shall be measured landward from the bluffline and shall be construed as running parallel to the bluffline. In the event the bluffline recedes (moves landward), the setback line of the high risk erosion area shall also be construed as to have moved landward a distance equal to the bluffline recession.

**SECTION 1602. BOUNDARIES OF HIGH RISK EROSION AREAS**

The boundaries of the high risk erosion areas provided below coincide with descriptions provided in the shoreland erosion studies of the Department of Environmental Quality, and are as follows:

**HIGH RISK EROSION AREA A1** - Located along the shoreline of Lake Michigan, the north boundary is two hundred (200) feet north of the intersection of the Elkenburg Street right-of-way (extended) and the shoreline. The south boundary is located at the intersection of the Chippewa Court right-of-way and the shoreline.

**HIGH RISK EROSION AREA A2**- Located along the shoreline of Lake Michigan, the north boundary is located at the intersection of Chippewa Court and the shoreline. The south boundary is located at the southern City limits on the shoreline.

**SECTION 1603. SETBACK REQUIREMENTS FROM BLUFFLINE**

1. Within the boundaries of the high risk erosion areas established by this Article, no permanent structure shall be located between the ordinary high water mark and the line defining the required setback distance indicated on the table that follows. The required setback distance provided for in this section shall be measured in a landward direction as a distance horizontal from and perpendicular to the bluffline at the closest point to the existing or proposed principal structure. For each high risk erosion area described in Section 1602, the required setback for any principal structure shall be as follows:

Designated High Risk Erosion Area	Minimum Setback Requirement from the Bluffline (in feet)	
	30 years	60 years
Area A1	85'	160'
Area A2	155'	295'

2. Modification of the Required Setback Distance. A person who can document with acceptable engineering studies an annual average recession rate which differs from the Department of Environmental Quality’s recession rate data may be granted a modification of the setback requirement for principal structures by the Zoning Board of Appeals. Prior to any modification of the required setback distance, the applicant’s engineering studies shall be sent to the Department of Environmental Quality, who shall report to the Zoning Board of Appeals on the accuracy of the applicant’s studies. The Zoning Board of Appeals shall only act upon requests for modification of the setback requirement after a determination has been made on the validity of the applicant’s data by the Department of Environmental Quality and only after the Zoning Board of Appeals has determined that such modification would not violate the spirit and intent of this Ordinance.

**SECTION 1604. GENERAL PROVISIONS**

1. The erection, relocation or reconstruction of a principal structure on any lot or parcel which, in whole or part, falls within the area affected by the Ordinance shall only be used upon receipt of a zoning permit from the Zoning Administrator pursuant to the requirements of this Article and Section 2103.
2. No lot or parcel shall hereafter be created, subdivided or otherwise established without sufficient depth to accommodate a principal structure in accord with the requirements of this Ordinance. Hereafter, all principal structures erected, and all structural alterations or relocation of existing permanent structures shall be in accord with the requirements of this Ordinance.
3. The erection, installation, movement, or enlargement of an accessory structure or a permanent structure on a parcel, any part of which falls within the area affected by this Ordinance (within a high risk erosion area), shall be constructed only after a permit has been issued by the Zoning Administrator. An easily moveable structure is exempt from these permit requirements.

4. The permit application shall contain all of the following information:
  - a. A legal description of the property.
  - b. A description of the proposed accessory and/or permanent structure.
  - c. A sketch of the proposed site to scale, which shows the location of the proposed accessory and/or permanent structure in relation to the location of the property lines and prominent features.
  - d. The signature, phone and address of the applicant in full.
  - e. Description of proposed site access.
  - f. Any existing or proposed shore protection devices. (Applicants should note that a permit from the Department of Environmental Quality is needed for all shore protection devices.)
  - g. Proposed or existing location of utility lines, easements and/or right-of-ways.
  - h. Verification that the County Health Department and other state and federal permits, as appropriate have been applied for or obtained for the property.
  - i. Proof of property ownership (if the owner is not the applicant, then the legal interest in the land possessed by the applicant shall be revealed).
  - j. Inventory of significant existing on-site vegetation by general type and location.
  
5. A permit application to erect, install, or move a permanent structure in a designated high risk erosion area shall be approved if the proposed permanent structure meets or exceeds all of the following requirements:
  - a. The proposed permanent structure or addition is landward of the required setback line (see Section 1603).
  - b. Small permanent structures that are erected, installed, or moved into the area between the setback line and a distance twice the required setback distance shall be readily moveable structures, except for those small permanent structures located on parcels which do not have access of sufficient width and acceptable grade to allow for relocation.
  - c. A permanent structure shall not be erected, installed, or moved lakeward of the setback line in a high risk erosion area without a special exception as provided by Section 1606.
  - d. The proposed permanent structure, meets the requirements of other applicable state laws, including but not limited to the provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 353, formerly the Sand Dune Protection and Management Act No. 222 of the Public Acts of 1976, as amended.
  - e. Review and approval of the design of small permanent structures shall be made to ensure the building is a readily moveable structure.
  
6. A permit application to make an addition to an existing permanent structure in a designated high risk erosion area shall be approved if the addition meets or exceeds the required setback distance and all other requirements of this ordinance for the district in which it is located.
  
7. Accessory or appurtenant structures shall not have a permanent foundation, shall be less than two hundred twenty-five (225) square feet, shall not be more than ten (10) feet in height and may be used for picnicking or storage of recreational or lawn equipment. The structure shall not be used as a residential facility. An accessory structure is exempt from the setback requirements for a permanent structure. Permitted accessory structures which are placed in high risk erosion areas shall be removed prior to erosion damage.
  
8. Any substandard lot of record or substandard lot described in a land contract or deed executed or delivered prior to the adoption of this Ordinance shall only be used if it meets the requirements of Section 1606.

9. If a permanent structure is relocated, all construction materials, including the entire foundation, shall be removed and properly disposed of according to the terms of a permit issued as a part of the moving operation.
10. After May 1, 1992, the slope and height of a dune or bluff shall not be artificially altered to affect the setback requirement unless the alteration is in compliance with a permit issued pursuant to the provisions of Parts 91 and 325 of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, if the alteration or fill extends into the waters of the Great Lakes or below the ordinary high water mark elevation.

## **SECTION 1605. MAINTENANCE AND RESTORATION OF NONCONFORMING STRUCTURES**

The lawful use of any structure within a designated high risk erosion area existing at the time in which this Ordinance is adopted or amended may continue in the same manner and to the same extent although the location of the permanent structure does not conform with the provisions of this Ordinance. A nonconforming permanent structure shall not be repaired, restored, extended, enlarged or removed except in accord with the requirements that follow:

1. Routine Maintenance and Remodeling - Routine repairs and maintenance work required to keep a nonconforming principal structure in sound condition are permitted. Remodeling of a nonconforming principal structure is permitted as long as the structure is neither enlarged or extended in a nonconforming manner. Addition of extra stories shall be construed as the expansion of a nonconforming use.
2. Enlargements to Nonconforming Structures - Notwithstanding the provisions of Section 1905, the following special exceptions can be made to accommodate enlargements to existing nonconforming structures upon review and approval of the Zoning Board of Appeals.
  - a. Additions to a readily moveable structure which is not in compliance with the required setback distance of a designated high risk erosion area shall be approved if all of the following provisions are complied with:
    - 1) The existing building with the addition will meet the definition of a readily moveable structure.
    - 2) The proposed addition does not reduce the permanent structure's distance from the bluffline.
    - 3) The proposed addition and the existing permanent structure are not less than thirty (30) feet landward of the bluffline.
  - b. An addition to an existing small nonconforming permanent structure which is not a readily moveable structure shall be approved if, at the date of construction, the provisions of either subsection (a) or (b) of this Section and the provisions of subsection (c) of this Section are complied with as follows:
    - 1) The total of all floor space added shall not exceed twenty-five percent (25%) of the foundation size of the permanent structure. The foundation size shall be determined as of the time the permanent structure became nonconforming. When the twenty-five percent (25%) limit on additions (including building up) has been reached, no further additions can be made for the remaining life of the structure. The addition shall not reduce the permanent structure's distance from the bluffline.
    - 2) The addition shall meet the definition of a readily moveable structure and the addition shall be on the landward side of the original permanent structure. A special exception may only be granted if the property owner,

as a condition agrees to relocate the readily moveable portion of the permanent structure to a location landward of the setback line when so ordered by the Zoning Board of Appeals. The Zoning Board of Appeals may make such an order only when the foundation of the existing structure is undermined by erosion.

- 3) The proposed addition and the existing structure is not less than thirty (30) feet landward of the bluffline.
3. Restoration of Nonconforming Structures -
- a. When a nonconforming structure is damaged by a force other than erosion, the Zoning Administrator shall only authorize restoration if damage to the structure conforms with the requirements of Section 1904 and the following standards:
    - 1) The permanent structure, if rebuilt in its existing location, would be no less than twenty (20) feet landward of the bluffline.
    - 2) The reconstructed building would be a readily moveable structure.
  - b. As a condition for approval of restoration plans, the Zoning Administrator may require:
    - 1) Measures which will aid in stabilizing the bluff other than the construction of erosion control devices.
    - 2) The use of runoff or soil erosion control techniques to prevent any acceleration erosion which may occur during restoration of the structure.
    - 3) The lawful disposal of all debris including the previous foundation resulting from the damage or from the restoration of a principal structure (such as construction materials) in a manner such that the debris poses no safety or health hazard.
    - 4) Other conditions on the restoration of nonconforming principal structures, provided these conditions are consistent with the intent of this Ordinance and consistent with the promotion of the public health, safety and welfare.
  - c. If a building is more than sixty (60%) destroyed or declared a total loss for insurance purposes, the requirements for new permanent structures shall apply.

## **SECTION 1606. EXCEPTIONS ON NONCONFORMING PARCELS**

The following exceptions can be made to the required setback distance upon review and approval of the Zoning Board of Appeals. Any exception shall be the minimum required for the location of a permanent structure on a nonconforming parcel:

1. To erect, install or move a small readily moveable structure lakeward of the setback line on a nonconforming parcel provided the following are complied with:
  - a. If a sanitary sewer is not used, the septic system, tile field, or other waste-handling facility shall be located at least as far landward as the lakeward edge of the building.
  - b. The readily moveable structure shall be located as far landward of the bluffline as possible without violating another provision of this ordinance.
  - c. The readily moveable structure shall be designed and constructed in accordance with proper engineering standards and building moving restrictions applicable to the subject area. Review and approval of the design to ensure that the building is a readily moveable structure shall be completed prior to issuance of any local permits.
  - d. The readily moveable structure is not less than thirty (30) feet landward of the bluffline and is not located on a lakeward facing slope of sixty percent (60%) or more.

- e. The readily moveable structure meets requirements of other applicable state laws, including but not limited to the provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 353, formerly known as the Sand Dune Protection and Management Act.
2. If a nonconforming parcel does not have access to and from the place where the structure is proposed to be located of sufficient width and acceptable grade to erect or move a readily moveable structure, or if the application is for a large permanent structure on a nonconforming parcel, a special exception shall be granted to utilize a shore protection structure in place of a portion of the required setback distance. The special exception shall be granted only if all of the following provisions are complied with:
- a. If a sanitary sewer is not used, the septic system, tile field, or other waste-handling facility shall be located at least as far landward of the bluffline as the principal building.
  - b. The permanent structure shall be located landward of the bluffline as far as possible without violating another provision of this Ordinance.
  - c. The shore protection structure shall be designed to meet or exceed a twenty (20) year storm event at the site for small permanent structures and a fifty (50) year storm event at the site for large permanent structures. A professional engineer shall certify that the shore protection structure has been designed and will be constructed in accordance with these standards. If the shore protection structure is constructed in the waters of the Great Lakes or lies below the ordinary high water mark, a permit pursuant to the provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 325, formerly known as the Great Lakes Submerged Lands Act, as amended, shall be obtained for the shore protection structure.
  - d. The permanent structure shall be a minimum of thirty (30) feet from the shore protection structure. If the bluff or dune is unstable due to height, slope, wind erosion, or groundwater seepage, the City of South Haven with input from the Department of Environmental Quality may require a setback of more than thirty (30) feet or an engineered bluff stabilization plan, or both. In areas of steep slopes greater than eighteen (18) percent, a greater setback may be necessary to provide access for maintenance equipment and a safe building site.
  - e. If the application is for a large permanent structure, the Zoning Board of Appeals shall require compliance with both of the following provisions:
    - 1) The establishment of an escrow account to maintain the approved shore protection structure or bluff stabilization, or both. The amount required in the escrow account shall be reasonable and based on the project design.
    - 2) Notice in the disclosure statement or deed that a portion of the required setback distance has been waived.
  - f. The proposed permanent structure meets the requirements of other applicable state laws, including but not limited to the provisions of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 353.

## **SECTION 1607. DISCLAIMER OF LIABILITY**

The provisions of this Article are considered the "minimum" necessary for reducing erosion hazards and property loss for a thirty (30) year period of recession for small permanent structures and a projected sixty (60) year period for large permanent structures or non-readily moveable structures based upon current engineering and scientific methods of study. Faster or slower rates of erosion may occur. Erosion rates may be increased by natural causes such as high lake levels or major storms, or by man-made causes such as the construction of erosion control devices or by increasing the amount of runoff from the land. Placing a structure landward of the

required setback distance is not a guarantee or warranty of safety from erosion damage. Individual property owners concerned with erosion hazards are encouraged to consult with local building officials and personnel of the Department of Natural Resources to arrive at site design plans which may use a greater setback to maximize protection from erosion damage.

#### **SECTION 1608. RELATIONSHIP TO OTHER PERMITS**

Approval of a zoning permit for a structure in a high risk erosion overlay zone does not exempt the applicant from complying with all other relevant statutes, Ordinances, or rules and regulations.

**SECTION 1609.** Reserved for Future Use.

**SECTION 1610.** Reserved for Future Use.

#### **SECTION 1611. FLOODPLAIN REGULATIONS**

1. Certain portions of the City of South Haven are subject to periodic or seasonal inundation which may result in flood damage to property; health and safety hazards of loss of life; disruption of commercial, industrial, and municipal and other economic activities; and adverse effects upon the general welfare of the community. It is the purpose of this Section to significantly reduce hazards to persons and damage to property as a result of flood conditions in South Haven, and to comply with the provisions and requirements of the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128, and subsequent enactments and the rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency, as published in the Federal Register, vol. 44 CFR, Part 59, October 1, 1995 and subsequent amendments. Further, the objectives of this Section include:
  - a. The protection of human life, health and property from the dangerous and damaging effects of flood conditions,
  - b. The minimization of public expenditures for flood control of projects, rescue and relief efforts in the aftermath of flooding, repair of flood damaged public facilities and utilities, and the redevelopment of flood damaged homes and neighborhoods, commercial and industrial areas;
  - c. The prevention of private and public economic loss and social disruption as a result of flood conditions;
  - d. The maintenance of stable development patterns not subject to the blighting influence of flood damage;
  - e. To insure that the public has access to information indicating the location of land areas subject to periodic flooding; and
  - f. To preserve the ability of floodplains to carry and discharge a base flood.

#### **SECTION 1612. DEFINITIONS**

1. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application. The following definitions apply to terms used in Sections 1611 through 1620.
  - a. **Area of Special Flood Hazard** means the land in the floodplain within the City of South Haven, subject to a one (1%) percent or greater chance of flooding in any given year.
  - b. **Base Flood** means the flood having a one (1%) percent chance of being equaled, or exceeded, in any given year.
  - c. **Development** as used in Sections 1611 through 1620, means any man-made change, including remodeling or other substantial improvement, to improved or unimproved real estate, including, but not limited to, buildings or other structures,

- mining, dredging, filling, grading, paving, mobile home placement, excavation, or drilling operations located within the Area of Special Flood Hazard.
- d. **Flood or Flooding** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or Lake Michigan waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source.
  - e. **Floodplain** means any land area susceptible to being inundated by water from any source (see definition of flood).
  - f. **Floodway** means the channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.
  - g. **Flood Insurance Rate Map (FIRM)** means the official map on which the Federal Insurance Administration has delineated both the Areas of Special Flood Hazards, and the risk premium zones applicable to the community.
  - h. **Flood Insurance Study** means the official report provided by the Federal Insurance Administration that includes flood profiles, flood boundary, floodway map, and the water surface elevation of the base flood.
  - i. **Substantial Improvement** means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
    - 1) Before the repair or improvement is started, or
    - 2) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure.
  - j. **Variance** means a grant of relief from the requirements of this Ordinance which permits construction in a matter that would otherwise be prohibited by this Ordinance.

### **SECTION 1613. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS**

The Areas of Special Flood Hazard identified by the Flood Insurance Administration, a scientific and engineering report entitled "The Flood Insurance Study for the City of South Haven," dated June 11, 1976, and effective March 4, 1980, or a more recent study when available, with an accompanying flood insurance rate map and flood boundary floodway maps, is hereby adopted by reference and declared to be a part of this Ordinance. The Flood Insurance Study is on file at the office of the Zoning Administrator. Where there are disputes as to the location of a flood hazard area zone boundary, the Zoning Board of Appeals shall resolve the dispute per the requirements of subsection 6 of this Section.

### **SECTION 1614. DESIGNATION AND DUTIES OF THE ZONING ADMINISTRATOR**

1. The Zoning Administrator of South Haven is hereby appointed Administrator and is to shall review all development and subdivision proposals to insure compliance with this Section. A log shall be maintained by year of all building permits issued for areas within the Area of Special Flood Hazard. In addition, the duties of the Zoning Administrator shall include, but are not limited to:
  - a. Notification of adjacent communities and the Department of Environmental Quality of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;
  - b. Recording of written notification to all applicants to whom variances are granted in an Area of Special Flood Hazard indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.



- c. All records and maps pertaining to the National Flood Insurance Programs shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.
- d. It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering this Ordinance in the absence of data from the Federal Insurance Administration.

## **SECTION 1615. DEVELOPMENT PROHIBITION AND ALLOWABLE USES**

1. All development shall be prohibited within the Areas of Special Flood Hazard, except as provided below. It shall be further a requirement that any structure built in the Area of Special Flood Hazard have its lowest occupied level one foot above the base flood elevation for any area. (Note: In 1997 the base flood elevation set by the State Department of Environmental Quality was 584.8'. This may change and should only be used as a point of reference.)
  - a. Within the Area of Special Flood Hazard, no land shall be used except for one or more of the following uses:
    - 1) harvesting of a native or wild crop permitted by law such as wild rice, marsh hay, berries and seeds
    - 2) harvesting of trees
    - 3) parks, picnic areas, playgrounds, playfields, athletic fields, golf courses, bridle paths, nature paths and trails
    - 4) wildlife preserves
    - 5) historic sites and structures
    - 6) swimming beaches, fishing and boating docks in accord with Part 301 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended.
    - 7) required open space or yard for structural uses that are landward of the Areas of Special Flood Hazard.
  - b. Accessory structures and uses are permitted in the Area of Special Flood Hazard, provided they are constructed/used in a manner consistent with the requirements of permitted uses (above) and accessory uses (below):
    - 1) off-street parking, streets, roads, bridges, outdoor play equipment, sheds and garages, boathouses, boat hoists, utility lines, pumphouses, bleachers, bank protection structures, signs, fences, gazebos and similar outdoor equipment and appurtenances, provided each of the following requirements are met:
      - a) the structure would not cause an increase in water surface elevation, obstruct flow or reduce the impoundment capacity of the floodplain.
      - b) all equipment and structures shall be anchored to prevent flotation and lateral movement.
      - c) compliance with these standards is certified by an engineering finding by a registered engineer.
  - c. Dredging and filling and/or dumping or backfilling with any material in any manner is prohibited unless through compensating excavation and shaping of the floodplain, the flow and impoundment capacity of the floodplain will be maintained or improved, and unless all applicable state regulations are met, including but not limited to approvals pursuant to the Natural Resources and Environmental Protection Act, P.A. 451 of 1994 as amended and all applicable administrative rules adopted thereunder.

## **SECTION 1616. VARIANCE PROCEDURE**

1. The Zoning Board of Appeals of South Haven shall hear and decide appeals and requests for variance from the requirements of this section consistent with the following

standards of Section 60.3 (d) and 60.6 (a) of the Rules and Regulations of the National Flood Insurance Program (44CFR.59). A sealed verification of the "as-built" elevations 60.3(d) of lowest occupied level shall be filed. The secretary of the Zoning Board of Appeals Administrator shall maintain a log, by year, of any variance granted for development within the area of special flood hazard.

- a. A variance shall be granted only upon a determination of compliance with the standards in Section 2205 and each of the following specific standards:
  - 1) a showing of good and sufficient cause;
  - 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - 3) a determination that the granting of a variance will not result in a harmful increase in flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.
- b. The variance granted shall be the minimum necessary, considering the flood hazard, to afford relief to the applicant.
- c. The Board of Appeals may attach conditions to the granting of a variance to ensure compliance with the standards contained in this Ordinance.
- d. Variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Michigan Historic Markers listing of historic sites, or any other state register of historic places without regard to the requirements of this section governing variances in Areas of Special Flood Hazard.

#### **SECTION 1617. MAPPING DISPUTES**

1. Where disputes arise as to the location of the Area of Special Flood Hazard, or the limits of the floodway, the Zoning Board of Appeals shall resolve the dispute and establish the boundary location. In all cases, the decision of the Zoning Board of Appeals shall be based upon the most current floodplain studies issued by the Federal Insurance Administration. Where Federal Insurance Administration information is not available, the best available floodplain information shall be utilized.
2. Where a dispute involves an allegation that the boundary is incorrect as mapped and Federal Insurance Administration floodplain studies are being questioned, the Zoning Board of Appeals shall modify the boundary of the Area of Special Flood Hazard or the floodway, only upon receipt of an official letter of map amendment issued by the Federal Insurance Administration.
3. All parties to a map dispute may submit technical evidence to the Zoning Board of Appeals.

#### **SECTION 1618. GENERAL STANDARDS FOR FLOOD HAZARD REDUCTION**

1. No building or structure shall be erected, converted or substantially improved or placed, and no land filled or structure used in an Area of Special Flood Hazard unless a zoning permit, or variance from the Zoning Board of Appeals, is obtained, which approval shall not be granted until a permit from the Department of Environmental Quality has been obtained. Where a development permit cannot be issued prior to the issuance of a Zoning Permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
2. All public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.

3. The Zoning Administrator shall review development proposals to determine compliance with the standards in this Section.
4. Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this Section.
5. The flood carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to insure flood carrying capacity shall be maintained.
6. Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this Section. Data furnished by the Federal Insurance Administration shall take precedence over data from other sources.

#### **SECTION 1619. AREA OF SPECIAL FLOOD HAZARD APPLICATION INFORMATION**

In addition to the information required with an application for a Zoning Permit, special use permit, variance, or any other type of development permission required under this Ordinance the following information shall be submitted as part of an application for permission to commence any type of development within an Area of Special Flood Hazard:

1. The elevation in relation to mean sea level of the floor, including basement, of all structures;
2. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development;
3. Proof of development permission from appropriate local, state, and federal agencies as required by Section 1618 (a) above, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality.
4. Base flood elevation data where the proposed development is subject to Public Act 288 of 1967, the Land Division Act, or greater than five acres in size; and
5. Additional information which may be reasonably necessary to determine compliance with the provisions of this Ordinance.

#### **SECTION 1620. DISCLAIMER OF LIABILITY**

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

**ARTICLE XVII  
GENERAL PROVISIONS**

**SECTION 1700. THE EFFECT OF ZONING:**

1. Zoning applies to every building, structure or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged or altered, except in conformity with this Ordinance. Only uses specifically listed in a particular zoning district may be established on a parcel. All other uses may be permitted only if the Ordinance has been amended to permit them, unless authorized by action of the Zoning Board of Appeals, or by means of approval of a planned unit development by the City Council.
2. Zoning approval runs with the land, not the property owner.

**SECTION 1701. CONSIDERATION SHALL BE GIVEN TO PROTECTING PUBLIC HEALTH, SAFETY AND GENERAL WELFARE**

All proceedings of the Planning Commission, Zoning Board of Appeals, and City Council shall be conducted, and all decisions shall be made with due consideration given to the maintenance of reasonable circumstances regarding: emission and transmission of injurious or obnoxious noise, fire or explosive hazard, liquid or solid waste disposal, vibration, gas fumes, smoke, dust, dirt, litter, odor, light, glare, traffic congestion, ingress and egress, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on property values, adequate light and air, overcrowding of persons, sanitation, general appearance of the area, surface and groundwater quality, and other similar considerations having an effect on public health, safety and general welfare of the people of the surrounding area.

**SECTION 1702. RESTORING UNSAFE BUILDINGS**

Notwithstanding Section 1904(4), nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Inspector, **provided that the restoration does not involve more than sixty (60) percent of twice the assessed value and that the restoration brings the structure more closely into compliance with the requirements of this zoning ordinance.**

**SECTION 1703. BUILDING PERMITS**

No excavation for construction shall be commenced and no structure shall hereafter be erected, enlarged, altered or reconstructed until a Building Permit has been issued by the Building Inspector. No Building Permit shall be issued until other permits required by this Ordinance have been obtained.

**SECTION 1704. Land Divisions, Lot Combinations, and Boundary Adjustments**

*(a) Definitions.*

- (1) *Boundary adjustment* means a property transfer between two or more adjacent parcels that results in no new buildable lots or creates fewer buildable lots than originally platted.
- (2) *Lot Combination* means the voluntary merger of two or more contiguous lots.
- (3) Other terms used in this section shall have the same meanings as provided in the Land Division Act, PA 288 of 1967, as amended, if defined therein. shall apply.

- (b) *Consent.* No building permit shall be issued for any construction on any lot, out lot or other parcel that has been divided, combined, or had its boundary adjusted, unless and until the City consents, in writing, to such division, combination, or boundary adjustment.
- (c) *Application.* An application for a division, lot combination, or boundary adjustment of any tract, lot, out lot, or parcel of land signed by the owner thereof, shall be filed with the Zoning Administrator. Such application shall be made on a form prescribed by the City and shall include the following:
- (1) A survey drawn to scale in a manner and form prescribed by the application.
  - (2) Certification that boundary corner monuments have been or will be placed.
  - (3) A complete and accurate legal description of each proposed lot or parcel created by the land division or boundary adjustment.
  - (4) An application fee in an amount set by resolution of the City Council.
  - (5) If the proposed division is of an unplatted tract, parcel or parcels, the history and specifications of any previous division of land of which the proposed division was a part sufficient to establish that the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the Land Division Act.
  - (7) A legal, recorded instrument demonstrating proof of ownership of the subject tract, lot, outlet or parcel of land.
- (d) *Review and approval.* The Zoning Administrator shall permit a requested division, lot combination, or boundary adjustment upon:
- (1) Determining and certifying that the resulting parcels comply with all minimum lot requirements contained in the Zoning Ordinance, including, but not limited to lot size, lot dimensions, street frontage, and setbacks.
  - (2) The City Engineer's certification that: (i) each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities; (ii) the resulting parcels proposed to be created by the proposed land division are sufficiently accessible; and (3) each resulting parcel could be used in such a way so as not to conflict with existing drainage ditches, natural water courses, easements, public rights-of-way floodplains, high risk erosion areas, or state or federally regulated wetlands.
  - (3) The City Assessor's certification that resulting parcels created by a proposed land division comply with all standards of the Land Division Act.
- (e) *Unusual or unique circumstances.* Where there are exceptional topographic, physical conditions, or other unusual or unique circumstances associated with proposed division, lot combination, or boundary adjustment, the Zoning Administrator may refer the proposal to the Planning Commission, which shall act upon it at its next meeting using the same standards as described above.
- (f) *Effect of approval.* Approval of a land division, lot combination, or boundary adjustment under this section does not grant approval for any specific uses of a parcel of property nor is it a determination that the resulting parcels comply with other ordinances or regulations. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a survey, deed, or other similar document evidencing the approved land division, lot combination, or boundary adjustment is recorded with the County Register of Deeds office and filed with the City Assessor.

## SECTION 1705. ESSENTIAL SERVICES AND MUNICIPAL FACILITIES

1. Essential Services:  
The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, water towers, poles, street lighting, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith, but not including communication towers, which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or for the public health, safety or general welfare is permitted in any zoning district.

Notwithstanding the exceptions contained in the immediately preceding sentence:

- a. Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
  - b. Public utility facilities in any Zoning District are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.
  - c. Communication towers are permitted only by special use permit according to the standards of Section 1510.
2. Municipal Facilities: Following are the districts and use classifications for municipal facilities in the City of South Haven. All of the following uses require review and approval of a site plan by the Planning Commission prior to construction or alteration, except as provided below, or elsewhere in this Ordinance. Separate standards exist for many of these uses in the specific districts and in Section 1510.
    - a. Municipal museums are permitted in any district.
    - b. Municipal parks are permitted in any district.
    - c. Municipal recreation facilities are permitted in any district by special use permit.
    - d. Municipal sports facilities are allowed in any district except the CBD, R-1, RM-1 or B-1 districts by special use permit.
    - e. Buildings housing personnel and equipment providing municipal services including those of the Street Department, Water and Sewer Department, Electric services and other similar services, as well as facilities that have outdoor storage of equipment and materials are permitted in the B-2, B-3, B-4, I-1, and I-2 districts.
    - f. Water and wastewater treatment plants are permitted in the B-3, I-1, I-2 and R-1 districts.
    - g. Municipal marinas and public boat launches are permitted in the B-3 district.
    - h. Municipal cemeteries are permitted in the R-1 and B-3 districts.
    - i. City Hall is permitted in the CBD district.
    - j. Temporary and permanent structures and uses to serve the City of South Haven police and/or police departments, except for communication towers, are permitted in any zone following review and approval of a site plan by the Planning Commission. The Zoning Administrator may waive site plan review for a temporary facility if he determines that public knowledge of the location of a law enforcement use will diminish the effectiveness of the police function and that the surrounding area will not suffer unreasonable detrimental effects from the law enforcement use. Permanent buildings erected for law enforcement or fire fighting training purposes require a special use permit in any zone.

## **SECTION 1707. CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE, GROUND VIBRATION ODORS, WATER RUNOFF AND OTHER NUISANCES**

Every use shall be so conducted and operated so that it is not detrimental to the health, safety, or welfare of persons or property, or obnoxious by reason of heat, glare, fumes, odors, dust, noise, smoke, water runoff, light, ground vibration or other nuisance beyond the lot on which the use is located. (See also regulation of nuisances in Article IV, Chapter 30 of the Code of Ordinances of the City of South Haven.)

## **SECTION 1708. ACCESSORY BUILDINGS**

Accessory buildings and structures, except as otherwise permitted in this Ordinance (see especially Section 1722 concerning decks and porches), shall be subject to the following regulations:

1. Detached accessory buildings or structures shall not be erected in any minimum side yard setback nor in any front yard unless otherwise permitted in this Ordinance.
2. A detached accessory building or structure shall not exceed the ground floor area of the main building in a residential district.
3. A detached accessory building in a rear yard shall not be located closer than three(3) feet to any side or rear lot line.

In those instances where the rear lot line is coterminous with an alley right-of-way, the detached accessory building or structure shall not be closer than one (1) foot to such rear lot line. In no instance shall a detached accessory building or structure be located within a dedicated easement right-of-way.

4. No detached accessory building or structure in R-1A, R-1B, R-1C, R-2, or RM-1 Districts shall exceed one (1) story or fourteen (14) feet in height. The maximum distance from the finished grade to the peak of the roof shall be sixteen (16) feet.

Detached accessory buildings or structures in all other districts may be constructed to equal the permitted maximum height of structures in said districts, subject to Planning Commission review and approval if the building exceeds one (1) story or fourteen (14) feet in height.

5. Detached accessory buildings and structures shall not be erected on a lot or parcel in a residentially zoned district prior to the establishment of a principal structure. Where two or more abutting lots are held under one ownership in a residentially zoned district, the owner may erect a detached accessory building on a lot separate from that one which the principal building is located, provided both lots are combined as one with a single tax description.
6. Temporary, often seasonal detached accessory structures may be established in the side or rear yards of nonresidential districts with the issuance of a temporary use permit by the Zoning Administrator, provided the space to be occupied does not utilize any space used, or reserved for parking.
7. Accessory buildings on planned unit development site condominium lots shall not be constructed closer than 3 feet to a site condominium line, and shall not encroach upon planned unit development open space areas.
8. No accessory building shall be used as a dwelling in any zoning district.
9. Trailers, trucks, buses and other similar vehicles and structures are not considered as accessory structures under this ordinance.

**SECTION 1709. PLANT MATERIALS & LANDSCAPING REQUIREMENTS** (Amended 12/14/89; Ord. No. 728) (Ref also Article XXIV)

Whenever, in this Ordinance, a greenbelt, vegetation screen, buffer or other planting is required, it shall be planted within six (6) months from the date of issuance of a certificate of occupancy and shall thereafter be reasonably maintained with permanent plant materials in a living condition to provide a screen to abutting properties. Suitable spacing as required shall be provided.

1. Screening
  - a. Between Land Uses:
    - 1) Any land use for which a site plan is required, shall have screening constructed along all adjoining boundaries with residentially zoned or used property. Either a landscape buffer, fence or solid wall may be used. A landscape buffer may consist of earthen berms and/or living materials so as to maintain a minimum opacity of at least eighty (80) percent. Opacity shall be measured by observation of any two (2) square yard area of the landscape screen between one (1) foot above the established grade of the area to be concealed and the top or the highest point of the required screen. The plantings must meet this standard based upon reasonably anticipated growth over a period of three (3) years. The applicant shall agree in writing to install solid fencing after the expiration of thirty-six (36) months, in the event that the landscaping has not totally blocked the view of areas required to be screened. Some or all of these provisions may be waived in a planned unit development where the waiving of said provisions will strengthen the planned unit development concept.
    - 2) Where there is a need to provide a greater noise or dust barrier or to screen more intense development, a solid wall meeting the requirements of Section 1713 or a fence meeting the requirements of Section 1714 shall be required.
  - b. Of Mechanical Equipment:
    - 1) Mechanical Equipment (this subsection does not apply to single-family residential uses, or to any use in an industrial land use category except if it abuts a residential area). When located outside of a building, support equipment including air conditioning and heating devices, water and gas meters, but not including plumbing or exhaust vents or chimneys, are to be screened to the height of the particular piece of equipment, as follows:
      - a) Roof-Mounted Equipment: To be screened by architectural features from the view of abutting streets and parcels.
      - b) Equipment at Grade: When located on the ground adjacent to a building, mechanical equipment is to be screened by landscaping, a solid wall or fencing from the view of the street or surrounding properties.
  - c. Of Outdoor Storage in Commercial and Industrial districts: To be screened on all sides by a solid wall or fencing except as otherwise permitted by this Ordinance.
  - d. Of Public Utility Substations in any district: To be screened on all sides by a solid wall or fencing, and landscaping.
  - e. Of Side and Rear Lot Lines: The side and rear lot lines of all nonresidential uses are to be screened as follows:

<u>Use</u>	<u>Requirements</u>
i. Off-street parking area	5' high fence or landscaping
ii. B-1, B-2 Districts	5' high fence or landscaping
iii. I-1 and I-2 Districts	8' high fence



- |     |  |                                 |
|-----|--|---------------------------------|
|     | open storage areas, loading<br>or unloading areas, service areas |                                 |
| iv. | Auto wash<br>Drive-in restaurant                                 | 6'-0" high fence or landscaping |
| v.  | Hospital - ambulance and<br>delivery areas                       | 6'-0" high fence or landscaping |
| vi. | Utility buildings, stations<br>and/or substations                | 6'-0" high fence                |

Screening shall be installed on the property line to the rear of the front line of the structure.

- f. Of Swimming Pools: See Section 1725.
  - g. Of Loading Areas: Shall be fenced and screened whenever abutting a different zone or residential property.
  - h. Of Trash: All areas used for the storage of trash or rubbish including dumpsters and other commercial containers shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height, with six (6) feet high view-obstructing doors.
  - i. Exceptions to Screening and Fencing Requirements:
    - 1) Buildings Abutting Lot Lines: Required screening or fencing may be omitted along any lot line where a building wall exists immediately abutting the lot line.
    - 2) Location Adjustment: Where property line fencing or screening is required, the location may be adjusted so the fencing may be constructed at or within the setback line, provided the areas between the fence and the lot lines are landscaped.
    - 3) Existing Screening: Any fence, screen, wall or hedge which does not conform to the provisions of this Section and which is legally existing at the effective date of this Ordinance may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or hedge except as permitted in other sections of this Ordinance.
    - 4) Planning Commission Modification: Any of the requirements of this Section may be waived or modified through Site Plan approval, provided the Planning Commission first makes a written finding that specifically identified characteristics of the site or site vicinity would make required fencing or screening unnecessary or ineffective, or where it would impair vision at a driveway or street intersection.
    - 5) Zoning Board of Appeals: The Zoning Board of Appeals may require or waive any fencing, screening, landscaping or buffering as may be provided for in this Section as a condition of a variance or other authorization in whatever manner necessary to achieve an identified public purpose. The Zoning Board of Appeals shall record the reason for the condition and clearly specify what is required in any approval granted.
2. Plant material spacing for screens follows:
- a. Plant materials shall not be placed closer than four (4) feet from the fence line or property line.
  - b. Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
  - c. Evergreen trees shall be planted not more than thirty (30) feet on centers and shall be not less than five (5) feet in height when planted.

- d. Narrow evergreens shall be planted not more than six (6) feet on centers and shall be not less than three (3) feet in height when planted.
  - e. Tree-like shrubs shall be planted not more than ten (10) feet on centers and shall be not less than four (4) feet in height when planted.
  - f. Large deciduous shrubs shall be planted not more than four (4) feet on centers and shall not be less than six (6) feet in height when planted.
  - g. Large deciduous trees shall be planted not more than thirty (30) feet on centers and shall be not less than eight (8) feet in height when planted.
3. Parking Lot Landscaping:
- a. Separate landscaped areas shall be required both within and at the perimeter of parking lots. There shall be one (1) tree for every eight (8) parking spaces, with minimum landscaped space within a designated parking area of fifty (50) square feet. A minimum distance of three (3) feet shall be established between proposed tree or shrub plantings and the backside of the curb or edge of the pavement. This distance shall be increased if the volume of snow to be plowed from the parking lot requires a larger storage area.
  - b. Landscaping along the perimeter of the parking lot shall meet the requirements for screening in Section 1709.2 above.
4. Landscaping for Industrial Areas: Landscape regulations for industrial buildings within the Michigan Certified Industrial Park and other industrial zoned properties within South Haven require a minimum of fifteen (15%) percent of the total lot area in landscaping, one (1) tree or shrub for every 1,000 square feet or portion thereof, plus one tree for every 1,500 square feet of landscaped area or portion prior to development may be required. (Plant material existing on the site prior to development may be included as part of the requirement.) Ground cover is required in all landscaped areas. A minimum of thirty-three (33%) percent of the required landscaped area shall be located between any building and the street.
5. Landscaping for All Other Areas Requiring Site Plan Review:
- a. In addition to any landscape greenbelt and/or parking lot landscaping required by this section, ten (10) percent of the site area, excluding existing thoroughfare right-of-way, shall be landscaped.
  - b. Areas used for storm drainage purposes, such as unfenced drainage courses or retention areas in front or side yards, may be included as a portion of the required landscaped area not to exceed five (5) percent of the site area.
6. Trees not permitted as required plantings:
- a. Box Elder.
  - b. Soft Maples (Red-Silver and King Crimson).
  - c. Poplars.
  - d. Willows.
  - e. Horse Chestnut (nut-bearing).
  - f. Tree of Heaven.
  - g. Catalpa.
  - h. Walnut (nut bearing)
7. Standards for All Required Landscaped Areas:
- a. No synthetic plant materials such as artificial grass, shrubs, trees, or flowers shall be used to fulfill any landscaping requirements.
  - b. Berms, whenever utilized, shall be designed and landscaped to minimize erosion with a rounded surface a minimum of two (2) feet in width at the highest point of the berm, extending the length of the berm. Berm slopes shall be protected with sod, seed, shrubs or other form of natural ground cover. Berms adjacent to public

right-of-ways shall be a slope no greater than 3:1, unless designed as part of a retaining wall.

8. Minimum Planting: Minimum planting sizes for required landscaping shall be as follows:
  - a. Large deciduous trees (over 30' mature height): 2" caliper measured 6" above the ground.
  - b. Small deciduous trees (under 30" mature height generally ornamental and flowering trees): 1.5" caliper measured 6" above the ground.
  - c. Evergreen trees: 2' in height.
  - d. Shrubs: three (3) gallon container. Generally, deciduous shrubs will be 18" high. Spreading shrubs will have a 15"-18" spread.
  - e. Ground covers: (except vines): 2.25-4" peat pot.
  - f. Vines: Up to one gallon container.
  - g. Plant material in addition to required quantities is not subject to size requirements.
9. Landscaping: Safety Requirements: Landscaping shall not interfere with public safety, and shall not interfere with the safe movement of motor vehicles, bicycles, or pedestrians (see Section 1712). Landscaped materials shall not obstruct the operation and maintenance of fire hydrants and electrical facilities. All planting in the right-of-way shall be approved as part of the landscape plan and installed and maintained according to City landscaping guidelines.
10. Projects in Excess of Three Acres: On projects in excess of three acres, the developer may file a phased plan for completing the landscaping pursuant to these standards. All phases must be completed within three (3) years of approval.
11. Performance Guarantee: In all cases the Planning Commission may, due to weather conditions, seasonal availability of plant materials, or other factors, require a performance guarantee equal to the estimated cost of the plant material and installation cost. Such performance guarantee shall be related to the various vegetation or planting plans shown on the site plan. Such performance guarantee shall be processed according to the requirements of Section 2107.

## **SECTION 1710. EXTERIOR LIGHTING**

1. All outdoor lighting (includes light source and lenses) in all use districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences. Lighting shall also be shielded on the top to prevent unnecessary lighting of the night sky. Lighting fixtures shall be a down-type having one-hundred (100) percent cutoff. The light rays may not be emitted by the installed fixture at angles above the horizontal plane, as maybe certified by a photometric test.
2. All outdoor lighting in all use districts shall be directed toward, and confined to the ground areas of, lawns and parking lots. Parking lots shall not be lit between the hours of 9:00 am and 4:00 pm, unless conditions regarding weather, employment, or parking lot use patterns warrant otherwise.
3. All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed and shielded so as not to interfere with the vision of persons on adjacent highways or adjacent property.
4. Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of persons on the adjacent highways or adjacent property.

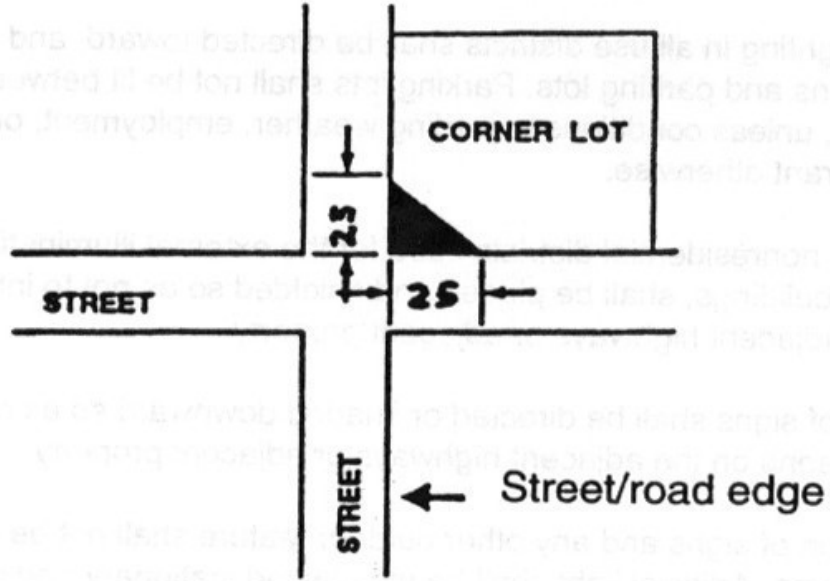
5. All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.
6. All freestanding and outdoor lighting shall not exceed thirty (30) feet in height except to light a stadium.

#### **SECTION 1711. ENTRANCEWAY STRUCTURES**

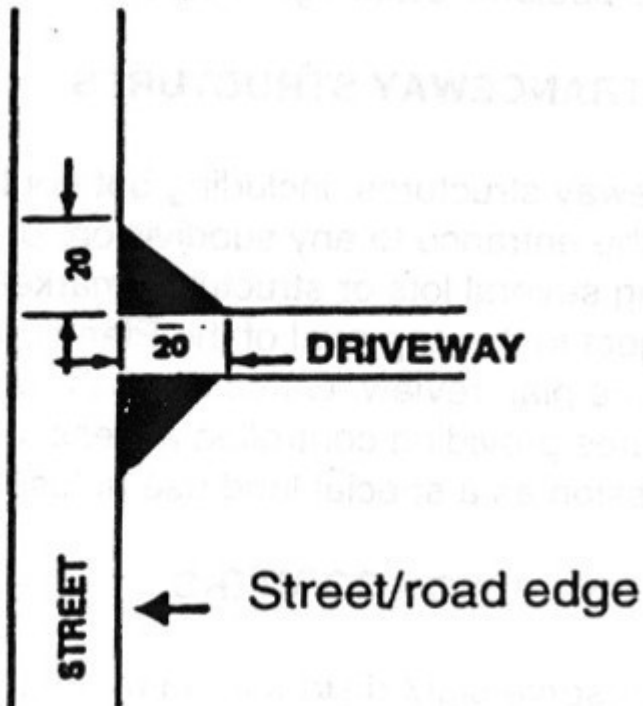
All so-called entranceway structures, including but not limited to brick or wood monuments, arches or other structure at the entrance to any subdivision, planned unit development or other development involving several lots or structures marketed as a single project with a common identity, shall be subject to the approval of the Planning Commission as a special land use unless approved as part of site plan review. Gates across a driveway serving more than one residence are not permitted. Gates providing controlled access to parking lots are subject to the approval of the Planning Commission as a special land use unless approved as part of site plan review.

#### **SECTION 1712. CLEAR VISION CORNERS**

1. In order to preserve sight distance, an unobstructed view shall be maintained within these triangular areas (see Figures 17-1 and 17-2):
  - a. At the intersection of two streets, or where a street intersects with an alley: a triangle defined by measuring twenty-five (25') feet in length along each street/road edge from their point of intersection, the third side being a diagonal line connecting the first two. The City may require a greater distance in certain high volume or high speed traffic intersections.
  - b. At the intersection of a driveway and a street: Two sides of the triangle defined by measuring twenty (20') feet in length along the edge of the driveway and along the street/road edge and the third side being a diagonal line connecting the first two.
2. No shrubs, ground covers, boulders, berms, fences, or other material constituting visual obstructions shall exceed a height of thirty (30") inches above grade of the lower roadway within the triangular areas.



**FIGURE 17-1**



**FIGURE 17-2**

## **SECTION 1713. RETAINING WALLS**

1. Retaining walls shall meet the review standards of landscaping structures, except that retaining walls may be constructed to the property line. (See Section 1714). Retaining walls of a height greater than four (4) feet or of a distance less than two (2) times the height of the retaining wall above grade from another retaining wall shall be subject to site plan review. No fill, retaining wall or multiple retaining walls shall cause an increase in the average finished grade greater than 10 feet above the prior existing natural grade.

## **SECTION 1714. FENCES AND LANDSCAPING STRUCTURES**

Fences and landscaping structures are permitted or required, subject to the following:

1. Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed six (6) feet in height, measured from the surface of the ground. Fences located in the front yard or beyond the front of the house shall not exceed four (4) feet in height, measured from the surface of the ground. Landscaping structures in any district shall not exceed ten (10) feet in height. No fence, landscaping structure, wall, planting or structure shall, within ten (10) feet of any public or private right-of-way or driveway, be of such a nature as will impede clear vision of an intersecting sidewalk, street, alley or driveway (see Section 1712). The applicant must demonstrate that the proposed fence or landscaping structure will not restrict the visibility of pedestrians and traffic to operators of vehicles. Notwithstanding the provisions of Section 1713, all fences shall be constructed so as to allow the passage of air through the fence to an adjacent dwelling.
2. Permanent Outdoor firepits, fireplaces, or outdoor barbeques shall not be located within twenty-five (25) feet of the principal structure or accessory structure; and shall not be located closer than twenty-five (25) feet from any neighboring principal or accessory structures; and a minimum of at least ten (10) feet from any side or rear property line. Permanent outdoor firepits, permanent outdoor fireplaces, and permanent outdoor barbeques shall not be located within any front yard. The applicant must demonstrate through the zoning permit process to the Zoning Administrator that the proposed permanent outdoor firepit, permanent outdoor fireplace, or permanent outdoor barbeque, shall be of such a nature as to not be injurious to the public health, safety, and general welfare of the people of the surrounding area (see Section 1701) to receive a zoning permit. All permanent outdoor firepits, permanent outdoor fireplaces, and permanent outdoor barbeques shall be constantly attended until the fire is extinguished. A minimum portable fire extinguisher complying with Section 906 of the International Fire Code, as amended, with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose, or water truck, shall be available for immediate utilization. All firepits and fireplaces can only burn solid seasoned wood or propane or natural gas as a fuel source. No trash, leaves, brush, chemicals, chemically treated lumber, furniture, or construction materials may be burned in accordance with the SHAES guidelines and the State of Michigan Department of Environment, Great Lakes, and Energy. Barbeques may only burn logs, charcoal, or gas for the purpose of cooking food for consumption only in accordance with the Michigan Department of Environment, Great Lakes, and Energy guidelines.
3. Fences, walls, or obscuring walls shall not contain barbed wire, electric current or charge of electricity, glass, spikes, or other sharp protruding objects. Notwithstanding the foregoing provision, security fences six (6) feet high or more may include up to eighteen (18) inches of barbed wire in an industrial area, surrounding a public utility, or around a police facility. Such barbed wire shall slant inward towards property, or be straight up. Security fences with barbed wire in any other location or surrounding any other use require a special use permit by the Planning Commission.

4. Fences which enclose public or institutional parks, playgrounds or public landscaped areas, situated within an area developed with recorded lots, shall not exceed eight (8) feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than twenty-five (25) percent of their total area.
5. All fences shall have the finish side facing out, away from the property on which the fence is located.
6. Fences and landscaping structures are structures, but may be erected along property lines or within yards, irrespective of the setback requirements of this Ordinance, except that landscaping structures shall not be erected closer than three (3) feet to an adjacent parcel or as otherwise provided in subsection 2. No site plan review is required for a fence or landscaping structure which conforms with Ordinance standards in a residential district. The Zoning Administrator may waive site plan review for a fence or landscaping structure in any other district if no other structural changes or changes in the design or layout of the site are proposed.
7. The Zoning Administrator may require the removal, reconstruction or repair of any fence or landscaping structure not in good condition.

#### **SECTION 1715. FRONTAGE STREET REQUIREMENTS**

1. All parcels, lots in a platted subdivision or condominium subdivision, hereinafter created in the City shall have frontage on a public street, and take their access from such frontage so as to provide safe, convenient access for fire protection, other emergency vehicles, and any required off-street parking. Wherever a corner lot exists at the intersection of two (2) major thoroughfares, then access shall be taken from the thoroughfare presenting the least hazard in the opinion of the City Engineer. For all other corner lots, the side of the lot which has the narrowest dimension bordering on a public street shall be deemed to be the front of the lot, unless the landowner, with the approval of the Zoning Administrator, selects the other side, and doing so does not create a nuisance or harm on abutting properties or the public's ability to provide services to the lot. Once a structure has been erected on the corner lot, the front of the lot is established and cannot be changed as long as the structure remains.
2. No public street shall be longer than eight hundred (800) feet without connecting to another public street or pre-existing private street that is not a dead end. There shall be no more than five hundred (500) feet between water hydrants. The City Engineer may require a tighter spacing to meet safe access and fire flow standards, especially in the CBD and other commercial and industrial areas.

#### **SECTION 1716. ACCESS STANDARDS**

1. Curb Cuts and Driveways – No driveway shall connect to a public street or private street without first receiving approval of the driveway location and cross section specifications from the City Engineer on a City street or private street, from the County Road Commission on a County Road or the Michigan Dept. of Transportation on a State Highway. Provided, however, such approval shall not be given where such curb cuts and driveways shall cause an unreasonable increase in traffic hazards, including but not limited to allowing adequate sight distance for ingress and egress.
  - a. All plans for structures to be erected, altered, moved or reconstructed, and use of premises within the City shall contain a plan for the proposed driveway access to the premises. Said plan shall be approved by the Zoning Administrator prior to the issuance of a Zoning Permit. No such plan shall be approved unless such driveway

access is onto a dedicated public street or a pre-existing private street. Driveways shall, at a minimum, meet the following standards:

- 1) Storm drains, or culverts, if allowed, shall be installed in line with and on the same grade as those being connected with.
  - 2) Drives shall enter perpendicular to the existing public street, private street, or alley.
  - 3) No portion of the driveway entrance within the right-of-way shall have a grade of greater than eight (8) percent (1 foot vertical rise in 12.5 feet of horizontal distance) unless a greater slope is necessary to meet the sidewalk elevation from the street.
  - 4) The driveway shall meet clear vision standards of Section 1712.
  - 5) Driveways shall be a minimum of fifty (50) feet from the nearest right-of-way line of an intersecting road or street except on a nonconforming lot of record, in which case the maximum separation feasible shall be achieved, but in no case shall it be less than twenty-five (25) feet.
- b. The Zoning Administrator shall inspect the driveway as developed for compliance to the above standards and shall so notify the Building Inspector prior to issuance of a certificate of occupancy.
  - c. In nonresidential zones, no more than one driveway shall be allowed per lot or parcel unless separated by two hundred (200) feet, or unless traffic safety requires another driveway within a shorter distance as established by a qualified traffic engineer hired by the City, or unless additional driveways are permitted in special land use standards for a particular use, such as drive through restaurants.
  - d. The new driveways shall align with existing or planned driveways, crossovers, turn lanes or other access features. This shall only be required if the resulting alignment provides safe access and if all other access requirements of this Ordinance are met.
  - e. The location of new driveways shall conform with road improvement plans or corridor plans that have been adopted by the City or County Road Commission or Michigan Department of Transportation.
  - f. No driveway shall serve more than one (1) dwelling unless the use is a duplex, a multiple family structure, a PUD, an apartment building, or a special use permit is issued allowing not more than two dwelling units to be served by a single driveway.
  - g. An individual driveway serving more than one non-residential use is encouraged provided the design conforms with all City Code requirements.
  - h. No single or two family driveway shall have a width less than nine (9) feet nor more than twenty-one (21) feet at the street right-of-way line. The curb cut, including flares, shall not exceed the lesser of: (i) 24 feet; or (ii) 1.5 times the width of the driveway at the street right-of-way.
  - i. Nonresidential driveway width at the sidewalk shall be at least twenty-five (25) feet for two way access and at least fifteen (15) feet for one-way access.
  - j. No driveway shall be constructed unless it provides access to at least one parking space in conformance with this ordinance.
2. Nonresidential Access - No nonresidential access shall cross residentially-zoned property.
  3. One Driveway per Parcel - All land in each parcel having a single tax code number, as of the date of the amendment adding this provision to the Ordinance, which front on a major thoroughfare shall be entitled to one (1) driveway access from said street or highway. Subsequent subdivision of each parcel, either as metes and bounds descriptions, as plats created in accord with P.A. 288 of 1967 as amended, or as site condominiums in accord with



Act 59 of 1978 as amended, shall provide access by a single subdivision road, other public road or by an approved service drive. No direct additional access to the major thoroughfare shall be permitted with subsequent divisions.

4. Service Drives - Service drives which parallel the main access road and connect multiple parcels in either the front or the rear of the property are encouraged. The Planning Commission shall review and either approve, deny or approve with conditions all service drives to insure safe and adequate continuity of the service drive between contiguous parcels. The Planning Commission shall not act until it receives a report on the proposed service drive from the City Engineer. The standards for service drives follow:
  - a. Width: A minimum of 24 ft. with construction to standards established by the City Engineer for base and thickness of asphalt.
  - b. A minimum of fifteen (15) ft. snow storage/landscaping area must be reserved along both sides of the service drive with the edge of the service drive located a minimum of fifteen (15) ft. from the major thoroughfare right-of-way.
  - c. All driveway radii shall be concrete curbs.
  - d. The entrance to the service drive from a public road other than the major thoroughfare shall be at least 150 ft. from the centerline of the major thoroughfare to provide for adequate stacking and maneuvering.
  - e. The service drive shall be a public street, or a private road maintained by adjoining property owners or users who shall enter into a formal agreement together for the joint maintenance of the service drive. The City Attorney shall approve the terms of the agreement before it is recorded with the County Register of Deeds (see Section 2111). No service drive shall be established on existing public right-of-way.
  - f. Landscaping along the service drive shall conform with the requirements of Section 1709. Installation and maintenance of landscaping shall be the responsibility of the developer or a property owners association.
  - g. All separate parking areas shall use no more than one (1) access point or driveway to the service drive.
  - h. All traffic signage and pavement markings along the service drive shall conform to the current Michigan Manual of Uniform Traffic Control Devices.
5. Compliance with City Code – All driveways shall comply with the standards in Chapter 74, Article V of the City Code.

**SECTION 1717. BUILDING GRADES, RUNOFF, LAND CLEARING, EXCAVATION, FILL, SOIL EROSION, SEDIMENTATION AND RAVINE CONSTRUCTION**

1. For all buildings surrounded by required yard spaces, a sloping grade shall be maintained and adequate drainage provided so that the flow of surface waters will be diverted away from the walls of structures thereon; provided, however, that contours and grading shall not direct the surface runoff to neighboring properties or significantly alter existing drainage patterns on the land. Filling with earth or other materials to an elevation above the established or natural grade of adjacent land is prohibited without the express written approval of the Zoning Administrator. All water runoff from new impermeable structures shall be retained on site, in a basin with a storage volume equal to a 25-year storm event for new impermeable surfaces, and with a detention basin release rate of 0.13 cubic feet per second per acre of impermeable surface, or as required by the City Engineer. Retention basin outlets which are calculated to be under four inches in diameter may be sized at four inches. No water runoff shall be directed into sanitary sewers. Where a new building is constructed between two existing buildings or on a vacant lot adjacent to

an existing building, the natural grade, or if none, the existing, established grade shall be used to determine the finished grade for the new building and the required yard space.

2. No principal building shall be erected in a ravine without going through site plan review. (See also Section 1615.1 and 1618.1).
3. Land clearing, filling and excavation shall not occur without a soil erosion and sedimentation control permit issued under applicable state law. Stripping and removal of topsoil from the site is prohibited.

#### **SECTION 1718. ENVIRONMENTAL IMPACT STATEMENT**

The Planning Commission shall require an Environmental Impact Statement (EIS), these statements shall be made at the expense of the applicant using a professional environmental engineer or professional consultant of their choice. An EIS prepared for another public agency may be acceptable. Said statement should analyze the impact of the proposed development on municipal utility systems, fire, police, school services, solid waste disposal, soils, air, groundwater, floodplain, wetlands, and similar water courses and drainage, noise levels and added traffic which might affect existing land uses or neighborhoods negatively, and other similar factors which may be unique to a specific proposal. The Planning Commission shall review the impact statement to determine if any proposed impacts would result in pollution, impairment or destruction of the environment over the threshold established in the Michigan Natural Resources and Environmental Protection Act, Public Act 451 of 1994, Part 17, or greater than existing level of service standards applicable to services and facilities provided in the City.

#### **SECTION 1719. RAZING OF BUILDINGS**

No building shall be razed until a permit has been obtained from the Building Inspector who shall be authorized to require a performance bond in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. Said bond shall be conditioned on the applicant completing the razing within such reasonable period as shall be prescribed in the permit and complying with such regulations as to health and safety as the Building Inspector may, from time to time, prescribe, including filling of excavations and proper termination of utility connections. If the building is safely razed and the site cleaned as specified in the permit, then the bond shall be returned within thirty (30) days of completion of the razing. If razing is not accomplished according to the terms of the approval, then the City shall cash the performance bond and use the money to restore the site to a safe condition. Costs in excess of the bond shall be charged back to the property owner and placed as a lien on the property if not paid in a timely fashion. (See Section 2107).

#### **SECTION 1720. MOVING OF BUILDINGS** (Amended 12/19/85; Ord. No. 676)

No existing building or structure of any type or kind shall be moved into the City or moved from one lot in the City to another lot in the City unless authorized by special use permit approved by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards:

1. The type and kind of construction of the existing building in relation to its strength and whether or not the building may be a fire hazard.
2. Whether or not the type and age of the building is in keeping with adjoining and neighboring buildings.
3. That any size of any building that may be moved into the City, or within the City, will be limited to a maximum of two hundred (200) square feet unless prior Planning Commission approval is obtained.

## **SECTION 1721. LOTS ADJOINING ALLEYS**

In calculating the area of a lot that adjoins an alley for the purpose of applying lot area requirements of this Ordinance, one-half (1/2) the width of such alley abutting the lot shall be considered as part of such lot.

## **SECTION 1722. PORCHES, STAIRWAYS & DECKS**

1. A porch, stairway or deck which is enclosed and not open to the sky shall meet the requirements of an accessory building or principle structure. In residential districts, an open, unenclosed and uncovered porch, stairway or deck with a floor level that is not above the first floor level of the principle structure shall not be located closer than three feet to a property line in the side and rear yards, and may encroach up to six (6) feet into the front yard setback.
2. No handrail shall exceed forty-two (42") inches in height from the deck level unless required otherwise by the Building Code.

## **SECTION 1723. PROJECTIONS IN YARDS**

1. Existing buildings or structures shall be permitted to encroach upon the minimum yard area and setback requirements of this Ordinance with architectural elements that are necessary to the integrity of the structure of the building, or health or safety of the occupants such as cornices, sills, belt courses, eaves, gutters, chimneys, pilasters, balconies, outside stairways, fire escapes, and similar features, provided, projections into a required front and rear yard area are no more than three (3) feet, and into a required side yard area no more than one (1) foot. No projection into a required yard area shall be closer than two (2) feet to a property line.
2. Ramps to accommodate wheelchairs and related devices to assist the handicapped or infirm are permitted to encroach on the yard requirements of any district, provided an application for a Zoning Permit is filed with the Zoning Administrator who shall find as a condition of issuing the requested permit, that the location selected minimizes the yard encroachment while still meeting the ramp needs of the applicant. No ramp is permitted to extend from a front or side door directly to the front sidewalk or curb, if it is reasonably feasible to connect to an existing private sidewalk or paved driveway. Ramps may not be covered in the portion of the front yard within the setback for the principal building.
3. Awnings in residential districts may project into a required yard area no more than three (3) feet and in commercial or industrial districts no more than five (5) feet. Awnings shall be at least eight (8) feet in height. A license shall be obtained from the City before any awning is erected over public right-of-way.

## **SECTION 1724. WATERFRONT LOT REGULATIONS**

1. A waterfront lot shall maintain the yard on the water side of the primary structure as an open un-obscured yard from the waters edge to the nearest wall of the primary structure. This yard may have a covered and/or uncovered boat well, stairway, walkway, or other recreational structure, after review and approval of a site plan by the Planning Commission. Fences in this yard shall not exceed four (4) feet in height, measured from the surface of the ground adjacent to the fence. Accessory buildings and structures shall be permitted in this yard when located no further than fifteen (15) feet from the nearest wall of the primary structure.

Accessory buildings and structures shall be permitted in the yard between the abutting street right-of-way and the primary structure, providing the setback required in the specific District is met for the accessory structures or a minimum of fifteen (15) feet from the right-of-way, whichever is more restrictive, is met. Parking areas and accessory buildings and structures shall be screened pursuant to Section 1709

All primary structures, fences, and accessory buildings and structures shall be located landward of the ordinary high water line established by the Michigan Department of Environmental Quality, and are subject to all applicable setback requirements..

2. Construction in the Water and Near Shore: The Building Inspector shall not issue a building permit for construction of docks, pilings, seawalls or any structure which changes the shape of the shoreline unless:
  - a. The Department of Environmental Quality has issued a permit for construction and the Harbor Commission has reviewed the plans; or
  - b. The Department of Environmental Quality states in writing that no permit is required for the project; or
  - c. The Building Inspector determines that the project does not require a Department of Environmental Quality permit.
3. Docks, Pilings and Seawalls on Parcels and Platted Lots: Any construction, expansion or alteration of a dock, piling, seawall or other structure on a parcel shall be subject to the review and approval of the Planning Commission.
4. Several sections of the Code of Ordinances also have provisions which apply to waterfront construction, including, but not necessarily limited to Chapter 38, Harbors and Waterways, Article I, Section 38-4: (1) Dumping; (2) Piles or Structures; (7) Maintenance of Docks, Wharves or Revetments; (8) Harbor Lines; (12) Altering Docks, Wharves or Revetments.

**SECTION 1725. SWIMMING POOLS:** (Amended 11/1/93; Ord. No. 794)

1. For use in this Section, "Pool" shall be defined as any structure that contains water over twenty-four (24) inches in depth and which is used, or intended to be used, for swimming or recreational bathing and which is available only to the family and/or guests of the property owner. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas. All pools shall be regulated by this Ordinance, unless said pool is completely contained within a building that at least complies with the minimum provisions of the Zoning Ordinance, as amended.
2. Pools shall be permitted as an accessory use for the purposes of determining required yard spaces and maximum lot coverage, provided they meet the following requirements:
  - a. Pools on a lot used for a single family residence shall not require Planning Commission review and approval but shall require a zoning permit. All other pools shall be reviewed as part of a site plan review. The application for a Zoning Permit to erect a swimming pool shall include the name of the owner, the manner of supervision of the pool, a plot plan and location of adjacent buildings, fencing, gates, and other detailed information affecting construction and safety measures deemed necessary by the Zoning Administrator.
  - b. There shall be a minimum distance of not less than ten (10) feet between the adjoining property line, or alley right-of-way, and the outside of the pool wall. Side yard setbacks shall apply to side yards if greater than ten (10) feet. A swimming pool may be established in the side yard of a corner lot.
  - c. There shall be a distance of not less than four (4) feet between the outside pool wall and any building located on the same lot.

- d. Pools shall be allowed only in side or rear yards except on waterfront lots abutting the Black River or Lake Michigan, where no pool is permitted in any yard without a special use permit. The Planning Commission shall ensure that views of the water from abutting property are not unreasonably obscured by the pool, a fence, or related accessory structures.
- e. No pool shall be located in an easement.
- f. An outdoor pool, including an in-ground, above-ground, or on-ground pool, hot tub, or spa shall be provided with a barrier to discourage unsupervised access that complies with all of the following:
  - 1) "Barrier" shall mean fences, powered safety covers, or similar structures.
  - 2) A powered safety cover may be installed but the powered safety cover must comply with ASTM F 1346 regulations and its load requirements.
  - 3) A fence or similar structure shall be situated to completely enclose the pool or the yard in which the pool is placed. Such barrier may include building walls without doorways which abut the pool area, provided that the entire perimeter of the pool area is secured.
  - 4) The top of such barrier shall be at least forty-eight (48) inches above finished grade level measured on the side of the barrier which faces away from the swimming pool.
  - 5) The maximum vertical clearance between finished grade level and the barrier shall be two (2) inches measured on the side of the barrier which faces away from the pool structure.
  - 6) Where the top of the pool structure is above finished grade level, such as an above-ground pool, the barrier shall be at finished grade level, such as the pool structure, or shall be mounted on top of the pool structure.
  - 7) Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four (4) inches.
  - 8) Openings in the barrier shall not allow passage of a four (4) inch sphere.
  - 9) Such barriers shall be equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of four (4) feet above the ground.
- g. Lighting: No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance or hazard to surrounding properties.
- h. Overhead wiring: Service drop conductors and any other open overhead wiring shall not be located above a swimming pool.
- i. Sanitation: Any swimming pool shall not be used unless adequate public health measures are periodically taken to insure that the use thereof will not cause the spread of disease. The swimming pool shall be kept clean and the water used there shall be filtered and sterilized by chlorination or other means accepted by the Public Health Department. Sanitation standards as now or any time adopted by the State Department of Health or the County Health Department to protect the public health shall be conformed with.
- j. The following shall be exempt from provision (f) above:
  - 1) A spa or hot tub with an approved safety cover.
  - 2) Fixtures which are drained after each use.

## **SECTION 1726. UNCLASSIFIED USES**

Where a proposed use of land or use of building is not contemplated or specified by this Ordinance or where the Zoning Administrator has a question as to the appropriateness of a use which, although basically permitted, involves other features which were not contemplated or specified by this Ordinance, the Zoning Administrator shall prepare a report to the Zoning Board of Appeals asking to consider a use variance in accordance with Section 2206 of the ordinance.

## **SECTION 1727. MINIMUM REQUIREMENT FOR DWELLING UNITS OUTSIDE OF MOBILE HOME PARKS**

All dwelling units located outside of mobile home parks shall comply with the following requirements:

1. All dwelling units shall provide a minimum height between the floor and ceiling consistent with applicable codes.
2. The minimum width of any single family dwelling unit shall be twenty (20') feet for at least sixty-seven (67%) percent of its length, measured between the exterior part of the walls having the greatest length.
3. There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings. The foundation shall have a minimum depth of forty-two (42") inches below grade. The foundation shall provide a maximum exposed foundation above grade of eight (8") inches.
4. All dwellings without basements shall provide a crawl space below the entire floor of the dwelling (4') feet in depth with a vapor barrier consisting of two (2") inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. An alternative building plan may be utilized if consistent with the approved construction code of the City.
5. All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the City or, if a mobile home, shall be anchored to the foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards."
6. The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to permanent placement on a foundation. Foundations and attachments shall comply with either the State building code or HUD requirements).
7. All dwellings shall be connected to a sewer system and water supply system approved by the City.
8. All dwellings shall provide steps or porch areas, permanently attached to the foundation, where there exists an elevation differential of more than one (1') foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
9. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar or better quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein. All additions to dwellings shall meet all of the requirements of this Ordinance and any applicable Codes.
10. a. All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity including: a 4:12 roof pitch, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along sides of the dwellings; not less than two exterior doors with the first one facing the front yard and the second one being in either the rear or side of the dwelling; and, contains permanently attached steps connected to said exterior door areas

or to porches connected to said door areas where a difference in elevation requires the same.

- b. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of said Zoning Administrator's decision. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design, and appearance of residential dwellings located outside of mobile home parks within five hundred (500) feet of the subject dwelling. Where more than sixty percent (60%) of the dwelling units within five hundred (500) feet of the subject dwelling are two or more stories in height, the dwelling unit constructed or placed on the property shall also be two or more stories in height. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
11. Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan, adequate to illustrate compliance with the requirements of this Ordinance shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in subsection (12) hereof.
12. All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development of Housing and Urban Development Regulations entitled "Mobile Home Construction and Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the City. All dwellings shall meet or exceed all applicable roof snow load and strength requirements.
13. A minimum of one hundred (100) square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed or other structure, approved by the Zoning Administrator.

#### **SECTION 1728. POTABLE WATER AND SEWAGE DISPOSAL**

1. Any building erected for human occupancy after the effective date of this Ordinance and used for dwelling, businesses, industrial, recreational, institutional, mercantile or storage purposes shall not be erected, altered, used or moved upon any premises unless said structure shall be provided with a potable water supply and waste water disposal system that ensures a safe and effective means of collection, treatment, and disposal of human, commercial, and industrial wastes.
2. All on site sewage disposal and potable water facilities shall be constructed and maintained in accordance with the requirements and standards of the County Public Health Department as well as those of other applicable City, county, state, or federal agencies.
3. All new land uses and land development projects within the City, must be serviced by public sewer and water infrastructure if it is within three hundred (300) feet of the property in question.
4. See also Chapter 42 of the Code of Ordinances of the City of South Haven.

**SECTION 1729. SATELLITE ANTENNAS** (Amended 5/16/85; Ord. No. 668)

The purpose of this section is to regulate the installation and utilization of satellite antennas. Satellite antennas smaller in diameter than those specified in Section 1729 (1) below are not subject to review and issuance of a Zoning Permit if attached to an existing principal or accessory structure or located in conformance with the yard requirements of this Ordinance. The Zoning Administrator shall issue a Zoning Permit for a satellite antenna smaller in diameter than those specified in Section 1729 (1) if it must encroach on yard requirements in order to receive the satellite signal for which it was designed, as long as the location in question results in the minimum exception to the yard requirements and does not interfere with the clear vision area protected in Section 1712 established to help ensure traffic and pedestrian safety. The decision of the Zoning Administrator may be appealed to the Zoning Board of Appeals which must consider the appeal, and any related variance request in light of Part 25 of Title 47 of the Code of Federal Regulations, as amended.

**1. Satellite Antenna Definition**

A satellite antenna is a dish-shaped receiving device, together with other incidental equipment related to such purpose that is greater than the following diameters:

- a. one (1) yard in any R-1, RM-1, or PUD District, or
- b. two (2) yards in any other district.

**2. Permit Required**

No person, individual, corporation, business, occupation, or partnership shall install a satellite antenna on premises owned, occupied, leased or rented without first having applied for and received a building permit.

**3. Information Supplied by Applicant**

- a. The dimensions of the antenna.
- b. A sketch showing:
  - 1) The proposed location of the antenna.
  - 2) The location of existing structures and buildings, and property boundaries.
  - 3) The location of all immediately adjoining structures, buildings, and streets.
- c. The proposed screening or buffer (see 4d).
- d. The installers recommended location.
- e. A legal description of property owned by the applicant on which the satellite antenna is proposed to be located.

**4. Satellite Antenna Location, Construction and Appearance**

- a. For property located in areas zoned R-1, RM-1, or PUD, no satellite antenna shall be constructed or installed in any front or side yard, nor within fifteen (15') feet of any lot line. In all other zoned areas, no satellite antenna shall be constructed in any front yard nor within fifteen (15') feet of any lotline.
- b. A satellite antenna shall not be used for or contain any commercial or residential advertisement, text, symbol or message, nor shall it be painted differently or altered from its original form and condition.
- c. No satellite antenna shall be greater than twelve (12') feet in diameter, nor stand taller than fifteen (15') feet from the immediately adjacent groundlevel.
- d. A satellite antenna shall be grounded for protection against a direct strike from lightning and power supply ground fault.
- e. A satellite antenna shall be permanently anchored to a foundation or support structure sufficient to withstand maximum wind, ice, and snow loading imparted on the dish and the support structure. Temporary satellite antennas or trailers not



- permanently mounted shall be removed from the premises within thirty (30) days or shall be permanently mounted in accordance with this item (e).
- f. Appeals of adverse determinations shall be handled by the Zoning Board of Appeals in accordance with the procedures of Section 2209. Variance requests shall be based on conformance with the standards of Section 2205 in light of the relevant provisions and intent of Part 25 of Title 47 of the Code of Federal Regulations.

### **SECTION 1730. PRINCIPAL USE**

No lot zoned for residential purposes shall contain more than one principal use nor more than one principal structure. Commercial and industrial zoned land may contain more than one building and/or principal use provided all uses are permitted uses, and the buildings and uses meet the parking and other zoning district requirements. All business activity shall take place within an enclosed building, unless specifically authorized to be conducted outside as part of the use regulations of the District, or via special land use standards of this Ordinance. (Amended 10/17/85; Ord. No. 675)

### **SECTION 1731. TEMPORARY BUILDINGS, STRUCTURES AND USES**

All temporary buildings, structures, and uses are permitted in all districts unless otherwise provided. Temporary buildings and structures not greater than three hundred (300) square feet in area and not to be used for dwelling purposes, may be placed on a lot or parcel of record and occupied only under the following conditions as authorized by a temporary zoning permit issued by the Zoning Administrator:

1. **Fire Damage** - During renovation of a permanent building damaged by fire. The temporary building or structure must be removed when repair of fire damage is complete, but in no case shall it be located on the lot or parcel for more than ninety (90) days.
2. **New Construction** - Temporary buildings and structures incidental to construction work, except single-family residences are permitted. Said temporary buildings shall be removed within fifteen (15) days after construction is complete, but in no case shall the building or structure be allowed more than twelve (12) months, unless expressly authorized after petition to the Zoning Board of Appeals.
3. **Religious Institutions & Schools** - Temporary building incidental to a religious institution or school, provided that all wiring, plumbing, fire protection and exits are approved by the Fire Chief and Building Inspector, and by relevant state agencies.
4. **Habitation of Accessory Structures and Travel Trailers** - No garage, barn, or accessory buildings, or cellar, whether fixed or portable, shall be used or occupied as a dwelling.
5. **Christmas Tree Sales** - The display and sale of Christmas trees in the B-2 or B-4 Districts or at a church or campground is permitted by a temporary zoning permit, provided it is incidental and accessory to the principal use. The temporary zoning permit for the display and sale on an open lot shall be valid for a period not to exceed forty-five (45) days. All unsold trees must be removed from the property by December 31 of each calendar year. No temporary land use permit is necessary for Christmas tree sales where a nursery is permitted by right or Special Use Permit.
6. **Auctions** - The public sale of property to the highest bidder shall be permitted for not more than five (5) days and no sales activity shall occur within thirty (30) feet of any street or road right-of-way.

7. Additions to recreational vehicles located on licensed campgrounds are permitted as temporary structures, provided they meet the following standards:
  - a. the maximum size of the RV addition footprint shall not exceed 400 squarefeet.
  - b. foundations are not required. Concrete footings and piers are prohibited, however wood pole type foundations and concrete slabs are permitted.
  - c. the owner of the recreational vehicle shall remove the addition and foundation when removing the recreational vehicle, or when the lease is terminated, except that seasonal removal of the recreational vehicle for storage purposes shall be permitted.
  - d. the signature of the owner of the property on which the recreational vehicle is located is required on the building permit.
  - e. no plumbing, heating or cooking equipment (sinks, toilets, furnaces, woodstoves, stoves, ovens or similar equipment) shall be installed in the addition.
  - f. the height of the addition shall not exceed one story or twelve (12') feet.
  
8. No permit shall be granted for sales from a removable stand, mobile vending cart, vehicle or other method of selling or display operating on private property, except for:
  - a. Farmers or nursery owners selling his or her own production, and
  - b. Vendors associated with a festival/event blanket vendors license, and
  - c. Vendors on private property in the B-2 General Business District and B-4 Major Thoroughfare Business District who have met he standards of the zoning ordinance for outdoor display of goods; however no more than two such licenses shall be issued for a lot of record per year, and no license shall be issued for a period of more than two (2) weeks.

### **SECTION 1732. HEIGHT EXCEPTIONS**

No part of a single family or multiple family dwelling in a residential district shall exceed the height regulations of the district. The following non-residential buildings and structures shall be exempt from height regulations in all zoning districts, provided no portion of the excepted structure may be used for human occupancy:

1. Church spires, flagpoles, and monuments on government owned property, provided they do not exceed seventy-five (75) feet in height.
  
2. Those necessary appurtenances to mechanical or structural functions, such as chimneys and smokestacks, water tanks and water towers, elevator and stairwell penthouses, ventilators, bulkheads, masts, fire and hose towers, cooling towers, or other structures where the manufacturing process requires a greater height, provided these appurtenances do not exceed seventy-five (75) feet in height and are setback a distance from the property line at least equal to the height of the structure. Municipally owned water tanks and water towers are not subject to any height limitation.
  
3. Those structural extensions on buildings which are principally non-residential (such as downtown) and which are necessary for appropriate building design such as cornices or parapet walls may extend a maximum of four (4) feet above height limitations provided they have no window openings.
  
4. Public utility structures, including but not limited to telephone poles, but not including communication towers, except upon receipt of a Special Use Permit (see Section 1510.08).
  
5. Agricultural buildings and structures, such as barns, silos, grain elevators and the like that do not exceed one-hundred (100) feet in height provided they are setback a distance from the property line at least equal to the height of the structure.

6. Wind Turbine Towers shall be permitted as regulated by Section 1742 and 1510.35.

### **SECTION 1733. RESIDENTIAL QUARTERS FOR CARETAKER OR SECURITY PERSONNEL**

Residential quarters for a caretaker or security personnel, is permitted in the I-1 and I-2 Districts, marinas, and in a PUD, provided it is designed for and used exclusively for that purpose, is clearly accessory to the principal use, does not occupy more than 400 square feet of space, and does not violate any setbacks. Residential quarters for a caretaker or security personnel, is permitted in any other zone by special use permit provided it is designed for and used exclusively for that purpose, is clearly accessory to the principal use, does not occupy more than 400 square feet of space, does not violate any setbacks and meets all the standards of Section 1502. In addition, if the building used as residential quarters for a caretaker or security personnel is freestanding it shall not be used for any other dwelling purpose other than as residential quarters for a caretaker or security personnel, nor shall it be used as the basis for dividing a parcel to create a separate lot with a separate dwelling unit.

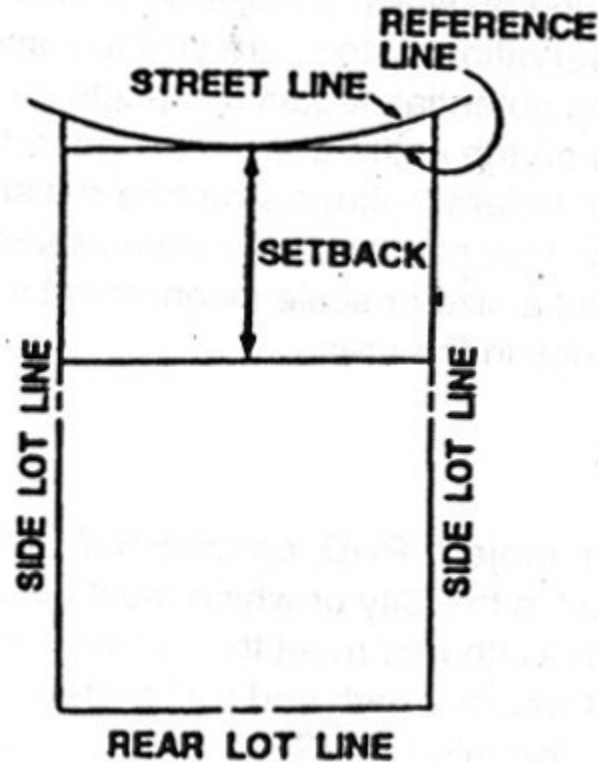
### **SECTION 1735. SIDEWALKS**

Every subdivision, condominium project, PUD, commercial, industrial, marina or other public or private project newly constructed in the City or which must go through site plan review shall have sidewalks at least five (5) feet in width that meet the construction standards of the City for sidewalks, and may have an all weather path and trail system which connects to public sidewalks if so approved by the Planning Commission. (See Article IV, Sidewalks, in the Code of Ordinances of the City of South Haven).

### **SECTION 1736. STREET STANDARDS**

1. **Requirements to be met** - New public streets shall conform to the requirements of this Section and Chapter 74, Article I of the Code of Ordinances of the City of South Haven.
2. **Construction standards** - The creation of a street that serves a division of land, a subdivision or a parcel shall meet or exceed the cross-sectional construction standards established by the City Engineer.
3. **Right-of-Way Width** - All streets shall have a minimum right-of-way easement of at least the width established by the City Engineer, and as approved by the Planning Commission.
4. **Dedication of Rights-of-Ways or Easements** - All new streets shall be dedicated to and accepted by the public, and no structure or development activity shall be established within approved rights-of-ways or easements. All plans as submitted for approval must show the proposed street including a legal description, and must include the grades for these streets.
5. **Connection to County Roads and State Highways** - Construction authorization from the County Road Commission is required for connection to County roads and from the Michigan Department of Transportation for connection to a State Highway. At the discretion of the City Council, a proposed public street may be disapproved unless it connects to another public street or road when necessary to provide safe traffic flow and emergency vehicle access.

6. **Cul-de-sacs** - Cul-de-sacs shall meet or exceed cross-section specifications established by the City Engineer and:
- Any cul-de-sac shall terminate at the property line except when precluded by a natural barrier or when the cul-de-sac terminates at the last available lot or parcel within the development which lot or parcel fronts upon the cul-de-sac.
  - Frontage measurements for cul-de-sac lots shall be from the curve tangent that meets both side lot lines. See Figure 17-3.
  - Not more than four (4) lots or parcels shall have frontage on a cul-de-sac.



7. **Limit on Length** - New public streets with only one connection to another city street, county road or state highway shall not be longer than eight hundred (800) feet.
8. **Maximum Number of Lots Served** - No more than twenty-five (25) lots may gain access to a single street if only one point of intersection is provided between the new street and another existing public street. No more than seventy-five (75) lots may gain access to a new street where two or more points of intersection are provided between the new street and other public streets.

9. **Application Review and Approval or Rejection**
  - a. The Zoning Administrator shall review, and send to the City Engineer for review and comment, the plans of a new public street for review and comment. If the new street is proposed to connect to a county road or state highway, a copy of the application shall be sent to the County Road Commission or Michigan Dept. of Transportation (MDOT), as pertinent, for review and comment with a date specified as to when comments are needed.
  - b. City Engineer, County Road Commission, MDOT and City Attorney recommendations shall be forwarded to the Zoning Administrator who shall approve or disapprove the new public street with any conditions necessary to ensure conformance with the standards of this Ordinance.
  - c. The Zoning Administrator will arrange for inspections by the City Engineer during construction of, and upon completion of the new street.
  - e. If the application is rejected, the reasons for the rejection and any requirements for approval shall be given in writing to the applicant.
  
10. **Failure to Perform** - Failure by the applicant to begin construction of the new street according to approved plans on file with the City within one (1) year from the date of approval shall void the approval and a new plan shall be required by the City subject to any changes made herein or subject to any changes made by the City in its standards and specifications for road construction and development. The new street shall be completed within one and one-half (1 1/2) years of the date of approval of the street.
  
11. **Issuance of Building Permit** - No building permit shall be issued for a structure on any new public street until such street is given final approval by the City Engineer.
  
12. **Posting** - All new public streets shall be designated as such and shall be posted by the City with an easily readable name which can be clearly seen in an emergency. The sign shall be paid for by the developer. The City Zoning Administrator shall check with adjoining jurisdictions to avoid a duplicate of names and give approval of same.

**SECTION 1737. TRAFFIC IMPACT ANALYSIS (*Ref also Article XXIV*)**

1. **Intent** - South Haven recognizes the direct correlation between land use decisions and traffic operations. The intent of this Section is to permit accurate evaluation of expected impacts of proposed projects to assist in decision-making. This Section is further intended to help achieve the following objectives:
  - a. Provide a standard set of analytic tools and format for preparing traffic impact studies.
  - b. Allow the community to assess the effects that a proposed project may have on the community by outlining information needed and evaluation procedures to be used.
  - c. Help ensure safe and reasonable traffic operating conditions on streets and intersections after development of the proposed use.
  - d. Reduce the negative traffic impacts created by individual developments, and which may negatively impact such developments, by helping to ensure the transportation system can accommodate the expected traffic safely and efficiently.
  - e. For rezonings, the traffic impact study is intended to evaluate if the rezoning is timely and, if inconsistent with the Comprehensive Plan, if the rezoning would be a logical alternative to the Comprehensive Plan.
  - f. Realize a comprehensive approach to the overall impacts of various developments along a corridor or within part of a community rather than a piecemeal approach.
  - g. Provide direction to community decision makers, road agencies and developers of expected impacts of a project.
  - h. Alert the community, transportation agencies, and developers of improvements or modifications needed to the roadway, access or site design.
  - i. Protect the substantial public investment in the existing street system.

2. **Definitions** - The following terms used in this Section shall be defined as follows:

**Development** - A site plan, subdivision tentative preliminary plat, condominium project, mobile home park, redevelopment, reuse or expansion of a use or building.

**Average Day** - A Tuesday, Wednesday, or Thursday for most uses. The average day may be a Saturday for uses that have higher peak-hour traffic volumes on a Saturday rather than mid-week.

**Gap (critical gap)** - The median time headway (in seconds) between vehicles in a major traffic stream which will permit side-street vehicles at STOP or YIELD controlled approach to cross through or merge with the major traffic stream under prevailing traffic and roadway conditions.

**Level of Service** - A qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, delay, freedom to maneuver, traffic interruptions, comfort and convenience, and safety.

**Peak Hour**- A one hour period representing the highest hourly volume of traffic flow on the adjacent street system during the morning (a.m. peak hour), during the afternoon or evening (p.m. peak hour); or representing the hour of highest volume of traffic entering or exiting a site (peak hour of generator).

**Study Area** - The geographic area containing those critical arterial intersections (and connecting roadway segments) which are expected to be affected by the site-traffic generated by a development.

**Traffic Impact Study** - The analysis of the potential traffic impacts generated by a proposed project. This type of study and level of analysis will vary dependent upon the type and size of the project - Traffic Impact Assessment, Rezoning Traffic Impact Study, Traffic Impact Statement, and Regional Traffic Impact Study.

**Trip (i.e., directional trip)** - A single or one-direction vehicle movement with either the origin or the destination (exiting or entering) inside a study site.

3. **Applicability** - A traffic impact study shall be required and shall be submitted by a petitioner for a rezoning, site plan or subdivision plan under any of the following situations. The type of study required shall be dependent upon the type and scale of the proposed use and existing traffic conditions.

a. "Rezoning Traffic Impact Study" for the following Rezonings and Comprehensive Plan amendment requests:

- 1) A proposed rezoning consistent with the community's Comprehensive Plan, but when the timing of the change may not be appropriate due to traffic issues. This threshold applies when a rezoning would permit uses that could generate 100 or more directional trips during the peak hour, or at least 1000 more trips per day, than the majority of the uses that could be developed under current zoning.
- 2) A proposed rezoning which is inconsistent with the community Comprehensive Plan when permitted uses could generate at least one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets or over seven hundred fifty (750) trips in an average day.
- 3) A site along any corridor identified as a "primary or secondary thoroughfare" in the Comprehensive Plan (see Figure 2-8).
- 4) Proposed amendments to the Comprehensive Plan which would recommend uses which would generate higher traffic volumes.

- b. Development Proposals: site plans, plats, mobile home parks and condominium projects
  - 1) A Traffic Impact Statement shall be required for any proposed development which would be expected to generate over one hundred (100) directional trips during the peak hour of the traffic generator or the peak hour on the adjacent streets, or over seven hundred fifty (750) trips in an average day.
  - 2) A Traffic Impact Assessment shall be required for projects which could generate 50-99 directional trips during a peak hour.
  - 3) A Traffic Impact Statement shall be required for any proposed development along a corridor identified in Figure 2-8 as a "major thoroughfare" which would be expected to generate over fifty (50) directional trips during the peak hour of the traffic generator or the adjacent streets, or over five hundred (500) trips in an average day.
  - 4) A Traffic Impact Statement or Assessment, based on the thresholds in 1 and 2 above, shall be required for new phases or changes to a development where a traffic study is more than two (2) years old and roadway conditions have changed significantly (volumes increasing more than 2 percent annually).
  - 5) A Traffic Impact Assessment shall be required for a change or expansion at an existing site where the increased land use intensity is expected to increase traffic by at least fifty (50) directional trips in a peak hour or result in at least 750 vehicle trips per day for the entire project. A Traffic Impact Statement shall be required if the traffic is expected to increase by over 100 directional trips in the peak-hour.
  - 6) Special land uses and planned unit developments which are projected to equal or exceed the thresholds in Items 1 and 2 shall have a Traffic Impact Statement or Assessment prepared.
  - 7) A change in a special land use or planned unit development (PUD) to a more intense use if projected to equal or exceed the thresholds in Items 1 and 2 shall have a Traffic Impact Statement or Assessment prepared.
  - 8) Where required by the City to evaluate access issues.

4. **Traffic Impact Study Contents** - Following are the minimum requirements for a traffic impact study:

- a. Description of the site, surroundings, and study area: Illustrations and a narrative should describe the characteristics of the site and adjacent roadway system (functional classification, lanes, speed limits, etc.). This description should include surrounding land uses, expected development in the vicinity which could influence future traffic conditions, special site features and a description of any committed roadway improvements. The study should define and justify the study area selected for analysis.
- b. Description of the requested zoning or use
  - 1) Traffic study for a rezoning or Comprehensive Plan amendment request: a description of the potential uses which would be allowed, compared to those allowed under current zoning. If the use is not consistent with the community's comprehensive plan, an explanation of the difference should be provided.
  - 2) Traffic study for a site plan review, mobile home park, condominium project or subdivision tentative preliminary plat, or specified special land uses: a description of factors such as the number and types of dwellings units, the gross and usable floor area, the number of employees and shift change factors. Intended phasing or future expansion should also be noted.

- c. Description of existing traffic conditions
  - 1) Traffic counts: Existing conditions including existing peak-hour traffic volumes (and daily volumes if applicable) on street(s) adjacent to the site. Existing counts and levels of service for intersections in the vicinity which are expected to be impacted, as identified by the community at a pre-application conference or discussion, should be provided for projects requiring a Traffic Impact Statement or Regional Traffic Analysis. Traffic count data shall not be over two (2) years old, except the community or road agency may permit 24 hour counts up to three (3) years old to be increased by a factor supported by documentation or a finding that traffic has increased at a rate less than two percent (2%) annually in the past three to five years.  
Traffic counts shall be taken on a Tuesday, Wednesday or Thursday of non-holiday weeks. Additional counts (i.e. on a Saturday for a proposed commercial development) may also be required in some cases. The individual or firm performing the impact study shall obtain the traffic counts during average or higher than average volume conditions (i.e. regarding weather or seasonal variations and in consideration of any construction or special events) for the area under study.
  - 2) Roadway characteristics shall be described and illustrated, as appropriate. Features to be addressed include lane configurations, geometrics, signal timing, traffic control devices, posted speed limits, average running speeds and any sight distance limitations. Existing levels of service shall be calculated for intersections included within the study area.
  - 3) Existing driveways and potential turning movement conflicts in the vicinity of the site shall be illustrated and described.
  - 4) The existing right-of-way shall be identified along with any planned or desired expansion of the right-of-way requested by the applicable road agency.
  - 5) Traffic crash data and analysis covering the most recent three (3) years for the study area or proximity to site access points may be required by the community, particularly for sites along congested portions of major or minor thoroughfares. (Note: crash analyses are not generally appropriate for a Rezoning Traffic Study or a Traffic Impact Assessment).
- d. Background Traffic Growth. For any project requiring a Traffic Impact Statement with a completion date beyond one (1) year at the time of the traffic study, the analysis shall also include a scenario analyzing forecast traffic at date of completion along the adjacent street network using a forecast based on a network traffic assignment model (if available), historic annual percentage increases and/or future development in the area which has been approved. For a project requiring a Regional Traffic Analysis, available long range traffic projections shall be used.
- e. Trip Generation
  - 1) Forecasted trip generation of the proposed use for the a.m. (if applicable) and p.m. peak hour and average day shall be provided. The forecasts shall be based on the data and procedures outlined in the most recent edition of Trip Generation published by the Institute of Transportation Engineers (ITE). The applicant may use other commonly accepted sources of data or supplement the standard data with data from at least three (3) similar projects in Michigan.
  - 2) For rezoning requests where a traffic study is required, the study should contrast the traffic impacts of typical uses permitted in the requested zoning district with uses permitted in the current zoning district. The determination of typical uses shall be made by the Zoning Administrator.



- For Traffic Impact Assessments, Statements, or Regional Traffic Analyses, the rates for the specific use(s) proposed shall be used.
- 3) Any trip reduction for pass-by trips, transit, ridesharing, other modes, internal capture rates, etc. shall be based both on ITE findings and documented survey results acceptable to the agency reviewers. The community may elect to reduce the trip reduction rates used.
  - 4) For projects intended to be developed in phases, the trip generation by phase shall be described.
- f. Trip Distribution
- The projected traffic generated shall be distributed (inbound v. outbound, left turn v. right turn) onto the existing street network to project turning movements at site access points, and nearby intersections where required. Projected turning movements shall be illustrated in the report. A description of the application of standard engineering procedures for determining the distribution should also be attached (trip distribution model, market studies, counts at existing driveways, etc.). For projects requiring a Regional Traffic Analysis, use of a network traffic assignment model projection (if available) may be required to help evaluate impacts.
- g. Impact Analysis
- 1) Level of service or "capacity" analysis at the proposed access points using the procedures outlined in the most recent edition of the Highway Capacity Manual published by the Transportation Research Board. For projects requiring a Traffic Impact Statement or Regional Traffic Analysis, before and after capacity analyses shall also be performed for all street intersections where the expected traffic generated at the site will comprise at least five percent (5%) of the existing intersection capacity, and/or for roadway sections and intersections experiencing congestion or a relatively high crash rate, as determined by the community or applicable road agency.
  - 2) Gap studies for unsignalized intersections where applicable.
  - 3) The community may require a Regional Traffic Analysis which evaluates the impact on the street network over a wide area and/or for up to 20 years for a project of regional significance, if a network model is available.
- h. Access design/Access management standards
- The report shall include a map and description of the location and design of proposed access (driveways or new street intersections) including: any sight distance limitations, dimensions from adjacent driveways and intersections within 250 feet on either side of the main roadway, data to demonstrate that the number of driveways proposed is the fewest necessary, support that the access points will provide safe and efficient traffic operation and be in accordance with the standards of the City of South Haven and the applicable road agency. This is not required for a Rezoning Traffic Study.
- i. The traffic impact study shall include:
- 1) Need for, or provision of, any additional right-of-way where planned or desired by the applicable road agency.
  - 2) Changes which should be considered to the plat or site plan layout.
  - 3) Description of any needed non-motorized facilities.
  - 4) If the use involves a drive-through facility, the adequacy of the (queuing stacking) area should be evaluated (see especially uses regulated in Section 1510.10).
  - 5) If a median crossover is desired, separate analysis should be provided.
  - 6) If a traffic signal is being requested, the relationship of anticipated traffic to traffic signal warrants in the Michigan Manual of Uniform Traffic Control Devices. Analysis should also be provided on the impacts to traffic progression along the roadway through coordinated timing, etc.

- 7) Description of site circulation and available sight distances at site driveways.
- j. Mitigation/Alternatives  
The study shall outline mitigation measures and demonstrate any changes to the level of service achieved by these measures. Any alternatives or suggested phasing of improvements should be described. The mitigation measures may include Items such as roadway widening, need for bypass lanes or deceleration tapers/lanes, changes to signalization, use of access management techniques or a reduction in the proposed intensity of use. Proposed mitigation measures should be discussed with the applicable road agency. The responsibility and timing of roadway improvements shall be described.
- k. Preparation Qualifications  
The preparation of a thorough traffic impact study requires extensive background and experience in traffic-related analyses. Therefore, the experience of the preparer best defines his or her ability to provide a technically sound analysis. The person responsible for the preparation of the study shall meet the following requirements:
- 1) Three or more years of recent experience in the preparation of traffic impact studies.
  - 2) The development of impact studies (and similar intersection and/or corridor analyses) comprise a major component of the preparer's recent professional experience. This requires ongoing experience and familiarity with the Highway Capacity Manual techniques as well as the computer software (Highway Capacity software and others) that provide level of service results and other analysis findings needed to fully assess potential impacts.
  - 3) Specific education, training, and/or professional coursework in traffic impact analysis from an accredited college or university or other professional transportation training organization (i.e. National Highway Institute, Northwestern University Traffic Institute, etc.).
  - 4) The study preparer shall be an associate (or higher) member of one or more professional transportation-related organizations, particularly the Institute of Transportation Engineers (ITE) or the Transportation Research Board (TRB). This helps ensure that the preparer is maintaining their knowledge as new research is published and analysis techniques are changed or refined.
  - 5) In addition, the preparer should have one of the following professional qualifications:
    - a) A registered engineer (PE).
    - b) A community planner with AICP or PCP certification.
    - c) A trained professional transportation planner.
  - 6) Any study involving roadway or traffic signal design work shall be prepared by or under the supervision of a registered engineer (PE) with specific training in traffic engineering.
  - 7) The study should include a resume of the preparer responsible for the report. The study may also include relevant experience of the preparer's firm. The study should also be signed by the preparer with full recognition of potential liability for the results and recommendations outlined in the report.
- l. Review Qualifications. Review of the study is important to ensure that the analysis and recommendations are based on accepted practices. The ITE recommends that the traffic impact study be reviewed by "trained traffic engineers or transportation planners." The qualifications of the reviewers should parallel those of the preparers as outlined above.

**5. Procedures**

- a. The applicant shall discuss or meet with the Zoning Administrator to determine if a study is needed, what type of study is needed and specific items to be addressed.
- b. The applicant submits traffic impact study to the community, with the request for rezoning or development proposal. A revised study may be required as the scope and details of the request change.
- c. The community distributes the traffic impact study to the appropriate road agencies, and adjacent community, if appropriate. A copy may also be submitted to the metropolitan planning organization, transit agency, etc. as appropriate for projects of regional significance or along critical corridors.
- d. Road and other review agencies provide community with comments prior to any action on the project.

**6. Waiver of Study Requirements**

The requirement for a traffic impact study, or the study elements listed in subsection 4 above "Traffic Impact Study Contents," may be waived/modified following consultation with City Engineer and Zoning Administrator. Reasons for the waiver or modification shall be documented. Factors to be considered include:

- a. Roadway improvements are scheduled which are expected to mitigate any impacts associated with the proposed project.
- b. The existing level of service along the roadway is not expected to drop below level C (as defined in the current version of the Highway Capacity Manual) due to the proposed project.
- c. The existing level of service is not expected to be significantly impacted by the proposed project due to specific conditions at this location.
- d. A similar traffic study was previously prepared for the site and is still considered applicable.

**SECTION 1738. HOTELS, MOTELS AND SHORT TERM DWELLING UNIT RENTALS**

Hotels and motels are intended to furnish temporary lodging to the traveling public. Because lodging units are not intended to be permanent residences, some dwelling unit requirements will not apply. It is therefore important to differentiate between transient and other uses in order to prevent permanent residence in housing that does not meet dwelling unit requirements, and also to regulate housing in accordance with zoning district requirements. In cases where temporary and permanent housing exist upon the same site, hotels and motels must satisfy requirements for both uses. Any residential dwelling unit which is rented for a period of less than 48 hours, or offered or advertised as a daily rental shall be considered a lodging unit, and shall meet the appropriate building and fire codes for a lodging unit, and shall be permitted only in zoning districts which permit hotels, motels or bed and breakfast uses.

1. Every lodging unit shall include at least one bathroom including a toilet, lavatory, and bathtub or shower.
2. Access to any lodging unit shall not require passage through another lodging unit.
3. No lodging unit shall be rented to more than one family at a time.
4. No lodging rental shall be for any interval of less than one day.
5. Every lodging unit shall be available for rental by the public. Availability shall not be restricted to an exclusive group. However, service may be denied to individuals based on hotel or motel management policies, provided that civil rights laws are not violated.

6. A lodging unit shall not be rented to or occupied by the same guests or family for more than one hundred (100) days in any one hundred-twenty (120) day continuous interval unless in a residence hotel designed and operated for that purpose.
7. If any unit, other than a residence hotel, within a hotel or motel is available for exclusive use by one family or guest for more than one hundred (100) days in any one hundred-twenty (120) day continuous interval, the unit shall meet all requirements for a residence within the zoning district, including dwelling unit requirements in Section 1727. This requirement includes innkeeper's and caretaker's residences.
8. Use of lodging units as residences, and vice versa, constitutes a change of use and shall comply with site plan amendment requirements.
9. A residence hotel shall provide a minimum of one-hundred (100) square feet per lodging room, excluding bathrooms, for each two (2) occupants, with an additional thirty (30) square feet for each additional occupant, to a maximum of four (4) occupants per room.

**SECTION 1739. KEEPING OF ANIMALS (Ref also City Code of Ordinance Section 6)**

1. **Wild and Vicious Animals** - No wild animal nor vicious animal shall be kept permanently or temporarily in any district except in a facility accredited by the American Association of Zoological Parks and Aquariums, or in a licensed veterinary care facility.
2. **Other Animals** - All animals other than domesticated dogs and cats may be kept permanently or temporarily in any district only if in accord with the requirements of Chapter 6 of the Code of Ordinances of the City of South Haven.

**SECTION 1740. CONDOMINIUM SUBDIVISIONS**

All condominium subdivisions shall conform to the following provisions in addition to all other applicable district provisions and shall be approved pursuant to the requirements of Article XIII, Planned Unit Development.

1. A condominium unit, including single family detached units, shall comply with the applicable site development standards contained in the district in which it is located unless those standards are waived as part of a PUD approval pursuant to the requirements of Article XIII.
2. A condominium subdivision shall comply with the requirements of the Michigan Department of Public Health and the County Health Department pertaining to potable water supply and waste disposal facilities.
3. The condominium subdivision shall provide for dedication of easements to the appropriate public agencies for the purposes of construction, operation, maintenance, inspection, repair, alteration, replacement and/or removal of pipelines, conduits, mains and other installations of a similar character for the purpose of providing public utility services, including conveyance of sewage, potable water and stormwater runoff across, through and under the property subject to said easement, and excavation and refilling of ditches and trenches necessary for the location of such installations.
4. In addition to the materials required by Article XIV: Site Plan Review and other requirements of Article XIII: Planned Unit Developments, a planned unit development permit application for a condominium subdivision shall include a condominium subdivision plan containing the following information:
  - a. A site plan showing the location, size, shape, area and width of all condominium units.

- b. A description of the common elements of the condominium subdivision as will be contained in the master deed.
  - c. Proposed use and occupancy restrictions as will be contained in the master deed.
5. All provisions of the condominium subdivision plan which are approved by the City Council shall be incorporated, as approved, in the master deed for the condominium subdivision. Any proposed changes to the approved condominium subdivision plan shall be subject to review and approval by the Planning Commission as a major amendment to a planned unit development, subject to the procedures of Article XIII.
6. All condominium projects which consist in whole or in part of condominium units which are building sites shall be marked with monuments as provided below:
- a. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium subdivision if the angle points can be readily reestablished by reference to monuments along the sidelines of the streets.
  - b. All monuments used shall be made of solid iron or steel bars at least 1/2 inch in diameter and 36 inches long and completely encased in concrete at least 4 inches in diameter.
  - c. Monuments shall be located in the ground at all angles in the boundaries of the condominium subdivision; at the intersection lines of streets with the boundaries of the condominium subdivision and at the intersection of alleys with the boundaries of the condominium subdivision; at all points of curvature, points of tangency, points of compound curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
  - d. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impracticable, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the condominium subdivision and referenced to the true point.
  - e. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least 1/2 inch in diameter shall be drilled and grouted into solid rock to a depth of at least 8 inches.
  - f. All required monuments shall be placed flush with the ground where practicable.
  - g. All lot corners shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and 1/2 inch in diameter or other approved markers.
  - h. The City Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the proprietor deposits with the City Clerk/Treasurer cash or a certified check, or irrevocable bank letter of credit naming to the municipality, whichever the proprietor selects, in an amount not less than \$25.00 per monument and not less than \$100.00 in total, except that lot corner markers shall be at the rate of not less than \$10.00 per marker. The performance guarantee shall be returned to the proprietor pursuant to the provision of Section 14.06 upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified.
7. All streets within a condominium subdivision shall be public and shall be constructed in compliance with the construction standards of this Ordinance or as otherwise required by the City Engineer.

## **SECTION 1741. RECREATIONAL UNITS AND VEHICLES**

1. The parking of any recreational unit that measures more than twenty (20) feet in length and seven (7) feet in height when in use or occupied for periods exceeding twenty-four (24) hours on lands not approved for such use is expressly prohibited, except that the City Manager may extend temporary permits allowing the parking of said trailer coach, travel trailer or camper trailer in a rear yard on private property, not to exceed a period of two (2) weeks. No recreational unit shall be connected to sanitary facilities except in campgrounds permitted by this ordinance.
2. The open storage of any vehicle that measures more than twenty (20) feet in length and seven (7) feet in height or any recreational unit shall be placed at least six (6) feet from the side and rear lot lines. Any vehicle stored shall not exceed 20 percent of the total unoccupied rear yard.
3. The open storage of utility trailers, boat trailers, and other similar conveyance shall be permitted only within the confines of the rear yard and shall further respect the setback requirements of this section applicable to accessory buildings, insofar as distances from principal structures, lot lines, and easements are concerned.
4. The parking or storage of any commercially used or licensed vehicle with a gross vehicle weight of one and one half (1-1/2) tons or more shall be expressly prohibited from any residential district.
5. If the provisions of (4) and (5) above cannot be reasonably complied with because of unique characteristics of the lot, the property owner may request a variance from the Zoning Board of Appeals.
6. No recreational unit may be occupied on a permanent basis in any zone. No recreational unit may be occupied for more than 180 days per year in any zone.

## **SECTION 1742. WIND TURBINES**

No Wind Turbine shall be constructed or located within the City of South Haven unless a Special Use Permit has been issued by the City of South Haven Planning Commission to the Facility Owner or Operator approving the construction of the facility pursuant to Section 1500 in total. Maintenance of existing Wind Turbines shall not require a Special Use Permit modification. Replacement of existing Wind Turbines shall not require a Special Use Permit modification if the standards of Section 1510.35 have not become more restrictive subsequent to the original Special Use Permit having been approved. Any physical modification to an existing Wind Turbine that materially alters its original size, type or specifications shall require a special use permit amendment.

## **SECTION 1743. Short-Term Rental Business Units.**

Short-term rental business units are the more intense of the two types of short-term rental units defined in this zoning ordinance, as they can be rented for more than 6 terms and more than 28 days in a calendar year. They are subject to the following regulations:

- (a) *Initial selection of rental type*: Any dwelling unit that is registered as a short-term rental pursuant to Chapter 10, Article X of the City Code of the City Code as of the effective date of Ordinance No. 1045 may be designated and operated as a short-term rental business unit, subject to satisfactory completion of an inspection. The owner or rental agent for such dwelling unit shall notify the City of their intent to designate the dwelling unit as a short-term rental business unit on or before December 31, 2018.
- (b) *Established ("grandfathered") zoning use*. Upon initial designation pursuant to subsection (a), a short-term rental business unit shall be considered an established zoning use that may continue to exist on the zoning lot unless and until the short-term rental registration: (1) lapses for a period of a year or more; or (2) is revoked pursuant to

Section 10-245 of the City Code. If either of those circumstances occurs, future use as a short-term rental business unit shall be subject to the saturation controls provided in subsection (c).

- (c) *Saturation controls and other regulations for new uses.* For any dwelling unit not registered as a short-term rental business unit pursuant to subsection (a), use as a short-term rental business unit may be established only pursuant to the process described in subsection (d) below. The establishment of such uses shall be subject to the following regulations, which are designed to control the saturation of short-term rental business units and to minimize adverse effects on residential neighborhoods:

- (1) *1:4 ratio.* As described in detail in subsection (d) below, the City shall follow procedures to ensure that there is in general no more than 1 dwelling unit used as a short-term rental business unit for every 4 dwelling units that are not used a short-term rental business units.
- (2) *Conformance with current parking regulations.* A short-term rental business unit may not be established on a zoning lot that does not conform to the off-street parking regulations in Article XVIII of the zoning ordinance, even if the amount of off-street parking provided on the lot is lawfully nonconforming.
- (3) *Certain developments excluded.* The regulations in subsections (c)(1) and (c)(2) above do not apply to;
  - (A) Attached condominium units;
  - (B) Dwelling units within the following undeveloped or partially developed planned unit developments (PUDs): Sherman Hills, Maple Gate, Woodland Harbor, and Everett Park;
  - (C) Dwelling units receiving rent subsidies under the South Haven Housing Commission's Family Housing Program; and
  - (D) Dwelling units within large apartment complexes, which shall be defined for purposes of this section to mean units within multi-family dwellings (other than condominium projects) that contain more than 12 dwelling units.

Such dwelling units shall not be counted in the numerator or denominator when calculating the 1:4 ratio. Further, such dwelling units may be registered as short-term rental business unit at any time, in accordance with the process described in Chapter 10, Article X of the City Code; provided that such registration shall not be construed as an indication that the short-term rental of the property is in compliance with private bylaws, rental agreements, deed restrictions, or other privately imposed covenants.

- (d) *Annual allocation process.* For dwelling units not excluded under subsection (c)(3) above, new short-term rental business units may be established only as follows:

- (1) *Acceptance of applications.* The City shall accept and receive rental registration applications on an ongoing basis. However, except as otherwise provided in subsection (e), the City shall not act upon those applications until February of each year, beginning in February 2019.
- (2) *Annual staff report.* On or before January 15 of each year, beginning January 15, 2019, City staff shall prepare an official report including the following:
  - (A) A map showing all the parcels within the City containing dwelling units, and all parcels within the City with one or more dwelling units registered as a short-term rental business units, or that may be re-registered as short-term rental business unit pursuant to subsection 1743(b) (i.e. units for which the rental registration has lapsed for a period of less than 1 year) or pursuant to subsection (e) below following a satisfactory inspection.
  - (B) A count of the total number of rental dwelling units and total number of short-term rental business units within the City, excluding the dwelling units described in subsection (c)(3) above.
  - (C) A statement of the maximum number of dwelling units that can be registered as new short-term rental business units during the allocation process commencing on January 31, calculated so that (outside of the excluded areas

described in subsection (c)(3) above) there will be no more than 1 dwelling unit used as a short-term rental business unit for every 4 dwelling units that are not used as short-term rental business units.

- (3) *Closing of acceptance window.* January 31 (or the next business day thereafter) shall be the last day that rental registrations are accepted for each annual allocation cycle.
- (4) *Application review and approval.*
  - (A) Following the closing of the application window, the City shall review each application to determine whether the amount of off-street parking provided on the lot is non-conforming. If not, the application will be denied.
  - (B) City staff will then calculate the total number of remaining applications. If that number is less than the number of new registrations available (as stated in the annual staff report), all such applications will be conditionally approved, subject to successful completion of an inspection and subject to all other requirements in Article X, Chapter 10 of the City Code.
  - (C) If the City has received more applications than there are available registrations, the City Clerk will conduct a drawing to randomly select applications for conditional authorization. The drawing will occur in a public meeting held pursuant to the Open Meetings Act, on or before February 28. Such applications shall be granted upon successful completion of an inspection and satisfaction of all other requirements in Article X, Chapter 10 of the City Code.
- (e) *Allocation of available registrations following allocation process.* If, after completion of the annual allocation described above, additional registrations are available under the 1:4 ratio limitation, the City shall issue such available registrations to applicants who: (i) apply prior to September 1 of that year; (ii) complete a satisfactory inspection, and (iii) satisfy all other requirements applicable requirements in this ordinance and in Article X, Chapter 10 of the City Code.
- (f) *Temporary hardship waiver.* Notwithstanding the regulations in subsection (c) above, a property owner may seek a temporary hardship waiver from the Zoning Administrator allowing a dwelling to be temporarily used as a short-term rental business unit for a period of up to one year. The Zoning Administrator shall grant such a waiver upon finding that, if a waiver is not granted, the property owner will suffer a financial hardship due to circumstances beyond the owner's control. The following regulations shall apply to temporary hardship waiver requests:
  - (1) To sufficiently establish a financial hardship, the applicant must show that it is more likely than not that the applicant would be unable (despite reasonable efforts) to rent the dwelling unit on a long-term basis at a rate that would cover the mortgage payment, utility bills, and other fixed costs associated with owning the property.
  - (2) To establish circumstances beyond the owner's control, the applicant must show that: (1) the applicant either inherited the dwelling unit or purchased it with the intent to live in it or rent it to a family member on a long-term basis; and (2) the intended occupancy is no longer possible due to a death in the family, unexpected job change, or other similar circumstance.
  - (3) A temporary hardship waiver granted under this subsection shall not establish vested rights to continue using the property as a short-term rental business unit beyond the expiration of the waiver period.
  - (4) Waiver applications brought under this section are not subject to the variance standards in Section 2205 and 2206 of this ordinance.
- (g) *Annual registration and registration fee.* Short-term rental business units must be registered annually with the City pursuant to Chapter 10, Article X of the City Code, subject to a fee in an amount or amounts reasonably sufficient to off-set the costs of administering the City's short-term rental regulations. Such fee may be established in the City Code or by resolution of the City Council.



#### **Sec. 1744. Short-term Rental Personal Units.**

Short-term rental personal units are the less intense of the two types of short-term rental units defined in this zoning ordinance, as they can be rented for no more than 6 terms or 28 days in a calendar year. They are subject to the following regulations:

- (a) *Registration.* Any dwelling unit may be registered as a short-term rental personal unit, subject to the following regulations:
  - (1) If a person or entity owns more than one dwelling unit in the City that is used for short-term rental activity, only one such dwelling may be registered as a short-term rental personal unit.
  - (2) A short-term rental personal unit must be registered for a maximum occupancy of no more than 12 persons, even if the formula in Chapter 10, Article X of the City Code would allow a greater occupancy.

If a dwelling unit is ineligible to be registered as a short-term rental personal unit pursuant to the regulations above, any short-term rental activity within the unit must be in conformance with Section 1743 above.

- (b) *Prior notice to zoning department required.* Prior to the first day of occupancy for a short-term rental conducted under subsection (a), the owner or rental agent shall notify the City of the start and end dates for the short-term rental term using a written form or other means designated by the zoning department. The date range of the rental term shall also be posted in a visible location on the property as described in Chapter 10, Article X of the City Code.
- (c) *Registration and inspection.* Short-term rental personal units must be registered annually with the City pursuant to Chapter 10, Article X of the City Code, and are subject to an inspection every 2 years. The owner of a short-term rental personal unit shall pay a one-time fee at the time of each required inspection, in an amount intended to cover the cost of the inspection only. Such fee shall be established by resolution of the City Council.

**ARTICLE XVIII  
PARKING AND LOADING SPACES**

**SECTION 1800. OFF-STREET PARKING REQUIREMENTS**

Except in the Central Business District, the required number of paved automobile off-street parking spaces with adequate access thereto shall be provided in all districts at the time of erection or enlargement of any main building or structure. The number of off-street parking spaces in conjunction with all land or building uses shall be provided prior to the issuance of a Certificate of Occupancy, as herein after prescribed. (Amended 10/15/87; Ord. No. 701)

1. Residential off-street parking spaces may be located within a rear yard or within a side yard. Residential off-street parking spaces shall not be permitted within a required front yard unless otherwise provided in this Ordinance. Single family residential off-street parking spaces may be located on a driveway or other approved parking surface within a minimum rear yard setback or a minimum side yard setback, and driveways and other approved parking surfaces may be constructed up to the lot line. Residential off street parking for more than four (4) vehicles may be located on a previous surface other than gravel.
2. Off-street parking for other than residential use shall be either on the same lot or within three hundred (300') feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership by the applicant shall be shown of all lots or parcels intended for use as parking by the applicant.
3. Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage or combination thereof, and shall be located on the premises they are intended to serve and are subject to the provisions of Section 1708 - Accessory Buildings of this Ordinance. However, no provision in this Zoning Ordinance shall be read to prohibit residential off-street parking on a driveway or other approved parking surface within a minimum rear yard setback or a minimum side yard setback.
4. Any area once designated as required off-street parking shall never be changed to any other use unless and until equal facilities are approved and provided elsewhere.
5. Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
6. Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
7. In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Planning Commission may waive the dual parking requirement of 6. above by grant of a special use permit which specifies the terms and conditions for parking of each use.
8. The storage of merchandise, motor vehicles for sale, trucks, semi-trucks, trailers, or the repair of vehicles is prohibited within off-street parking areas. From Labor Day to Memorial Day marinas may use parking lots for boat storage.
9. For those uses not specifically mentioned, the requirements of off-street parking facilities shall be in accord with a use which the Zoning Administrator considers is similar in type.

10. When units or measurements determining the number of required parking spaces results in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded, and fractions over one-half (1/2) shall require one (1) parking space.
11. For the purpose of computing the above number of parking spaces required, the definition of usable floor area in Article II, Definitions, Section 201 shall govern.
12. In cases where an applicant can demonstrate that the required number of spaces is excessive, the planning commission may allow some parking area be set aside as greenspace. Should the additional parking be found to be necessary, the zoning administrator shall require the remaining spaces to be installed.
13. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule; provided that if more than one use occupies a site, then the combined parking requirements for each of the permitted uses must be met unless the request is processed according to the requirements of Section 1800.7(above):

	<b>Use</b>	<b>Number of Minimum Parking Spaces Per Unit of Measure</b>
a.	Residential	
	1) Residential, single-family and two-family	Two (2) for each dwelling unit with three (3) or less bedrooms. For single family residences with four (4) or more bedrooms, one (1) additional space is required for each additional bedroom.
	2) Residential, multiple-family	Two (2) for each dwelling unit.
	3) Assisted Living Facilities for less than seven (7) patients	One (1) for each two (2) units, and one (1) for each employee. Should units revert to general occupancy, then two (2) spaces per unit shall be provided.
	4) Mobile home park	Two (2) for each mobile home site and one (1) for each employee of the mobile home park.
b.	Institutional	
	1) Religious Institutions	One (1) for each four (4) seats in the main area of worship.
	2) Hospitals	One for each two (2) beds and every three (3) employees
	3) Assisted Living Facilities for greater than six (6) patients	One (1) for each four (4) beds.
	4.) Elementary and junior high schools	One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium.

	5) Senior high schools	One (1) for each one (1) teacher, employee, or administrator and one (1) for each ten (10) students, in addition to the requirements of the auditorium or gymnasium, whichever is greater.
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	6.) Private clubs, fraternal organizations, or lodge halls	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes.
	7) Private golf clubs, swimming pool clubs, tennis clubs or other similar uses	One (1) for each two (2) member families or individuals plus spaces required for each accessory use, such as a restaurant or bar.
	8) Golf courses open to the general public, except miniature or "par-3" courses	Six (6) for each one (1) golf hole and one (1) for each (1) employee, plus spaces required for each accessory use, such as a course restaurant or bar.
	9) Fraternity or sorority	One (1) for each five (5) permitted active members, or one (1) for each two (2) beds, whichever is greater.
	10) Stadium, sports arena, or similar place of outdoor assembly	One (1) for each three (3) seats or six (6) feet of benches.
	11) Theaters and auditoriums	One (1) for each three (3) seats, plus one (1) for each two (2) employees.
	12) Nursery school, day nurseries or Group Care with more than six (6) persons under care	One (1) for each three hundred and fifty (350) square feet of usable floor area
	13) Beaches, parks and other outdoor municipal recreation areas	As established by City Parks Director based on the size, accessibility and facilities available
	14) Bus, taxicab and other transit terminals	Five (5) spaces plus one (1) space for each one hundred (100) square feet of waiting area
	15) Government buildings	One (1) space for each two hundred fifty (250) square feet of gross floor area used by the public and one (1) space for each

		six hundred (600) square feet of gross floor area not used by the public, unless the City Manager determines more is needed
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	16) Community centers	One (1) space per two hundred fifty (250) square feet of gross floor area
	17) Utility (gas, electric, telephone, communication towers, etc.), including generating plants	One (1) space per employee, plus one (1) space per vehicle stored outside
c.	Business and Commercial	
	1) Planned commercial or shopping center	One (1) for each two hundred and fifty (250) square feet of usable floor area.
	2) Auto wash (automatic)	One (1) for each one (1) employee. In addition, reserved parking spaces equal in number to five (5) times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by twenty (20).
	3) Auto wash (self-service or coin operated)	Three (3) for each washing stall in addition to the stall itself.
	4) Automatic Teller Machine (ATM) (free standing, not applicable when associated with another use)	Two (2) spaces per machine
	5) Beauty parlor Hair salon, day spa or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one-half (1/2) space for each additional chair. Two (2) for each chair or work station.
	6) Boat launching ramps	Twenty-five (25) spaces per ramp.
	7) Marinas	One and one-half (1-1/2) spaces per boat mooring slip.
	8) Bowling alleys	Five (5) for each one (1) bowling lane, plus accessory uses.
	9) Dance halls, pool or billiard parlors,	One (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county

	roller or ice skating rinks, exhibition halls, and assembly halls without fixed seats	or state fire, building or health codes.
	10) Restaurant or establishment for sale and consumption of beverages, food or refreshments on the premises including drive-in	One (1) for each seventy-five (75) square feet of usable floor area or one (1) for each two (2) persons allowed within the maximum occupancy load as established by the local, fire marshal; plus at least four (4) spaces between the take-out window and the road for any drive-through restaurant.
	11) Furniture, antique, appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses (including resale shops but not flea markets)	One (1) for each eight hundred (800) square feet of usable floor area. (For that floor area used in processing, one (1) additional space shall be provided for each two (2) persons employed therein.)
	12) Gasoline and other fuel service station (see convenience store, if it is a multiple use)	Two (2) for each lubrication stall, rack or pit; and one (1) for each fuel pump.
	13) Laundromats and coin operated dry cleaners	One (1) for each two (2) washing and/or dry-cleaning machines.
	14) Miniature or "par-3" golf courses	Two (2) for each one (1) hole plus one (1) for each one (1) employee
	15) Mortuary establishments	One (1) for each fifty (50) square feet of usable floor area.
	16) Motel, hotel or other commercial lodging establishments	One (1) for each one (1) occupancy unit plus one (1) for each one (1) employee.
	17) Bed & breakfast.	One (1) for each sleeping room plus two (2) for permanent residents
	18) Motor vehicle sales and service establishments	One (1) for each two hundred (200) square feet of usable floor area of sales room and one (1) for each one (1) auto service stall in the service room.
	19) Retail stores with less than 60,000 square feet	One (1) for each two hundred and fifty (250) square feet of usable floor area.
	20) Retail stores with greater than	One (1) space for each 250 square feet of floor area up

60,000 square feet		to 50,000 square feet; One (1) additional space for every 275 square feet for floor area over 50,000 but less than 450,000 square feet; One (1) space per every 300 square feet of floor space over 450,000 square feet.
21) Carry-out food or walk-up establishment including bakeries, ice cream shops and delicatessens		One (1) for each employee, plus five if carry-out only, or if all seating is exterior only.
d.	Professional Offices	
	1) Banks	One (1) for each two hundred and fifty (250) square feet of usable floor area.
2) Business offices or professional offices, except as indicated in the following item (3)		One (1) for each two hundred and fifty (250) square feet of usable floor area.
3) Professional offices of doctors, dentists, or similar professions (including clinics)		One (1) for each one hundred (100) square feet of usable floor area in waiting rooms, and one (1) for each examining room, dental chair, or similar use area.
e.	Other Commercial Recreation	
	a) Boat, canoe, jet ski and bicycle rental	Five (5) spaces per employee where it is the principal use; where it is an accessory use, parking may be waived partially or wholly at the discretion of the Zoning Administrator.
	c) Campground	Two (2) dust free 10'x30' sites for every campsite.
	d) Club or lodge	One (1) space for every three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building or health codes.
	e) Dance schools	One (1) space for each one hundred (100) square feet of dance floor area, plus one space for each six hundred (600) square feet of gross floor area.
	f) Golf driving range	One (1) space for each tee, plus one (1) space for each employee on the largest work shift.
	g) Health or fitness club, or martial arts schools	One (1) space for each two hundred (200) square feet of usable floor area, plus one (1) space for each employee.

	h) Indoor racquet courts	Three (3) spaces per court, plus one (1) space per employee on the largest shift, plus spaces for any other principal or accessory uses.
	i) Indoor soccer facility	Fifty (50) spaces for every playing field, plus one (1) space for every three(3) seats of spectator seating (one seat equals two feet of bench length), plus two (2) spaces for every three (3) employees on the maximum shift, but in no case less than one-hundred (100) spaces.
	j) Racetrack	One (1) space for every four (4) seats; one seat is equal to two (2) feet of bench length.
k) Rifle and archery range	A minimum of five (5) spaces plus one (1) space per target area	
l) Racquet sports	Three (3) spaces, plus three (3) spaces per court or one (1) per three (3) spectator seats, whichever is greater.	
m) Theme park, scenic, area, amusement ride, water slide, go cart track and similar uses	Two (2) spaces per three (3) seats on amusement rides or twenty (20) spaces per ride or attraction with no specific or defined seating.	
n) Video or pinball arcade	One (1) spare One (1) space per game, provided that where such games are an accessory use, one (1) space is required for each game above four (4) games.	
9) Garden center, greenhouse	One (1) space for each three (300) hundred (with retail sales) square feet of interior floor area plus one (1) space for each two thousand (2000) square feet of exterior sales area.	
10) Open air business	One (1) space per three thousand (3000) square feet of exterior sales area, except for open air flea markets which require one (1) space for each three hundred (300) square feet of exterior sales area.	



	11) Office supply, factory and mill supplies, and related activities	One (1) space for each four hundred (400) square feet of gross floor area
	12) Personal service establishment	One (1) per two hundred fifty (250) square feet of gross floor area plus one (1) per employee.
	13) Service establishments	One (1) per two hundred fifty (250) square feet of retail sales area and one (1) space for each four hundred (400) square feet of service area.
	14) Parcel delivery station	One (1) space per employee on largest shift and one (1) space per four hundred (400) square feet of gross floor area.
	15) Convenience store	One (1) space for every 250 feet of usable floor area
e.	Industrial and Manufacturing Establishments	
	1) Industrial or research establishments, and related accessory offices	Five (5), plus one (1) for every one and one-half (1-1/2) employees in the largest working shift. Space on site shall also be provided for all construction workers during periods of plant construction.
	2) Warehouses and wholesale establishments and related accessory offices	Five (5), plus one (1) for every one (1) employee in the largest working shift, or one for every seventeen hundred (1,700) square feet of usable floor area, whichever is greater.
	3) Adult entertainment	One (1) space per patron based on occupancy load as established by local, county, and state fire, building, or health codes, whichever is greater, plus one space per employee on the largest working shift.
	4) Auto body/paint shop	One (1) space per each service bay and one (1) per employee.
	5) Incinerators	One (1) per employee plus one (1) per each simultaneous truck

	6) Medical or dental laboratories	One (1) per two hundred (200) square feet of gross floor area
	7) Mini-warehouses (self-service storage facilities)	One (1) space per twenty (20) storage units plus one (1) space per employee.
8) Contract construction uses		One (1) space per employee plus one (1) space per company vehicle
f. Planned Unit Developments		Parking standards shall be established by the Planning Commission after receiving the recommendation of the Zoning Administrator based on the mix of proposed uses compared to the standards for those, or the most similar uses in this schedule.
g. Accessory and Incidental Uses		One (1) space per employee using or located in an accessory building or other incidental area shall be provided for all accessory or incidental uses in addition to parking required for all principal uses on a property.
h. Riverfront Parking		
		1) No parking area shall be required to be provided on-site for a water based business downstream of the Dyckman Avenue Bridge over the Black River.
		2) Upstream of the Dyckman Avenue Bridge, including waterfront property around the Celery Pond, no ship, boat, barge or vessel shall load or unload passengers at a marine terminal unless there shall be at least one (1) parking space for each three (3) seats, and one (1) parking space for each employee.
		3) Parking for other non-water based businesses on the Riverfront shall conform to the standards for that use as specified in this Article or elsewhere in this Ordinance.

**Section 1801. OFF-STREET PARKING SPACE LAYOUT, STANDARDS, CONSTRUCTION AND MAINTENANCE**

Whenever the off-street parking requirements in Section 1800 above require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed and maintained in accordance with the following standards and regulations:

1. No parking lot shall be constructed unless and until a permit therefore is issued by the Zoning Administrator. Applications for a permit shall be submitted to the Zoning Administrator on a form provided for that purpose and shall be showing

2. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements (see Figure 18-1):

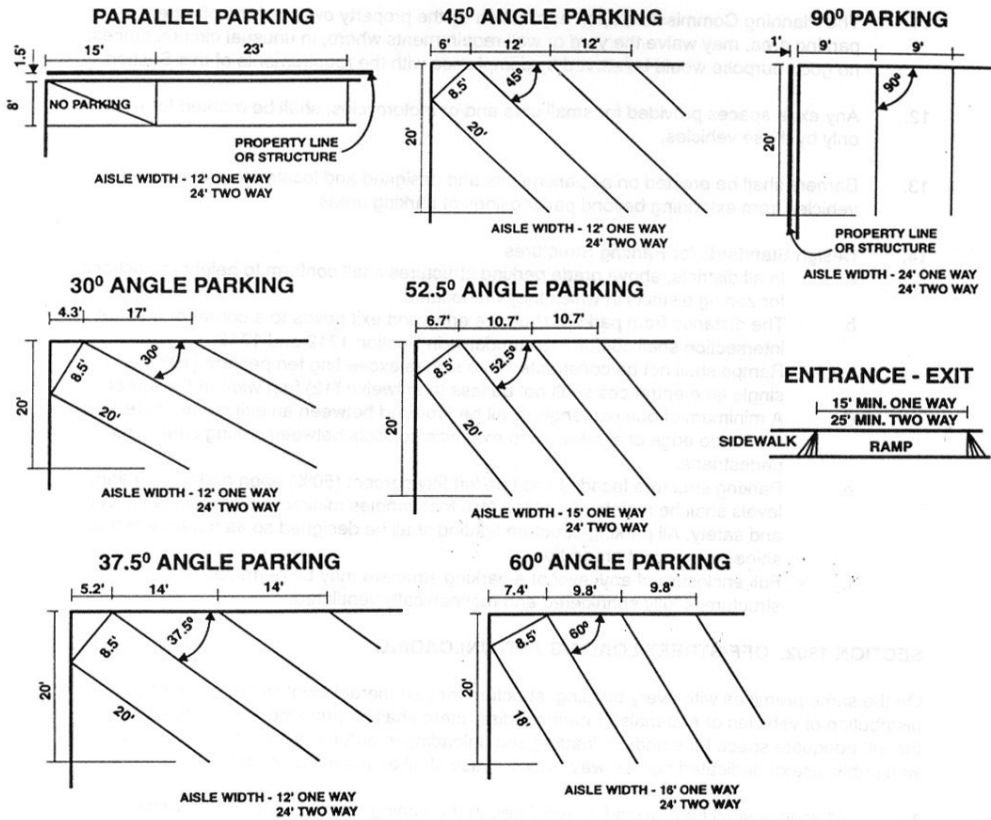
<u>Parking (Degrees)</u>	<u>Aisle Width</u>	<u>Space Width</u>	<u>Tier Width</u>	<u>Total Width</u>	
				<u>One Tier</u>	<u>Two Tiers</u>
0 parallel	12'	8'	23'	20'	28'
30 to 45	12'	8'-6"	20'	32'	52'
46 to 59	15'	8'-6"	20'	35'	58'
60' to 74'	16'	8' 6"	20'	36'	60'
75 to 90	24'	9'	20'	44'	64'

Boat Launching Areas:

30 to 53	20'	10'	45'	60'	100'
54 to 74	25'	10'	45'	70'	115'
75 to 90	45'	10'	45'	90'	135'

3. All spaces shall be provided adequate access by means of maneuvering lanes (listed as Aisle Width on Figure 18-1). Backing directly onto a street or alley shall be prohibited.
4. Adequate ingress and egress to a parking lot by means of clearly limited and defined drives shall be provided for all vehicles. (See Section 1716 for access standards.)
5. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential use shall not be across land zoned for single-family residential use.
6. All aisle widths shall permit one-way traffic movement, except that the 90 degree pattern requires two-way movement. Two-way movement widths for other patterns are illustrated on Figure 18-1.
7. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five (25') feet distant from adjacent property located in any single-family residential district.
8. When a front yard setback is required, all land between said wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material, and ornamental trees per the requirements of Section 1709. The ground shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, and neat and orderly in appearance.
9. The entire parking area, including parking spaces and aisle widths required under this Section, shall be provided with asphalt, concrete or grass paver (or the equivalent) surfacing or as otherwise permitted in this Section in accordance with specifications.

- approved by the City Engineer. The use of recycled products will be encouraged.
- a. Boat storage yards may either be asphaltic, concrete, grassphalt, or crushed stone/gravel whichever, in the discretion of the City Engineer, is likely to reasonably result in a surface that poses few if any nuisances for adjacent homes and businesses.
  - b. All parking stalls and pavement shall be striped, marked or otherwise delineated, using the same pattern as shown on the approved site plan. The outside edge of the parking area shall be delineated in a way to deter drivers from driving on non-paved areas.
  - c. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings. Drainage Plans are to be approved by the City Engineer.
  - d. Pervious paving of required parking areas is encouraged. Examples of pervious paving include pervious asphalt, brick or concrete pavers set in an aggregate base, grass paver or the equivalent.
10. All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only. See standards in Section 1710.
  11. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10') feet from such alley line in order to permit a wider means of access to the parking area. The Planning Commission, upon application by the property owner of the off-street parking area, may waive the yard or wall requirements where, in unusual circumstances, no good purpose would be served by compliance with the requirements of this Section.
  12. Any extra spaces provided for small cars and/or motorcycles, shall be marked for use only by those vehicles.
  13. Barriers shall be erected on all parking lots and designed and located to prevent parked vehicles from extending beyond parking lines of parking areas.
  14. Design Standards for Parking Structures
    - a. In all districts, above grade parking structures shall conform to height restrictions for zoning districts in which they are located.
    - b. The distance from parking structure entry and exit points to a corner of a street intersection shall conform to standards in Section 1712 and 1716.
    - c. Ramps shall not be constructed with slopes exceeding ten percent (10%) and single lane entrances shall not be less than twelve (12) feet wide at the street.
    - d. A minimum of one car length shall be provided between an exit control gate and the inside edge of a sidewalk.
    - e. Parking structure facades shall be left fifty percent (50%) open and interior light levels shall be maintained at ten (10) foot candles minimum, to enhance security and safety. All parking structure lighting shall be designed so as not to reflect or shine on adjacent properties.
    - f. Full enclosure of any level of a parking structure may be permitted only if such structure is fully sprinklered and mechanically ventilated.



**SECTION 1802. OFF-STREET LOADING AND UNLOADING**

On the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided and maintained, on the lot, adequate space for standing, loading and unloading in order to avoid undue interference with public use of dedicated right-of-way. Such space shall be provided as follows:

1. All spaces shall be provided as regulated in the Zoning District, except as hereinafter provided for industrial districts and fuel trucks at gasoline stations.
2. Within an industrial district, all spaces shall be laid out in the dimension of at least ten by fifty (10' x 50') feet, or five hundred (500) square feet in area, with a clearance of at least fourteen (14') feet in height. Loading dock approaches shall be provided with a pavement having an asphaltic or Portland cement binder so as to provide a permanent, durable and dustless surface. All spaces in I-1 and I-2 Districts shall be provided in the following ratio of spaces to floor area:

<u>Gross Floor Area (in square feet)</u>	<u>Loading and Unloading Space Required</u>
0 - 1,400	None
1,401 - 20,000	One (1) space
20,001 - 100,000	One (1) space, plus one (1) space for each twenty thousand (20,000) square feet in excess of twenty thousand and one (20,001) square feet
100,001 and over	Five (5) spaces

3. All loading and unloading in an industrial district shall be provided off-street in the rear yard or interior side yard and shall, in no instance, be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard when the setback is equal to at least fifty (50') feet. Loading and unloading spaces shall be designed to accommodate forward movement only.
4. All gasoline stations shall provide sufficient space for loading and unloading of gasoline and other fuels that fuel trucks do not block ingress and egress from the property, or block space reserved for auto parking.

**SECTION 1803. RESERVED**

(Amended 6/18/07, Ord. # 955)

**ARTICLE XIX  
NONCONFORMING USES AND BUILDINGS**

**SECTION 1900. NONCONFORMING USES OR BUILDINGS BY REASON OF THIS ORDINANCE**

It is recognized that there exists within the districts established by the Ordinance and subsequent amendments, lots, buildings, structures and uses of land and structures which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance. Any lawful use of a building or premises existing at the time of the enactment of this Ordinance may be continued, although such use or building does not conform to the provisions of this Ordinance, provided that there is no increase in the degree or manner of nonconformance.

**Sec. 1901. LEGAL NONCONFORMING LOTS, USES, AND STRUCTURES**

1. *Nonconformities generally.* A legal nonconforming lot, use, or structure legally existing at the time when this Ordinance was adopted or is amended in relevant part may be continued even if it no longer conforms to the provisions of this Ordinance. However, a legal nonconformity may not be increased in any manner unless otherwise provided in this Ordinance.

2. *Nonconforming uses.* The following regulations apply to nonconforming uses:

a. *Increases in use.* Increases in nonconforming uses include, but are not limited to:

- i. Occupying a greater area of land than was occupied at the time the use became nonconforming.
- ii. Moving the nonconforming use in whole or part to any other portion of the lot than was occupied when it became nonconforming, unless approved under the provisions of this Article, a variance, or a special use permit.

b. *Replacement with conforming use.* Whenever a nonconforming use is replaced by conforming use, the nonconforming use may not be resumed and any subsequent use of the land must conform to the regulations for the district in which it is located.

c. *Discontinuance of nonconforming use.* Whenever a nonconforming use is discontinued for a period of 12 months or more, the nonconforming use may not be resumed and any subsequent use of the land must conform to the regulations for the district in which it is located.

3. *Nonconforming structures.* The following regulations apply to nonconforming structures:

a. *Change in use in nonconforming structure.* A nonconforming structure may not be enlarged or altered in a way that increases its nonconformity, but the use of a nonconforming structure may be changed or altered to any use permitted in the district in which it is located. Further, any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of the relevant adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

b. *Destruction.* If a nonconforming structure is destroyed by any means to an extent of more than sixty (60%) percent or twice its assessed valuation at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. Where

nonconforming status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

c. *Relocation of structure.* If a nonconforming structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located.

d. *Single-family dwellings in business districts.* In business districts, existing single-family dwellings are permitted to add accessory buildings and uncovered decks in accordance with the requirements of the districts in which they are located.

4. *Changes toward conformity.* Changes on a lot that help bring it into or closer to conformity with this Ordinance are permitted. Such activities include, but are not limited to increasing parking where it is deficient, adding landscaping screening, or fencing where it otherwise is required or would help mitigate a negative impact on abutting property, or replacing signs which do not conform with this Ordinance with ones that do.

5. *Additions relating to multi-family occupancy.* Decks, stairways, fire escapes and wheelchair ramps shall not be considered an expansion to a multiple-family residential nonconforming structure in an R-1 or R-2 district if all of the following conditions have been met:

- a. The addition meets the dimensional standards of the zoning ordinance;
- b. There is no roofing, screening or enclosure of the addition;
- c. The height of the floor of a deck addition is not above the first story floor level of the main structure being added to;
- d. No part of a deck addition structure is located above the guardrail or handrailing height as required by the building code; and
- e. The baluster area between the flooring and the guardrail or hand railing shall have at least a fifty (50%) percent open area.

6. *Fences and dumpster corrals.* Fences and dumpster corrals shall not be considered an expansion of a nonconforming use if the proposed fence or dumpster corral meet the zoning ordinance standards for a conforming use.

## **SECTION 1902. NONCONFORMANCE BY REASON OF HEIGHT, AREA, YARDS, PARKING AND OFF-STREET LOADING**

A conforming use which does not conform to height, area, yard, parking or off-street loading provisions only may be altered, remodeled, modernized or enlarged, provided no additional encroachment of such provisions is occasioned thereby.

## **SECTION 1903. CHANGE OF USE**

The use of a nonconforming building may be changed to another nonconforming use if the Zoning Board of Appeals finds that such new use would not markedly change the degree of nonconformance and would preserve or improve the desirability of the adjacent conforming uses. The Zoning Board of Appeals may impose such structural changes, building or site modifications or other requirements as it deems necessary to meet the above requirements. This section shall not be construed to permit the conversion of a nonconforming use to a prior nonconforming use nor to waive other provisions of this Article.

## **SECTION 1904. RESTORATION AND REPAIRS**

Such repairs and maintenance work as are required to keep a nonconforming building or structure in a sound and modern condition may be made. A nonconforming building or structure



which is damaged or destroyed by fire, wind, or other calamity may be restored and the occupancy or use, as it existed at the time of such destruction, may be continued or resumed.

1. Changes to the location of a foundation or footprint of a nonconforming single-family residence destroyed by fire, wind or other calamity pursuant to Section 1904 may be made if the Zoning Administrator determines that the dimensional nonconformity of the structure is reduced or unchanged by said changes. If the property owner holds title to contiguous lots, or the lot is large enough to reconstruct the changed building footprint in a location which complies with the dimensional standards of the zoning district, the structure shall be rebuilt as nearly as possible in compliance with all Ordinance requirements as determined by the Zoning Administrator.
2. Restoration shall be started within a period of one year of the time of such damage and diligently pursued to completion.
3. Where applicable, restoration of any use, building, or structure, damaged by flood within the floodplain or flood fringe areas, shall require the approval and permission of the Michigan Department of Environmental Quality and the Federal Flood Insurance Administration.
4. Nothing in this Article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official, unless the building has been condemned, in which case it shall not be restored. Restoration to a safe condition shall include changes that bring the nonconforming use into conformity, or more nearly into conformity with this Ordinance.
5. Notwithstanding the provisions of the foregoing, structures within the Monroe Park Subdivision (bounded by Avery Street on the north; North Shore Drive on the east; Lake Michigan on the west; and the Black River on the south) damaged or destroyed by fire, wind, or other calamity may be restored and the occupancy or use, as it existed at the time of such destruction, may be continued or resumed.

**SECTION 1905.** Reserved for Future Use.

#### **SECTION 1906. ELIMINATION OF NONCONFORMING USES BY ACQUISITION**

In accordance with Act 207 of the Public Acts of 1921, as amended, the City Council may, from time to time, acquire properties, or an interest therein, on which nonconforming uses or structures are located by condemnation or otherwise, and may remove such uses or structures and resell the property for a conforming use or develop it for public use. The net cost of said acquisition may be assessed against a benefit district, or may be paid from other sources of revenue.

#### **SECTION 1907. NONCONFORMING DUE TO RECLASSIFICATION**

The forgoing provisions of this Article shall also apply to buildings, structures, land, or uses which hereafter become nonconforming due to any reclassification of districts under this Ordinance or any subsequent change in the regulations of this Ordinance.

#### **SECTION 1908. DISCONTINUANCE OF NONCONFORMING USE**

When a nonconforming use of a structure, land, or structure and land in combination, is discontinued or abandoned for twelve (12) consecutive months, the structure, the land, or structure and land in combination, shall not thereafter be used except in conformance with the provisions of the zone district in which it is located.

**SEC. 1909. NONCONFORMING LOTS, AND NONCONFORMING LOTS OF RECORD.**

A principal building or structure and customary accessory buildings or structures may be erected on any single nonconforming lot or any single nonconforming lot of record, provided that required yard setbacks and other requirements not involving area or width, or both, of the lot, shall conform to the provisions of this Ordinance in the district in which such lot is located. However, if two or more nonconforming lots of record with continuous frontage in single ownership do not meet the requirements established for lot width and area for each individual lot of record, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said undivided parcel shall be used or divided in a manner which diminishes compliance with lot width and area requirements established by this Ordinance.

**SECTION 1910. CHANGE OF TENANCY OR OWNERSHIP**

The use of a lawful nonconforming use or structure runs with the property and may be sold to another person, provided the nonconforming use of the property remains consistent with the requirements of this Article (see Section 1908).

**SECTION 1911. HARDSHIP CASES**

Nonconforming buildings or structures may be structurally changed, altered or enlarged with the approval of the Zoning Board of Appeals when the Board finds that the request is a case of exceptional hardship in which failure to grant the relief requested would unreasonably restrict continued use of the property or would restrict valuable benefits that the public currently derives from the property as used in its nonconforming status; except, that any approval for structural changes, alteration or enlargement may be granted only with a finding by the Board that approval will not have an adverse affect on surrounding property and that it will be the minimum necessary to relieve the hardship.

**SECTION 1912. PERMITS**

It shall not be necessary for an owner of a legal nonconforming structure or use, existing on the effective date of this Ordinance to obtain a Zoning Permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use for which a zoning or other permit under this Ordinance has been issued, shall be renewed, altered, or extended as may be authorized by this Article until a new Zoning Permit has been issued by the Zoning Administrator. In such cases, the Zoning Permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.

**SECTION 1913. DIMENSIONAL NONCONFORMING STRUCTURES**

A structure which holds only permitted uses, but which does not meet the dimensional requirements of the zoning district existing at the time of enactment of this Ordinance shall be considered a dimensional nonconforming structure. The structure may continue to be used and maintained, although such structure does not conform to the provisions of this Ordinance, provided there is no increase in the degree or manner of nonconformance to the requirements of the ordinance, with the following exceptions:

- a. An addition to a dimensional nonconforming structure which is inside the existing footprint of the structure and meets the zoning district standards for height is permitted.
- b. A dimensional nonconforming structure which is damaged or destroyed by fire, wind, or other calamity may be restored and the occupancy or use, as it existed

at the time of such destruction may be continued or resumed under the provisions of Section 1904.

- c. A nonconforming residential structure in the R-1, R-2 or RM-1 Districts may be enlarged along the existing building lines in the rear and side yards only as long as the parallel line of the structure does not encroach any closer to the side or rear property lines than the conditions that presently exist and provided that the resulting setback to the drip edge of the building addition is no closer than three (3') feet to any property line. Such addition must comply in all other respects with all other provision of this ordinance. (Amended 1/3/11, Ord.988)

## ARTICLE XX SIGNS

### SECTION 2000. INTENT AND PURPOSE

The purpose of this article is to establish a comprehensive scheme for the regulation of signs in the city. More specifically, this article seeks to:

1. Encourage the effective use of signs as a means of communication and to facilitate navigation from place to place within the city.
2. Balance the need for information for motorists and pedestrians with the need for traffic safety by limiting signs or characteristics of signs that may be distracting to drivers.
3. Balance the desire and need of individuals to express themselves through signs with the desire to maintain a pleasing, safe, and navigable environment for residents and visitors.
4. Provide liberally for the display of noncommercial messages in residential areas, in recognizing the unique value of residential signage as a means of exercising constitutional freedom of expression.
5. Protect and enhance the value of properties in the city by providing for signage consistent with the planned character of the area in which it is located.

### SECTION 2001. DEFINITIONS

For the purpose of this Article, the following words and phrases shall have the meanings indicated below, unless the context clearly suggests otherwise:

**Animated sign:** A sign employing actual motion or the illusion of motion. The term “animated sign” does not include signs on which the copy or image changes immediately without any prolonged transition.

**Awning or canopy:** A retractable or fixed roof like structure, typically constructed of non-rigid materials, such as canvas or plastic, on a supporting framework projecting from the exterior wall of a building that serves as a shelter, as over a storefront, window, door, or deck.

**Awning or canopy sign:** A sign affixed flat to or integral with the surface of an awning or canopy.

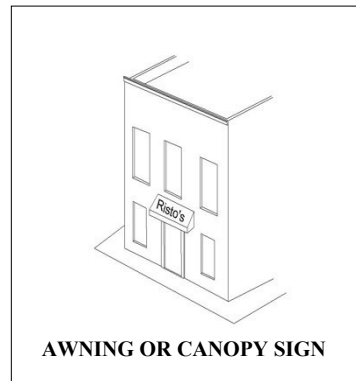
**Balloon sign:** A sign composed of an inflatable, non-porous air filled bag.

**Banner sign:** A fabric, plastic, or other sign made of non-rigid material without a supporting structural framework.

**Billboard:** A large outdoor sign elevated high off the ground so as to be seen by vehicular travelers on nearby roadways.

**Building code:** The current code or codes in effect in the City which governs the erection, alteration, maintenance and removal of structures, including all signs not specifically exempted from the provisions thereof.

**Commercial message:** A message conveyed by an economically motivated speaker, the purpose of which is to encourage a commercial transaction. Commercial speech may have artistic value or pertain to issues of public importance. Soliciting charitable donations is not commercial speech.



**Electronic message board:** A sign or portion of a sign on which copy changes automatically through the use of lamp banks, LEDs, or other electrically illuminated display, or through mechanical means.

**Electronic Combination Sign:** Any sign that meets the requirements of a standard sign but has some form of electrical message that scrolls or fades in/out to relay a message.

**Flag:** Any sign made of fabric or similar material with distinctive colors, patterns or symbols representing a governmental or political body, or otherwise displaying solely noncommercial messages. Any sign made of fabric that displays a commercial message shall be considered a "banner" for purposes of this article.



**Freestanding sign:** A sign that is not attached to a building, including ground and pole mounted.

**Government sign:** A sign erected or placed by the City of South Haven, Allegan or Van Buren Counties, the State of Michigan, or another governmental unit having jurisdiction and authority to place the sign.

**Incidental sign:** A sign placed on private property and placed in a manner so as to be read by persons within the site, not by persons passing by on streets or other rights-of-way. Incidental signs may convey messages such as "no parking," "entrance," "loading only," "telephone," "handicap," "no hunting," "no trespassing," or other noncommercial messages.

**Marquee:** A permanent, roof like structure projecting over an entrance, such as to a theater or hotel. A sign affixed flat against the surface of the marquee is a type of wall sign.

**Master sign plan:** An overall plan of signs to be placed or erected in a development, indicating the maximum area and locations of all signs, of all types, for each eligible advertiser on a lot or parcel.

**Mural:** A work of art or architectural detail, directly painted on a portion of a permanent structure.

**Noncommercial message:** A message that does not qualify as a commercial message. Speech communicating the time, temperature, or other similar information shall be considered noncommercial speech even if displayed on a sign on a commercial premises.

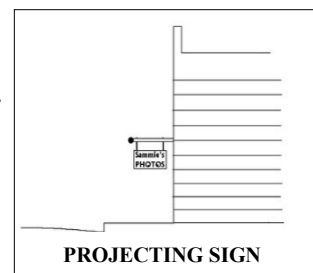
**Nonresidential Use:** Any use that is not a residential use for purposes of this zoning ordinance, irrespective of whether the use occurs within a residential zoning district. Nonresidential uses include commercial uses, industrial uses, and institutional uses such as churches and schools.

**Off-premises commercial message:** A commercial message that refers to a property, structure, or use not located on the same zoning lot.

**On-premises commercial sign:** A commercial message that refers to a property, structure, or use located on the same zoning lot.

**Non-permanent sign:** Any sign not permanently affixed to the ground or a building that is capable of being easily moved from place to place.

**Projecting or hanging sign:** A double-faced sign attached to a building or wall that extends perpendicularly from the face of the

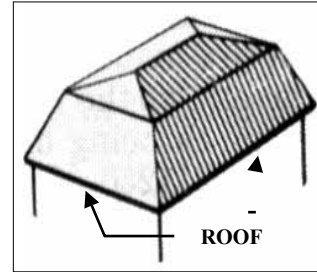


building or wall, including signs hanging from an overhead structure, such as an awning, marquee or covered porch.

**Reader board:** A sign or portion of a sign on which copy is manually changed.

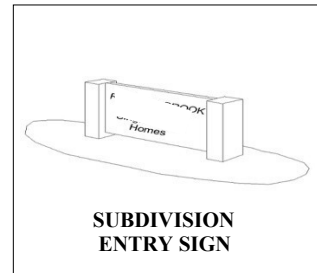
**Roof line:** The point of transition between a wall and a roof, or the top edge of a building parapet, whichever is higher, but excluding any cupolas, chimneys, or other minor projections. Both slopes of a mansard roof shall be considered above the roof line.

**Roof sign:** A sign erected above the roof line of a building.

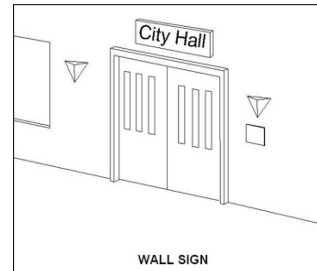


**Sandwich board sign:** A non-permanent sign for display on a city sidewalk or other place adjacent to a commercial building, such as A-frame or T-frame sign.

**Subdivision entry sign:** A freestanding sign that identifies or otherwise states the name of a subdivision, site condominium development, apartment complex, manufactured housing community, nonresidential use in a residential zone, business or industrial park, or other similar development and containing no other commercial message.



**Wall sign:** A single faced sign painted or attached directly to and parallel to the exterior wall of a building, extending no more than twelve (12) inches outward from that wall. A wall sign does not include signs affixed to an awning, canopy or marquee.



**Upper level building identification sign:** A single faced sign located above the ground floor level to identify a building, owner or principal tenant, but not including the building address. Upper level building identification signs shall be attached or painted directly to and parallel to the exterior wall of a building, extending no more than twelve (12) inches outward from the wall.

## SECTION 2002. SIGN PERMITS AND LICENSING

1. No person shall erect, alter, place or permit to be placed, or replace any sign or sign structure, except as provided herein, without first obtaining a permit.
2. To apply for a sign permit, the applicant must submit a Master Sign Plan for the site to the Zoning Administrator, which shall include the following:
  - a. An accurate site plan drawn to scale that shows the proposed location of each freestanding sign and the location of all buildings and driveways on the parcel.
  - b. An accurate elevation of each building wall intended to accommodate a sign showing the location, dimensions, and height of each sign above grade level.
  - c. A computation of the area of each sign on the parcel.
  - d. An illustration depicting each proposed sign, its size and proportions, color scheme, construction material and type of illumination.

3. A Master Sign Plan may be amended by filing a new plan which conforms to all of the requirements of the Sign Ordinance.
4. Binding Effect. Upon approval of a Master Sign Plan, no sign shall be erected, placed, painted, attached or maintained, except as shown on the Plan and a violation of the approved Plan may be enforced in the same manner as any provision of this Ordinance.
5. Sign permit approval shall be valid for a period of one (1) year. If the approved sign is not installed within that period, a new application must be submitted.
6. The provisions of this chapter apply to parcels in the M-43 / I-196 Business Loop Corridor Overlay Zoning District, except to the extent otherwise provided in section 2408.

### **SECTION 2003. EXEMPT SIGNS**

The following signs are exempt from the regulations of this article regarding height, area, and permits, unless otherwise specified herein:

1. Murals, provided that no more than 10% of the total mural area is devoted to text.
2. Essential service signs.
3. Incidental signs not exceeding four square feet in area per side. Such signs may contain a business logo, business name, or other on-premises commercial message not exceeding one  $\frac{3}{4}$  of a square foot.
4. Up to 4 flags per lot, with 2 additional flags permitted for any secondary two-way entrance serving the lot. Flag poles shall be set back at least 15 feet from adjacent property lines.
5. Signs or other advertising that is an integral part of a fabric umbrella, used primarily to provide shade or cover to customers at a dining table within an approved outdoor café.
6. Signs in the windows of commercial premises containing information regarding credit cards, business affiliations, hours of operation, whether the premises is open or closed, or other noncommercial or on-premises commercial message. The combined area of all such signs shall not exceed 30% of the total ground-floor window area of the premises.
7. A new or repaired sign face (other than an electronic message board sign) within an existing sign structure, provided that the new or repaired sign face does not display off-premises commercial speech.
8. Government signs. The messages on such signs are the speech of the governmental unit that placed them.

### **SECTION 2004. PROHIBITED SIGNS**

The following signs are prohibited, unless specifically allowed by this Article:

1. Pennants, streamers, balloon signs, and banners.
2. Signs that employ flashing, oscillating, blinking, or variable intensity light.
3. Animated signs.
4. Signs containing any moving parts or designed to give the appearance of having movement.

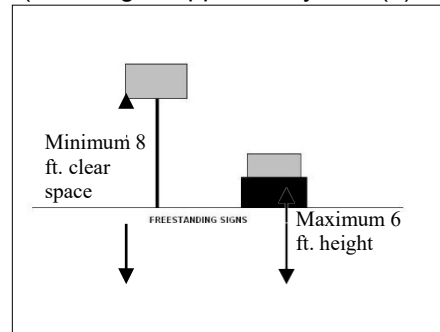
5. A sign erected in any place where it may, by reason of its position, shape, color, or other characteristic, interfere with, obstruct the view of, or be confused with any authorized traffic signs, signal, or device, or constitute a nuisance per se.
6. Roof signs.
7. Signs displaying an off-premise commercial message, except for Billboards permitted pursuant to Section 2005.
8. Any sign which is not specifically permitted by, or does not conform, to the provisions of this Article.
9. Any sign on a fence, screening wall, or natural feature, not including a mural.
10. Signs on a light pole, utility pole, flag pole, the pole of a freestanding sign, tree or other portion of a building or natural feature.
11. Illuminated signs serving home occupations or residential uses.
12. Any sign placed or erected in a public street, alley, right-of-way or other public place unless otherwise allowed by this Article. Any sign illegally placed within these areas may be removed by the City without written or other notice to the owner, lessee or person of the property adjacent to the public street, alley or right-of-way, or other public place upon which the sign is located.
13. Freestanding signs in residential districts, unless otherwise allowed herein.
14. Spotlights, searchlights, blinking lights, flashing lights, lasers or other high intensity lights sources to light the night sky.

#### **SECTION 2005. GENERAL SIGN PROVISIONS**

1. Signs may be internally or externally illuminated where permitted.
  - a. If externally illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or adjoining property.
  - b. All lighting shall be directed downward to protect the night sky.
2. Signs associated with a nonconforming use or structure shall conform to the sign regulations for the zoning district in which it is located.
3. Signs shall be maintained free of peeling, sun fading, staining, rust, or other conditions which impair the legibility or intelligibility of the sign.
4. Any signs permitted by the provisions of this article, including all supports, braces, guys and anchors, shall be maintained in conformance with this article and not cause a hazard to the public.
5. Signs shall not be placed in, upon, or over any public right-of-way, alley, or other public place, except as permitted by this Article and the requirements of Section 74-14 of the City Code as authorized by the City Council.
6. Wall signs advertising businesses located in individual units of a multiunit building shall be located at or near the entrance to the unit being advertised.

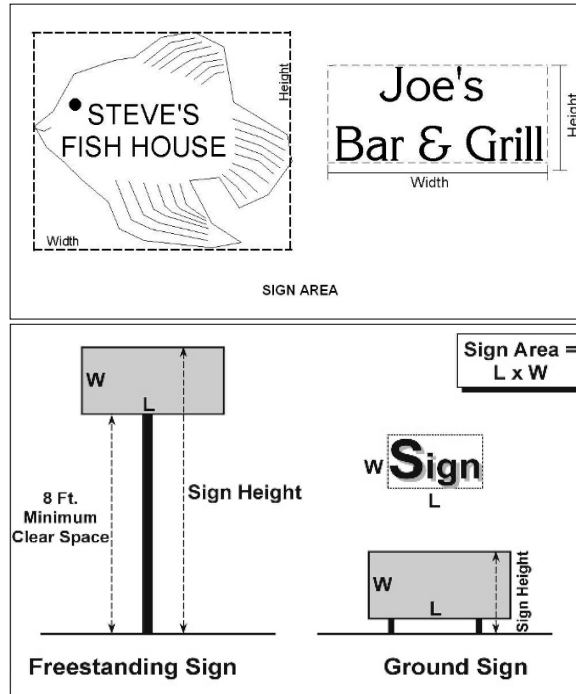


7. Electronic message boards and reader boards shall be permitted as follows:
- One (1) reader board or electronic message board shall be permitted per premise, as a part of either a freestanding sign or a wall sign, and comprise up to 50% of the total allowable sign area. Such freestanding ground signs with a digital sign cabinet cannot exceed 6 feet in height measured from the adjacent, existing grade to the uppermost portion of the of the sign face or frame.
  - A reader board or electronic message board shall not occupy more than one third (1/3) of the sign upon which it is located, if it is a electronic combinationsign.
  - Messages shall change via fade or scroll out methods only; animation shall not be permitted.
  - Voided or burned out lamping shall be promptly fixed.
  - The sign shall be at least one hundred (100) feet from any residential district.
  - Only soft amber lighting is permitted for lamping and read-outs no brighter than 3 foot-candles above ambient light conditions, and shall not cast light beyond the property line.
  - All electronic signs and reader boards shall have a dark background, with only the letter or numerical symbols illuminated.
  - Messages may change to a frequency not to exceed one message per tenseconds.
  - All electronic signs and reader boards must be turned off between the hours of 11 PM and 7 AM daily.
  - Electronic signs and reader boards are permitted in the R-1, R-2, and RM-1 district at institutions only. Examples being places of worship or schools.
  - Reader boards and electronic message boards shall be permitted only in the CBD, B-2, B-4, PB-1 and Industrial districts.
8. Any freestanding sign not resting directly on the ground (i.e. a sign supported by one (1) or more poles) that exceeds six (6) square feet and which is set back less than six (6) feet from the right-of-way shall maintain a minimum clear space of eight (8) feet from the bottom of the sign to the ground. Signs resting directly on the ground shall not exceed six (6) feet in height.
9. Wall signs shall not extend beyond the horizontal or vertical ends of the wall surface on which they are affixed, nor project more than twelve (12) inches from the building façade. A wall sign not affixed flat to a wall shall be at least eight (8) feet above a public sidewalk and at least fifteen (15) feet above public driveways, alleys and streets. In no case shall a sign be permitted to be placed above a 2<sup>nd</sup> floor windowsill under this subsection.



10. Measurement of signs shall be in accordance with the following:

- a. The area of a sign shall be measured as the area within a single, continuous perimeter composed of either the smallest square, rectangle, or circle which encloses the extreme limits of writing, representation, emblem, logo, or any other figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the structure necessary to support the sign. Reader boards and electronic message boards shall be included in the sign measurements.



- b. The area of a freestanding or projecting sign that has two (2) or more faces shall be measured by including the area of all sign faces. However, if two (2) faces are placed back-to-back twelve (12) inches or less apart, and are of equal size, only the area of one (1) face shall be counted.
- c. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the lowest grade of the ground immediately beneath the sign.

11. All signs shall comply with the Building and Electrical Codes of the City of South Haven. Underground wiring shall be required for all illuminated signs, or signs requiring electrical connections.

12. Billboards

- a. The provisions of this Section are in addition to the provisions controlling signs regulated under the authority of Public Act 106, 1972, the Highway Advertising Act, as amended.
- b. Billboards are permitted by special use permit only within three hundred (300) feet of I-196, on land zoned B-2, B-4, I-1 or I-2. In addition to the requirements of Article XV, billboards shall also meet the following minimum standards:
  1. Billboards shall not exceed three hundred (300) square feet in area per side.
  2. Billboards shall not be greater than thirty-five (35) feet in height, nor be stacked or in tandem.
  3. Billboards shall be at least three hundred (300) feet from a home, school or religious institution.
  4. Billboards shall not be spaced closer than one thousand (1,000) feet between one another on either side of the right-of-way.
  5. Land may not be re-zoned into a commercial or industrial district simply to accommodate a billboard.
  6. No vegetation may be removed to enhance the view to the billboard.

- c. Billboards may display noncommercial messages, off-site commercial messages, and/or on-site commercial messages.
13. No sign shall occupy the clear vision corner as regulated by Section 1712.
  14. Where the Planning Commission finds that, due to a practical difficulty, the only place a non-permanent sign can be accommodated is on an existing fence, a waiver may be granted to allow the sign to be placed upon the fence.
  15. In residential districts, a sign of no more than one (1) square foot in area, which identifies an owner or resident by name and/or address, may be placed upon a mailbox, garage, or other feature visible to the public or private street in order to protect and enhance the public safety.
  16. In the CBD, no portion of a flag may extend more than three (3) feet from a building over a public sidewalk, right-of-way, or other public property

**SECTION 2006. NONCONFORMING SIGNS**

1. Every permanent legally existing sign which does not conform to the height, size, area, or location requirements of this Article as of the date of the adoption of this ordinance, is hereby deemed to be nonconforming.
2. Nonconforming signs may not be expanded, enlarged, or extended, but may be maintained and repaired so as to continue the useful life of the sign.
3. For purposes of this Section, a nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed to come closer to compliance without jeopardizing its nonconforming status.
4. Any nonconforming sign, sign structure, or frame substantially destroyed by fire, accident or other casualty loss shall not be restored or rebuilt except in conformance with this Article.
5. When a nonconforming sign, or portion thereof, is removed, it shall be replaced with a sign that conforms to all requirements of the zoning district within which the property is located. A sign may be removed for maintenance or repair purposes after a permit has been issued by the building and zoning inspector or authorized representative, with the condition that the nonconforming sign shall be reinstalled within ninety (90) days of removal or the right of non-conforming use shall be deemed abandoned.

**SECTION 2007. NON-PERMANENT SIGNS**

The following non-permanent signs shall not require a building permit, provided they comply in all other respects with the regulations set forth in this chapter and provided they are not located within a clear-vision corner:

1. *4-Sign Allowance for Residential Lots.* On any lot used as a single-family, two-family, or owner occupied multi-family dwelling, up to 4 non-permanent signs shall be generally permitted to be displayed on a pole or stake affixed to the ground. Such signs shall not exceed 6 square feet in area per side, and the top of such sign shall be no more than 6 feet from ground level. Such signs may display noncommercial messages or on-premises commercial messages (including, but not limited to, messages conveying that the dwelling is for sale, that work is being performed on the dwelling by a particular individual or business, or that a garage sale will be held).

2. *Allowance for Non-Residential Lots.* On any lot used for a non-residential use, 1 non-permanent sign may be displayed up to 4 times per calendar year for a period of not more than 30 days per display, provided that each display shall be separated by at least 30 days. Such signs shall not exceed 32 square feet. If building mounted, these signs must be flat wall signs and shall not project above the roof line. If ground mounted, the top shall be no more than six feet above ground level. These signs may be used to promote noncommercial community events, but are not limited to that purpose.
3. *Interim signs.* Signs intended to be utilized until a permanent sign may be obtained and erected can be approved by the zoning administrator for a period not to exceed 60 days. Such signs shall not exceed sign area permitted within the appropriate zones.
4. *Sandwich board signs.* Sandwich board signs shall be allowed in the CBD, B-1, B-2, B-3, B-4, PB-1 Districts, subject to the following regulations:

<b>Sandwich board signs</b>	
Number	1 per lot or parcel
Size	8 sq. ft. maximum (measured only on 1 side)
Height	4 ft. maximum
Location	CBD: Within 3 ft. of building or at curb; shall not obstruct pedestrian traffic. B-1, B-2, B-3, B-4 and PB-1: Anywhere on the lot; may not be placed in the right-of-way.
Duration	Shall be removed overnight and after business hours.
Anchoring	Shall be anchored with ballast to prevent movement.
Messaging	Shall be limited to on-premise commercial messages or noncommercial messages.

## **SECTION 008. PERMANENT SIGNS**

All signs in this Section shall require a building permit and comply with the regulations set forth in this Article.

<b>1. Signs permitted in the R-1A, R-1B, R-1C, R-2 and RM-1 Districts</b>	
<b>Wall signs for residences with 6 or fewer units</b>	
Number	1 per lot or parcel
Size	2 sq. ft. maximum
Location	Attached anywhere on the front of the structure below the second floor level and within eight (8') feet of the front wall of the structure.
<b>Wall signs for home occupations</b>	
Number	1 per lot or parcel
Size	2 sq. ft. maximum
Location	On the wall facing the street.
<b>Wall signs for multiple-family complexes having 6 or more units, and nonresidential uses</b>	
Number	1 per lot or parcel
Size	12 sq. ft. maximum
Location	On the wall facing the street.

<b>1. Signs permitted in the R-1A, R-1B, R-1C, R-2 and RM-1 Districts, cont.</b>		
<b>Subdivision entry signs</b>		
Number	1 per entrance	
Size	32 sq. ft. maximum per sign	
Location	Less than 16 sq. ft.	Minimum 2 ft. from any property line
	More than 16 sq. ft.	Minimum 8 ft. from any property line
Height	6 ft. maximum	
<b>Signs for bed and breakfast establishments</b>		
Number	Freestanding	1 per establishment
	Wall	1 per establishment
	No establishment may have both a wall and a freestanding sign.	
Size	RM-1	32 sq. ft. maximum
Location	Freestanding	Minimum 8 ft. from any property line
	Wall	On the wall facing the street.
<b>Signs for Institutional Uses</b>		
Number	Freestanding	1 per parcel except on a corner lot where 1 sign is permitted on each street front
	Wall	1 per parcel except on a corner lot where 1 sign is permitted on each street front
	No establishment may have both a wall sign and a freestanding sign on any street front	
Size	Freestanding	30 square feet; height not to exceed 5 feet
	Wall	20 square feet; height not to exceed 4 feet
Location	Freestanding	A minimum of 5 feet from the street right-of-way or the average setback of the residences on both sides, whichever is more restrictive
	Wall	No more than 20 feet above the average grade of the wall on which the sign is placed
Lighting	No internal lighting. Any external lighting fixtures used to illuminate a sign shall be mounted on top of the sign structure and directed and shielded such that no light rays are emitted beyond the sign display area. Lights shall be turned off between the hours of 11:00 PM and 7:00 AM.	

<b>2. Signs permitted in the Central Business District</b>	
<b>Wall signs</b>	
Number	1 per building wall
	A building having multiple commercial tenants is permitted 1 wall sign per tenant provided that the number of wall signs does not exceed 1 for each 15 feet of frontage.
	Not allowed in combination with awning, canopy or marquee signs.
Size	1 sq. ft. per each 1 ft. wall length upon which the sign is to be located, unless otherwise provided below. For buildings having multiple commercial tenants, the width of a tenant's unit shall be used to measure wall length.
Location	Below 2 <sup>nd</sup> floor window sill.
	This requirement may be waived by PC if found that the proposed higher location will be compatible with the character and design of the building and with other legal signs both on the building and on adjoining properties.
	On wall facing street or parking lot.
<b>Freestanding signs</b>	
Number	1 per lot or parcel
Size	32 sq. ft. maximum
Location	2 ft. minimum from any property line
Height	6 ft. maximum
<b>Projecting signs</b>	
Number	1 per lot or parcel
	Multi-tenant buildings: 1 per each 25 ft. of street frontage
	Not permitted on buildings with non-retractable awnings.
Size	6 sq. ft. maximum
Location	15 ft. or the 2 <sup>nd</sup> story windowsill, whichever is lower
	On wall facing street.
Height	Minimum 8 ft. clearance from ground to sign
Projection	Maximum 4½ ft. from wall
<b>Awning, canopy and marquee signs</b>	
Number	1 sign per side of an awning, canopy, or marquee.
	Not allowed in combination with wall signs.
Size	1 sq. ft. per each 1 ft. of wall length upon which the awning, canopy, or marquee is located. For buildings having multiple commercial tenants, the width of a tenant's unit shall be used to measure wall length.
Location	Shall be affixed flat to the awning, canopy, or marquee.
	Below 2 <sup>nd</sup> floor windowsill
	On wall facing street, parking lot, or walkway.
Height	Min. 8 feet clearance between awning and grade.

<b>3. Signs permitted in the B-1, B-2, B-3, B-4, PB-1, I-1, I-1b and I-2 Districts</b>	
<b>Wall signs</b>	
Number	1 per building wall
	1 per tenant in multi-tenant buildings
	Not allowed in combination with awning, canopy or marquee signs.
Size	No wall sign shall exceed 10% of the wall area upon which it is placed.
	No sign for a single tenant that does not occupy the majority of the building in a multi-tenant building may exceed 10% of the wall area serving that tenant and upon which it is placed, or 50 sq. ft., whichever is less.
	Individual businesses interior to a single building in which the primary use occupies 75% or more of the floor area of the building, and which business does not have its own separate entrance, may have a sign not exceeding 10% of the wall area upon which it is located in combination with all other wall signs on that wall, or 50 sq. ft., whichever is less.
Location	On wall facing street or parking lot.
	Below 2 <sup>nd</sup> floor windowsill
	On wall facing street, parking lot, or walkway.

<b>Wall signs</b>	
Exception	Buildings whose wall length is 200 ft. or greater may have up to five (5) additional signs advertising individual departments within the business (e.g. garden center, pharmacy, etc.). The aggregate area of these signs in combination with the primary wall sign shall not exceed 10% of the wall area upon which the signs are placed.
	In the B-2, B-4 and Industrial Districts the Planning Commission may authorize up to 32 sq. ft. of sign area located on any wall for purposes of indicating entrances and exits to permitted drive through operations, locations to other areas on the property where general business may take place out of plain sight, and in other similar circumstances where the additional sign area is not of a general advertising nature.

<b>Freestanding signs</b>			
B-1, B-3, PB-1	Number	1 per lot or parcel	
	Size	32 sq. ft. maximum	
	Location	2 ft. minimum from any property line	
		Prohibited in waterfront yards in the B-3 District.	
Height	6 ft. maximum		
B-2, B-4, I-1, I-1b, I-2	Number	300 ft. or less continuous, lineal street frontage	1 per lot or parcel
		More than 300 ft. continuous, lineal street frontage	2 per lot or parcel
	Size	1 sq. ft. per each linear foot of street frontage	
		Shall not exceed 160 sq. ft. per sign, per frontage.	
		A lot or parcel with street frontage on Blue Star Highway, Phoenix Street or 73 <sup>rd</sup> Street may have a sign up to 200 sq. ft. in area when oriented toward those streets.	
	Location	2 ft. from any property line	
Height	35 ft. maximum		

**3. Signs permitted in the B-1, B-2, B-3, B-4, PB-1, I-1, I-1b and I-2 Districts, cont.**

<b>Projecting signs</b>	
Number	1 per building wall facing a public right-of-way or parking lot.
	Multi-tenant buildings: not to exceed 1 per each 25 ft. of street or parking lot frontage and 1 per tenant.
Size	6 sq. ft. maximum
Location	Shall not project more than 36 inches from the wall, nor extend beyond the roof or eave line for a one story building.
	On wall facing street or municipal parking lot.
Height	Below 2 <sup>nd</sup> floor windowsill
	Shall maintain a clearance of 8 feet from the sidewalk.
<b>Awning, canopy, and marquee signs</b>	
Number	1 per face of an awning, canopy, or marquee.
	A building having multiple commercial tenants is permitted 1 awning, canopy, and marquee sign per tenant provided that the number of such signs does not exceed 1 for each 15 feet of frontage.
	Not allowed in combination with wall signs.
Size	2 sq. ft. per each 1 ft. of wall length upon which the awning, canopy, or marquee is located.
Location	Shall be affixed flat to the awning, canopy, or marquee.
	Below 2 <sup>nd</sup> floor windowsill
	On wall facing street, parking lot, or walkway.
Height	Minimum 8 ft. clearance between awning and grade.
<b>Subdivision entry signs</b>	
The City Council may authorize subdivision entry signs with the names of the businesses in a city industrial park located within the public right-of-way at the entrance(s) to the industrial park.	
Signs shall be subject to the size and height regulations for freestanding signs in the B-2, I-1, I-1b and I-2 Districts and may occupy the clear vision corner (Section 1712).	
<b>Upper-level building identification signs</b>	
Number	1 per building wall with a maximum of 2 per building.
	Permitted on buildings 3 stories or greater in height.
	Permitted in combination with wall, awning, canopy, or marquee signs
Size	1 sq. ft. per each 1 ft. of wall length upon which the sign is located.
Location	On the second floor or above.
	On wall facing street or parking lot.
Height	Shall not extend above the roofline of the building on which it is located.

**SECTION 2009. REMOVAL OF SIGNS**

1. Except for legal nonconforming signs as defined by this article and except as provided herein, if any sign, structural element or supporting framework is determined by the zoning administrator, or his or her designee, to be in violation of this article, a notice may be served on the owner of the premises on which said sign, structural element or supporting framework is located. The notice shall specify:
  - a. The reason(s) why the city official has determined that the sign, structural element or supporting framework is in violation of this article.
  - b. The time and place of a hearing before the city's planning commission. The owner(s) shall be given the opportunity to show cause at the hearing why the sign, structural element or supporting framework should not be removed, demolished, otherwise made safe, or properly maintained.



2. The notice shall be in writing and shall be either personally delivered or sent by certified mail, return receipt requested, addressed to the owner(s) address as shown on the city's tax assessment records. The notice shall be served upon the owner(s) at least ten days before the date of the hearing.
3. At the hearing required by subsection (2) above, the planning commission shall take testimony of the zoning administrator and any other interested party. The planning commission shall render a decision either closing the proceedings or ordering the sign, structural element or supporting framework removed, demolished, otherwise made safe, or properly maintained. The planning commission's order shall specify what action the owner(s) shall take and set a date by which the owner(s) shall comply with the order. Failure to comply with the order shall be considered a municipal civil infraction.
4. If the owner(s) fails to appear or neglects or refuses to comply with the order issued under this section, in addition to the issuance of a municipal civil infraction citation, the zoning administrator may take all necessary action to enforce the order, including employing the necessary labor and materials to perform any removal, demolition, abatement, repairs, maintenance or other required work to bring the sign, structural element or supporting framework into compliance with this article. All costs for the removal, demolition, abatement, repair, maintenance or other required work shall be the responsibility of the owner(s).
5. Notwithstanding other provisions of this section, whenever, in the opinion of the zoning administrator, there is imminent danger due to an unsafe sign, structural element or supporting framework, the zoning or code inspector may immediately take any action necessary to abate the danger caused by the unsafe sign, structural element or supporting framework. Prior to the initiation of such emergency measures provided above, the zoning administrator shall, if possible, attempt to contact the owner of the premises on which said sign, structural element or supporting framework is located to provide the owner opportunity to immediately address the imminent danger. If the owner cannot be reached, or if the owner refuses to address or addresses in an unsatisfactory manner the danger caused by the unsafe sign, structural element or supporting framework, the zoning or code inspector may immediately proceed with emergency measures. All costs for the abatement of the imminent danger caused by an unsafe sign, structural element or supporting framework pursuant to this subsection shall be the responsibility of the owner.
6. The procedures described above are not required in order remove signs unlawfully placed in the right-of-way or on other public property. Such signs may be removed and discarded immediately upon discovery.

#### **SECTION 2010. APPEALS, INTERPRETATIONS AND VARIANCES**

1. Appeals, interpretations and variances from this Article shall be heard by the ZBA, in accordance with Article XXII.
2. Applications for appeals, interpretations and variances shall be accompanied by the Master Sign Plan and any other information the Zoning Administrator deems pertinent. All previous appeals involving the property shall be noted on the application as to the subject, date and outcome of the appeal.
3. The applicant or the applicant's authorized agent must be present at the public hearing to properly answer questions concerning the appeal. If the applicant or agent is not present, the appeal may be deferred until the next meeting or dismissed, at the discretion of the ZBA.

(Article XX amended in its entirety 12/2/19; Ord. #1059)

**ARTICLE XXI  
ADMINISTRATION AND ENFORCEMENT**

**SECTION 2100. ENFORCEMENT**

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator or by such deputies of his department as the Zoning Administrator may delegate to enforce the provisions of this Ordinance.

**SECTION 2101. DUTIES OF ZONING ADMINISTRATOR**

It shall be the responsibility of the Zoning Administrator to enforce the provisions of this Ordinance and in doing so to perform the following duties:

1. **Issue Permits** - All applications for zoning permits, temporary zoning permits, special land use permits, planned unit development permits, variances, appeals, requests for Ordinance interpretation and requests for changes to a nonconforming use shall be submitted to the Zoning Administrator who shall issue such permits when all applicable provisions of this Ordinance have been met and approval has been granted by the proper body or official.
2. **File of Applications** - The Zoning Administrator shall maintain files of all permit applications, and shall keep a record of all permits issued; these shall be filed in the office of the Zoning Administrator and shall be open for public review.
3. **Inspections** - The Zoning Administrator shall not approve any plans or issue any permits or certificates of zoning compliance for any excavation or construction until he or she has reviewed such plans in detail and found them to conform with this Ordinance. The Zoning Administrator shall be empowered to make inspections of buildings or premises in order to carry out the enforcement of this Ordinance. The Zoning Administrator shall seek a search warrant through the City Attorney any time a property owner refuses access to a property in order to make an inspection to determine compliance with this Ordinance.
4. **Record of Complaints** - The Zoning Administrator shall keep a record of every complaint of a violation of any of the provisions of this Ordinance, and of the action taken consequent to each complaint; such records shall be open for public review.
5. **Violations** - Enforcement actions may be initiated by a complaint, or by the Zoning Administrator independently anytime he or she identifies a violation.
6. **Report to the City Manager** - The Zoning Administrator shall report to the City Manager at intervals not greater than quarterly, summarizing for the period since the last previous report, all Zoning Permits issued and all complaints of violation and any action taken on each complaint.
7. **Limit on Zoning Administrator Authority** - The Zoning Administrator is not permitted to make changes in this Ordinance, nor to vary the terms of this Ordinance while carrying out the duties prescribed herein. Wherever the Zoning Administrator is authorized to waive a provision in this Ordinance or to make a discretionary decision, he/she shall document the waiver or the discretionary decision and the reason.
8. The Zoning Administrator shall not refuse to issue a permit, when conditions imposed by this Ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may occur upon the granting of said permit,

unless such contracts, covenants or private agreements are with the City, County, State of Michigan, or federal government, or one of their agencies.

9. The Zoning Administrator shall contact the Department of Environmental Quality on questions related to proposed development in Lake Michigan, the Black River, wetlands, floodplains and high risk erosion areas and the relationship of state permit requirements and administration authority to that authorized by this Ordinance. Copies of permit applications, requests for variances, appeals or changes to regulations shall be forwarded to the appropriate individuals along with a request for a reply in a timely manner.
10. The Zoning Administrator shall maintain a log of all waivers requested under this Ordinance. The log shall include the waiver requested, the applicable section of the Ordinance under which authority for the waiver is found, the decision, and the rationale for the decision.
11. The Zoning Administrator shall prepare, maintain and update as necessary a procedure manual for the conduct of all responsibilities delegated by this Ordinance and related ordinances of the City.

### **SECTION 2102. PLOT PLAN**

The Zoning Administrator shall require that all applications for uses or structures requiring a zoning permit, except those for which site plan review is required, shall be accompanied by plans and specifications, including a plot plan, in triplicate, drawn to scale, showing the following information, unless waived by the Zoning Administrator:

1. The actual shape, location, and dimensions of the lot. If a question arises on these, then a property survey may be required.
2. The shape, size, and location of all buildings or other structures to be erected, altered, or moved, and of any building or other structures already on the lot.
3. The existing and intended use of the lot and all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this Ordinance are being observed.

In addition, a copy of applications for the following approvals shall accompany an application for a Zoning Permit:

- a. Sanitary Sewer or Septic Approval: In the case of a permit for buildings proposed for human occupancy or required by law to have plumbing fixtures, and when public sanitary sewage service are available, a written notice of acceptance or hook-up fee receipt shall be required, or when sanitary sewer is not available, a report from the County Health Department certifying in writing the approval of a private sanitary sewage disposal system.
- b. Water Supply Approval: A written notice of acceptance or hook-up fee receipt shall be required except when no public water is available, in which case, a report from the County Health Department, certifying approval of private water supply systems shall be provided.

### **SECTION 2103. ZONING PERMITS**

1. **Intent and Purpose** - It is the intent and purpose of this Section to create a review and approval process for the issuance of zoning permits.

2. **Jurisdiction** - No land clearing, filling, nor excavation for any building or structure shall be commenced; nor erection of, addition to, alteration of, or moving of any building or structure shall be undertaken; nor any land used; nor any existing land use changed to a different type or class; nor the use or occupancy of any building or premises, or part thereof, shall be undertaken, without the issuance of the proper and appropriate certificates and permits pursuant to the requirements of Sections 2103 and 2104 of this Ordinance. Except upon written order of the Zoning Board of Appeals, no Zoning Permit shall be issued for any building or use of land where the construction, addition, alteration, or use thereof would be in violation of this Ordinance.
3. **Zoning Permits**
- a. When Required: No land clearing, filling or excavation shall be initiated, no building shall be erected, altered, moved or structural alterations initiated until a Zoning Permit has been issued except as otherwise permitted in this Ordinance.
  - b. Expiration of Permit: Any permit granted under this Section shall become null and void after twelve (12) months from the date of granting such permit unless the development proposed or activity authorized shall have passed its first building inspection. Before voidance is actually declared, the Zoning Administrator shall notify the applicant of the pending voiding by sending a notice to the applicant at the address indicated on the permit application at least ten (10) days before such voidance is effective. The permit may be renewed for not more than two (2) additional months upon reapplication but without payment of the additional fees, subject to the provisions of all ordinances in effect at the time of renewal.
  - c. Revocation - The Zoning Administrator shall have the power to revoke or cancel any Zoning Permit in case of failure or neglect to comply with any provisions of this Ordinance, or in the case of any false statement or misrepresentation made in the application. The owner or his agent shall be notified of such revocation in writing. Upon such revocation, all further construction activities and usage shall cease upon the site, other than for the purpose of correcting the violation or securing the site. Cancellation of a permit issued for a special land use, planned unit development or variance shall not occur before a hearing by the body which granted the permit. The Zoning Administrator may issue a stop work order to halt all construction activities and usage pending a decision on revocation of said permit.
  - d. Issuance - Whenever the buildings, structures, and uses as set forth in any application are in conformity with the provisions of this Ordinance, or a variance granted by the Zoning Board of Appeals, the Zoning Administrator shall issue a zoning permit. In any case where a permit is denied, the reasons shall be stated in writing to the applicant.
  - e. Relation to Nonconforming Uses - It shall not be necessary for an owner of a legal nonconforming structure or use, existing on the effective date of this Ordinance to obtain a Zoning Permit in order to maintain its legal, nonconforming status. However, no nonconforming building, structure, or use shall be renewed, changed, or extended pursuant to Article XIX until a Zoning Permit has been issued by the Zoning Administrator. In such cases the Permit shall state specifically how the nonconforming building, structure, or use differs from the provisions of this Ordinance.
  - f. Withholding Permit - The Zoning Administrator may withhold any Zoning Permit pending verification that an applicant has received required city, county, state or federal permits including but not limited to sanitary sewer and water tap-in permits, septic and water well permits, soil erosion and sedimentation control permits, wetlands permits, floodplain, culvert, driveway or building permits. Likewise, wherever this Ordinance authorizes permit approval by the Planning Commission or City Council, the Planning Commission or City Council may condition final approval of the requested development activity upon the receipt of

any of the above mentioned city, county, state or federal approvals and/or direct the Zoning Administrator not to issue a Zoning Permit until said permits from other agencies have been obtained.

- g. Performance Guarantee - A performance guarantee may be required as a condition to the issuance of any Zoning Permit in order to insure conformance with the requirements of this Ordinance. See Section 2107.
- h. Relationship to Building Permits - No building permit shall be issued for a new building or structure, one moved, altered, or repaired, or for the expansion of an existing building or structure, before a determination of zoning compliance has been made by the Zoning Administrator. The terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, type, class or kind of occupancy, light or ventilation, means of egress and ingress, or other changes affecting or regulated by the City of South Haven, Building Code, Housing Ordinance, Fire Code, or this Ordinance, except for minor repairs or changes not involving any of the aforesaid features. No building permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of any land which is not in accordance with all provisions of this Ordinance. All Building Code requirements shall have been met as determined by the Building Inspector.

**4. Temporary Zoning Permits**

- a. Application - A temporary zoning permit may be approved, modified, conditioned, or denied by the Zoning Administrator. The Zoning Administrator may refer the application to the Planning Commission.
- b. Permits - A written temporary zoning permit will be issued for all temporary uses (see Section 1731) and shall contain the following information:
  - 1) The applicant's name.
  - 2) The location and effective dates of the temporary use.
  - 3) Conditions specified by which the permit was issued, such as:
    - a) use and placement of signs.
    - b) provision for security and safety measures.
    - c) control of nuisance factors.
    - d) submission of performance guarantee, if required.
  - 4) Signature of the Zoning Administrator on the permit.
- c. Conditions of Approval
  - 1) The nature and intensity of the temporary use and the size and placement of any temporary structure shall be planned so that the temporary use or structure will be compatible with existing development.
  - 2) The use shall not be typically located within a permanent building or structure.
  - 3) The parcel shall be of sufficient size to adequately accommodate the temporary use or structure.
  - 4) The location of the temporary use or structure shall be such that adverse effects on surrounding properties will be minimal, particular regarding the traffic generated by the temporary use or structure.
  - 5) Off-street parking areas are of adequate size for the particular temporary use or structure and properly located and the entrance and exit drives are laid out so as to prevent traffic hazards and nuisances.
  - 6) Signs shall conform to the provisions of this Ordinance (see Article XX).
  - 7) Any lighting shall be directed and controlled so as to not create a nuisance to neighboring property owners.
  - 8) The Zoning Administrator may impose conditions with the issuance of the permit which are designed to insure compliance with the requirements of this Ordinance. The Zoning Administrator may revoke a

permit at any time for nonconformance with the requirements of this section and a permit issued thereunder.

- 9) Permits which are renewable shall have an application filed for renewal at least fifteen (15) days prior to the expiration date of the current permit, except that applications for renewal or extension of a permit for less than fifteen (15) days may be applied for no later than three (3) days prior to the expiration date of the current permit.
- d. Revocation - Upon expiration or revocation of a temporary zoning permit for a temporary use, the temporary use shall cease and all temporary structures, dwellings or buildings shall be removed from the parcel of land. A temporary zoning permit may be revoked or modified by the Zoning Administrator if any one of the following findings can be made:
  - 1) That circumstances have changed;
  - 2) That the temporary zoning permit was obtained by misrepresentation or fraud.
  - 3) That one (1) or more of the conditions of the temporary zoning permit have not been met; and
  - 4) That the use is in violation of any statute, Ordinance, law, or regulation.
- e. Appeal - An appeal of a decision by the Zoning Administrator relative to denial of a temporary zoning permit for a temporary use or renewal thereof may be taken to the Zoning Board of Appeals pursuant to Section 2204 of this Ordinance.
- f. Performance Guarantee - The Zoning Administrator may require a performance guarantee pursuant to the standards of Section 2107.

## **SECTION 2104. CERTIFICATES OF ZONING COMPLIANCE**

No land, building, or part thereof shall be occupied by, or for any use, unless and until a certificate of zoning compliance shall have been issued for such use unless there is no expansion of the building, or parking needed to accommodate the use. The following shall apply in the issuance of any certificate:

1. **Certificates Not to be Issued**  
No certificate of zoning compliance shall be issued for any building, structure or part thereof, or for the use of any land which is not in accordance with all the provisions of this Ordinance.
2. **Certificates Required**  
No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued by the Building Inspector and a certificate of zoning compliance shall have been issued by the Zoning Administrator for such building or structure. A change of tenancy involving no change in use, signage or parking does not require a certificate of zoning compliance.
3. **Certificates of Zoning Compliance**  
Certificates of Zoning Compliance as required by this Ordinance shall not remove a property owner from the obligation of receiving a Certificate of Occupancy from the Building Inspector under the City Building Code.
4. **Certificates for Existing Buildings**  
Certificates of Zoning Compliance shall be issued for existing buildings, structures, or parts thereof, or existing uses of land if, after inspection requested by the property owner, it is found that such buildings, structures, or parts thereof, or such use of land are in conformity with the provisions of this Ordinance.

5. **Record of Certificates**

A record of all certificates issued shall be kept on file in the office of the Zoning Administrator, and a copy shall be furnished upon request to any person requesting one..

6. **Certificates for Dwelling Accessory Buildings**

Buildings or structures accessory to dwellings shall not require separate Certificates of Zoning Compliance but may be included in the certificate of Zoning Compliance for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.

7. **Application for Certificates**

Application for certificates of zoning compliance shall be in writing to the Zoning Administrator on forms furnished by that Department, and such certificates shall be issued within five (5) days after receipt of such application if it is found that the building or structure, or part thereof, or the use of land is in accordance with the provisions of this Ordinance.

If such certificate is refused for cause, the applicant therefore shall be mailed a notice of such refusal and cause thereof, within the aforesaid five (5) day period.

## **SECTION 2105. INSPECTIONS**

The Building Inspector shall inspect the site prior to the pouring of footings. The holder of every zoning permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Zoning Administrator and the Building Inspector immediately upon completion of the work authorized by such permit for final inspection.

## **SECTION 2106. FEES**

1. The amount of all Planned Unit Development fees, Site Plan Review fees, Special Land Use fees, Inspection and Certificate of Zoning Compliance fees, Zoning Board of Appeals fees, Amendment fees, and any other fees pursuant to this Ordinance shall be determined, and periodically revised, by adoption of a Schedule of Fees by the South Haven City Council. Fees for review of development proposals, inspections and the issuance of zoning permits or certificates of zoning compliance required under this Ordinance shall be deposited with the City Treasurer in advance of processing any application, issuance of any permit or inspection. Fees shall be based on actual direct costs of inspection and supervision resulting from the enforcement of this Ordinance and may include the cost of filing approvals with other entities, such as the County Register of Deeds. Such fees may also include but are not limited to all costs associated with conducting a public hearing or inspection, including the newspaper notice and area map, postage, photocopying, staff time, Planning Commission, City Council and/or Zoning Board of Appeals time, mileage and any costs associated with reviews by qualified professional planners and/or engineers. Such fees may be collected in escrow with any unexpended balance returned to an applicant according to the procedure described below:
2. A fee is required for any application for approval of a Site Plan, Special Land Use, Planned Unit Development, variance, or other use or activity requiring a permit under this Ordinance, except for projects proposed by the City of South Haven or one of its agencies, or by any other public agency if the fee is waived by the Planning Commission. Either the Zoning Administrator or the Planning Commission may require the deposit of fees to be held in escrow in the name of the applicant. An escrow fee shall be required for any project with more than ten (10) dwelling units, or more than ten thousand (10,000) square feet of enclosed space, or which requires any more than twenty (20) parking spaces, or is within three hundred (300) feet of the Black River or Lake Michigan. An

escrow fee may be requested for any other project which may, in the discretion of the Zoning Administrator or Planning Commission create an identifiable and potentially negative impact on public infrastructure or services, or on adjacent properties and because of which, professional input is desired before a decision to approve, deny or approve with conditions is made.

3. The escrow shall be used to pay professional review expenses of engineers, community planners, and any other professionals whose expertise the City values to review the proposed application and/or site plan of an applicant. Professional review shall result in a report to the City indicating the extent of conformance or nonconformance with this Ordinance and to identify any problems which may create a threat to public health, safety or the general welfare. Mitigation measures or alterations to a proposed design may be identified where they would serve to lessen or eliminate identified impacts. The applicant will receive a copy of any professional review hired by the City and a copy of the statement of expenses for the professional services rendered.
4. No application for approval for which an escrow fee is requested will be processed until the escrow fee is deposited with the City Treasurer. The amount of the escrow fee shall be established based on an estimate of the cost of the services to be rendered by the professionals contacted by the Zoning Administrator. The applicant is entitled to a refund of any unused escrow fees at the time a permit is either issued or denied in response to the applicant's request.
5. If actual professional review costs exceed the amount of an escrow, the applicant shall pay the balance due prior to receipt of any Zoning Permit or other permit issued by a representative of the City in response to the applicant's request. Failure of the applicant to make timely payment of any balance due will entitle the City to place a lien on the subject property.

#### **SECTION 2107. PERFORMANCE GUARANTEES AND PERFORMANCE BONDING FOR COMPLIANCE**

1. **Requirements** - In authorizing any Zoning Permit, Temporary Zoning Permit, Special Land Use Permit, Planned Unit Development, site plan approval or variance, the body or official which approves the respective request, as designated by this Ordinance, may require that a performance guarantee or bond be furnished: (1) to insure compliance with the requirements, specifications and conditions imposed with the grant of such approval, permit or variance; (2) to insure the discontinuance of a temporary use by a stipulated time; and (3) to provide sufficient resources for the City to complete required improvements or conditions in the event the permit holder does not.
2. **Improvements Covered** - Improvements that shall be covered by the performance guarantee or bond include, but are not necessarily limited to: streets and other roadways, utilities, fencing, screening, landscaping, common open space improvements, lighting, drainage and sidewalks. The performance guarantee shall meet the following requirements:
  - a. Form. The performance guarantee shall be in the form of cash, certified check, irrevocable bank letter of credit, surety bond, or similar instrument acceptable to the City Treasurer, which names the property owner as the obliger and the City as the obligee.
  - b. Time when Required. The performance guarantee or bond shall be submitted at the time of issuance of the permit authorizing the activity of the project. If appropriate, based on the type of performance guarantee submitted, the City shall deposit the funds in an interest bearing account in a financial institution with which the City regularly conducts business.



- c. Amount. The amount of the performance guarantee or bond should be sufficient to cover the estimated cost of the improvements or conditions. Additional guidelines for establishing the amount of a performance guarantee or bond may be prescribed by resolution of the City Council. If none are specified or applicable to the particular use or development, the City Council shall by resolution establish a guideline which it deems adequate to deal with the particular problem while ensuring the protection of the City and its inhabitants.
  
- 3. **Return of Performance Guarantee or Bond** - The Zoning Administrator, upon the written request of the obligor, and pursuant to the procedure in the next subsection, 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 or condition.
  
- 4. **Withholding and Partial Withholding of Performance Bond** - As required improvements are completed, or when all of the required improvements have been completed, the obligor shall send written notice to the Zoning Administrator of completion of said improvements. Thereupon, the Zoning Administrator shall inspect all of the improvements and shall transmit recommendation to the Planning Commission and City Council indicating either approval, partial approval, or rejection of the improvements or conditions with a statement of the reasons for any rejections. If partial approval is indicated, the cost of the improvement or condition rejected shall be setforth.
  - a. The Planning Commission, or on a planned unit development the City Council, shall either approve, partially approve or reject the improvements or conditions with the recommendation of the Zoning Administrator's written statement and shall notify the obligor in writing of the action of the Planning Commission 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 or bond, except for that portion adequately sufficient to secure provision of the improvements not yet approved.
  - b. Should installation of improvements begin and fail to meet full completion based on the approved Site Plan, or if the project area is reduced in size and improvements are only partially completed or conditions only partially met, the City may complete the necessary improvements or conditions itself or by contract to an independent developer, and assess all costs of completing the improvements or conditions against the performance guarantee or bond. Any unused balance remaining would be returned to the applicant, any excess expense would be recorded as a lien on the property.
  
- 5. **Record of Performance Guarantees** - A record of authorized performance guarantees shall be maintained by the Zoning Administrator.

**SECTION 2108. ZONING APPROVAL RUNS WITH THE LAND**

The approval to engage in any land use activity or to construct a building or structure that is bestowed by a zoning permit, certificate of zoning compliance, or other permit issued under the authority of this Ordinance, or any variance granted by the Zoning Board of Appeals, runs with the land, just like a nonconforming use right, and not with the owner. Thus, any person who relies on a valid permit or approval granted under the terms of this Ordinance, may sell the property to another person who will enjoy the same rights, privileges and restrictions as the seller, provided that the sellers use of the property was not in violation of the Ordinance prior to the sale.

## **SECTION 2109. APPEALS TO THE ZONING BOARD OF APPEALS**

1. Any decision of the Zoning Administrator may be appealed to the Zoning Board of Appeals (see Section 2204). All written records of the Zoning Administrator related to an appeal shall be provided to the Zoning Board of Appeals. The Board shall review the decision in light of the applicable procedures and standards in the Ordinance and overturn the decision of the Zoning Administrator only where the facts do not support the decision made.
2. The Zoning Administrator shall inform the Department of Environmental Quality if the appeal involves a high risk erosion area or 100 year floodplain issue at the time an appeal is filed. Written notice of an exception request from the minimum required setback distance from a high risk erosion area shall be given to the Department of Environmental Quality at least 14 days prior to the hearing before the Zoning Board of Appeals.

## **SECTION 2110. CONDITIONAL APPROVALS**

1. As provided in the Michigan Zoning Enabling Act, P.A. 110 of 2006, site plans for special land uses, planned unit developments or other discretionary approvals may be approved with reasonable conditions.
2. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner.
3. A site plan shall be approved if it contains the information required and is in compliance with this Zoning Ordinance and with the conditions imposed pursuant to this Ordinance, other applicable Ordinances, and State and Federal statutes.
4. Decisions rejecting, approving, or conditionally approving a site plan shall be based upon requirements and standards contained in this Zoning Ordinance, other applicable Ordinances, and State and Federal statutes.
5. Once the site plan is approved and properly signed, any necessary special use permit, planned unit development permit, zoning permit, or building permit may be issued.

## **SECTION 2111. RECORDING CONDITIONS WITH REGISTER OF DEEDS**

At the direction of the body or official making the final decision to approve or approve with conditions a planned unit development, special land use, variance or other discretionary approval authorized by this Ordinance, or as otherwise may be specified by this Ordinance, or at the discretion of the Zoning Administrator, the approval or approval with conditions may be recorded with the County Register of Deeds of the County in which the property is located. The following requirements shall be met with each set recording:

1. The applicant shall record an affidavit with the County Register of Deeds containing the full legal description of the project site, specifying the date of final City approval, and declaring that all improvements will be carried out in accordance with the approved site plan or variance unless an amendment thereto is adopted by the City. In addition, all deed restrictions and easements associated with the property shall be duly filed with the Register of Deeds of the County in which the property is located and copies of all recorded documents shall be presented to the Zoning Administrator.
2. Record of Agreement: A copy of any agreement between joint users of parking areas

shall be filed with the application for a building permit and recorded with the Register of Deeds of the County in which the property is located. The agreement shall include a guarantee for continued use of the parking facility by each party. A copy of all recorded documents shall be presented to the Zoning Administrator.

3. All documents to be recorded with the County Register of Deeds shall be first reviewed and approved as to form and content by the City Attorney.

**Sec. 2112. Policy Study Moratoria.**

- (a) *Purpose.* From time to time, the City undertakes extensive study in order to develop regulations for new types of uses or to address other complex issues. During these periods, there is a risk that some may seek to establish “vested rights” in an unregulated or under-regulated use before the City completes its study and adopts a regulatory scheme. The ability to impose temporary moratoria is helpful to protect the interests of the City in these situations.
- (b) *Procedure.* The City Council may, by resolution, impose temporary moratoria directing City staff not to accept or process certain applications for zoning-related approvals while the City undertakes the study of possible regulations. Such moratoria shall be for an initial term of no more than 6 months, which may be extended by the City Council only for good cause.

**ARTICLE XXII  
ZONING BOARD OF APPEALS**

**SECTION 2200. CREATION AND MEMBERSHIP**

There is hereby established a Zoning Board of Appeals (“Board”) which shall perform its duties and exercise its powers as provided under state law and in such a way that objectives of this Ordinance shall be observed, public safety secured, and substantial justice done.

1. The Board shall consist of seven (7) regular members appointed by the City Council, one of which shall be a member of the Planning Commission, who shall serve only so long as he or she is a member of the Planning Commission. Other regular members shall be appointed for terms of 3 years, with appointments staggered to the extent possible.
2. The City Council may appoint not more than two (2) alternates members to serve terms of 3 years. The alternate members may be called on a rotating basis to hear matters on the Board in the absence of a regular member. 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 shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Board.
3. One regular or alternate member of the Board may be a member of the City Council. If such appointment is made, this member: (i) shall serve only so long as he or she is a member of the City Council, and (ii) may not serve as the chair of the Board.
4. If a Board member vacates his or her seat during the course of the term, the City Council shall appoint another person to the ZBA for the balance of the term.
5. The City Council shall make appointments to fill vacancies on the Board within 1 month after the term of the creation of the vacancy.
6. The Zoning Board of Appeals shall annually elect its Chairman, Vice Chairman, and Secretary according to procedures it adopts in bylaws.
7. The compensation of the appointed members of the Zoning Board of Appeals may be fixed by the City Council.

**SECTION 2201. MEETINGS**

1. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman and at such times as such Board may determine. All hearings conducted by said Board shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official action. The minutes of all meetings shall contain the grounds for every determination made by the Board including reference to pertinent evidence and data considered, all findings of fact and conclusions drawn by the Board, along with the vote of each member on every motion considered on a request under the provisions of Section 2204. A person other than the elected Secretary of the Board may take notes and prepare a draft of meeting minutes, but only minutes approved by a majority vote of the total membership of the Board of Appeals shall be considered official.
2. The Board shall not conduct business unless a majority of the regular members of the zoning board of appeals are present.
3. The Board shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files, and other evidence pertinent to the matters before it.

4. All members of the Board shall vote on every matter (no abstentions) unless a member of the Board has a conflict of interest. A member of the Board shall request to be disqualified from a vote in which the member has a conflict of interest. The member shall state the nature of the conflict of interest and the Board shall vote whether to excuse the member from participation because of a conflict of interest. Failure to raise an issue of conflict of interest prior to discussion and vote on a matter before the Board, shall constitute misconduct in office for which the member may be removed, following a hearing.
5. Conflict of interest may include, but is not limited to considering property a Board member owns or has a legal or financial interest in or adjacent property; considering a request by a party a Board member has close ties with, such as a relative, friend, boss, co-worker or neighbor. A fundamental issue is whether the member of the Board believes he or she can objectively consider the request before the Board.
6. The Board shall adopt procedures for the conduct of its meetings in its bylaws.
7. A member of the Board who is also a member of the Planning Commission or City Council shall not participate in a public hearing on or vote on the same matter in a ZBA proceeding that the member voted on as a member of the Planning Commission or City Council. However, the member may consider and vote on other unrelated matters involving the same property.

**SECTION 2202. FEES** (Amended 9/1/85; Ord. No. 673)

The required fees for a hearing before the Zoning Board of Appeals are a part of the cost of any zoning permit and are in addition to other building permit fees. The required fees for any hearing before the Zoning Board of Appeals shall be paid as specified in Section 2106 and certain additional expenses may be recovered if there are any additional costs incurred over and above the amount of the required fee. Said costs shall include, but are not limited to, if applicable, any additional hearings, the attendance of the City Attorney at the hearing(s), engineering fees, and professional planner consulting fee. An escrow may be collected to pay for these costs per the procedure in Section 2106.

**SECTION 2203. JURISDICTION**

The Board, in conformity with the provisions of the City Charter, this Ordinance, and Act 207 of the Public Acts of 1921, as amended, may reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination appealed from and shall make such an order, requirements, decision, or determination as, in its opinion, ought to be made and to that end shall have all the powers to hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.

**SECTION 2204. APPEALS, INTERPRETATIONS & VARIANCES**

Subject to the provisions of Section 2205, the Board, after public hearing, shall have the power to decide applications for appeals, interpretations, and variances filed as hereafter provided:

1. Where it is alleged by the appellant that there is an error or misinterpretation in any order, requirement, decision, grant, or refusal made by the Zoning Administrator or other administrative office in the carrying out or enforcement of the provisions of this Ordinance then an appeal or request for Ordinance interpretation shall be filed with the Zoning Board of Appeals on forms established for that purpose. In deciding a request for Ordinance interpretation, the Board shall ensure that its interpretation is consistent with the intent and purpose of the Ordinance, the Article in which the language in question is contained, and all other relevant provisions of the Ordinance. All zoning map interpretation questions shall be guided by the standards in Section 302.

2. Where, by reason of the exceptional narrowness, shallowness or shape of a specific piece of property which existed on the effective date of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of the land, building, or structure, or of the use or development of property immediately adjoining the property in question, the literal enforcement of the requirements of this Ordinance would involve practical difficulties or would cause unnecessary hardship; provided that the Board shall not grant a variance on a lot of less area than the requirements of its zone district, even though such lot existed at the time of the adoption of this Ordinance if the owner or members of his immediate family owned adjacent land which could, without unnecessary hardship, be included as part of the lot.
3. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this Ordinance relating to the construction, structural changes in equipment, or alterations of buildings or structures, or the use of land, buildings, or structures so that the spirit of this Ordinance shall be observed, public safety secured, and substantial justice done.

### **SECTION 2205. DIMENSIONAL AND NONUSE VARIANCE STANDARDS**

No variance in the provisions of this Ordinance shall be authorized unless the Board finds, from reasonable evidence, that all of the following standards have been met:

1. Such variance will not be detrimental to adjacent property and the surrounding neighborhood.
2. Such variance will not impair the intent and purpose of this Ordinance.
3. Exceptional or extraordinary circumstances or conditions apply to the property in question or to the intended use of the property that do not apply generally to other properties in the same zoning district. Such circumstances shall create a practical difficulty because of unique circumstances or physical conditions such as narrowness, shallowness, shape or topography of the property involved, or to the intended use of the property. See Section 2204(2).
4. Such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.
5. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
6. The condition or situation of the specific piece of property or of the intended use of said property, for which the variance is sought shall not be the result of actions of the property owner. In other words, the problem shall not be self-created.
7. That strict compliance with area, setbacks, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
8. That the variance requested is the minimum amount necessary to overcome the inequality inherent in the particular property or mitigate the hardship.
9. That the variance will relate only to property under the control of the applicant.

## **SECTION 2206. USE VARIANCE**

Upon an appeal for a use variance for a use not regulated by this Ordinance or for a use not permitted within a Zone District, the Board shall forward the request to the Planning Commission. The Planning Commission shall forward a report with recommendation to the Board on the variance request. No use variance for a use not permitted within a Zoning District shall be granted by the Board unless the Board determines that the property cannot reasonably be used in a manner consistent with the existing zoning. The following specific procedure shall be observed unless the petitioner chooses to pursue a Hardship Planned Unit Development through the City Council instead, per the requirements of Article XII.

### **1. Application Requirements**

In addition to the information required for other variance requests, an application for a use variance shall include a plan drawn to scale detailing the specific use and improvements proposed by the applicant, and a summary of the facts which support each of the following conclusions:

- a. Applicant's property cannot be used for the purposes permitted in the zoning district.
- b. Applicant's plight is due to unique circumstances peculiar to his property and not to general neighborhood conditions.
- c. Applicant's suggested use would not alter the essential character of the area.
- e. Applicant's problem has not been self-created.
- f. Unavailability of administrative relief which may afford reasonable use of applicant's property.

At the end of each statement (A through E) identify all persons who will testify at the hearing with respect to each of the facts, and, separately, identify all persons who will testify at the hearing relative to the respective conclusion (and if any person is to be offered as an expert witness, include with the application a resume which shows the education and experience of such person within the particular area of expertise).

### **2. Pre-hearing Conference**

- a. Prior to the scheduling of a hearing, the applicant shall contact the Zoning Administrator for the purpose of scheduling a pre-hearing conference.
- b. The purposes of the pre-hearing conference shall be to:
  - 1) Review the procedure for the hearing and identify all persons who will testify (directly or through affidavit) and the evidence to be offered on behalf of the applicant.
  - 2) Attempt to secure a statement of agreed upon facts to be used to narrow the matters of dispute and shorten the hearing.
  - 3) Explore a means of providing relief to the applicant by way of non-use variance from the zoning board of appeals, or other relief which may require action by persons or bodies other than the zoning board of appeals which will afford an adequate remedy for the applicant.
  - 4) Discuss the need, desirability, and the terms of providing, a verbatim record of the hearing.
- c. The Planning Official shall determine who should be present at the pre-hearing conference based upon the application submitted, and taking into consideration the discussion with the applicant or the applicant's representative.
- d. The pre-hearing conference shall be scheduled and conducted on an expeditious basis so as to avoid unreasonable delay to the applicant. Sufficient time shall be taken, however, to achieve the purposes of the pre-hearing conference, stated above.

**3. Hearing Procedure**

- a. The applicant shall have the burden of proof. In order to be entitled to relief, the applicant must demonstrate each of the five factors set forth in paragraphs A through D of part I, above.
- b. Manner of Presentation
  - 1) Community representatives shall present an overview of the zoning regulations involved. This may include an indication of the objectives sought to be achieved in the zoning district, and any planning, engineering, financial, environmental or other considerations which are generally relevant within the zoning district and/or in the general area of the property at issue.
  - 2) The applicant may present witnesses, including the applicant, or may submit affidavits, for the purpose of attempting to prove facts or conclusions. The applicant shall be provided with the opportunity to present all testimony and evidence proposed to be presented at the pre-hearing conference, either through witnesses or affidavits, however, the chairperson of the zoning board of appeals may restrict testimony and evidence which would result in unreasonable duplication. In addition, by motion made on its own or at the request of a person at the hearing, the zoning board of appeals may require the presence of any witness who has offered either testimony by affidavit on a material question of fact or testimony of an expert nature, with the view of permitting members of the zoning board of appeals to ask questions of such witnesses.
  - 3) At the conclusion of the applicant's presentation, interested persons attending the hearing shall be provided with the opportunity to present testimony and evidence in the same manner and subject to requiring the presence and questioning of witnesses, as provided above for the applicant.
  - 4) When interested persons have completed their presentations, at the same meeting and/or at an adjourned meeting date, testimony and evidence may be presented on behalf of the community in the same manner, and subject to requiring the presence and questioning of witnesses, as provided above for the applicant. The purpose of such presentation shall be to ensure that a full picture, including all relevant information, is before the zoning board of appeals for consideration as it relates to the specific application presented.
  - 5) If testimony or evidence has been offered by or on behalf of interested persons and/or the community, the applicant shall have the opportunity to make a responsive presentation, restricted to answering the points raised by interested persons and community representatives. The manner of presenting witnesses, and requirement of their presence and questioning, shall be the same as provided above for the applicant's principal case.
  6. At the hearing, the zoning board of appeals may determine to establish other rules of procedure, such as meeting hours on any given day, procedure for presentations by interested persons and/or on behalf of the community, or other rules found to be necessary or appropriate by the board. When questions of procedure arise during the hearing, the chairperson of the zoning board of appeals may solicit the recommendation of the representatives of both the applicant and the community.
  7. If a hearing is not completed at a given meeting within the time period allowed by the zoning board of appeals, the Board shall adjourn the hearing to a date certain for continuation.



**4. Decision of the Zoning Board of Appeals**

- a. The zoning board of appeals may deem it appropriate in any given case to provide an opportunity for anyone presenting testimony or evidence to submit proposed findings of fact and conclusions.
- b. At the conclusion of the hearing, the zoning board of appeals may make its decision at that meeting, or it may adjourn the hearing to a new date for the purpose of reviewing the testimony and evidence, and reviewing proposed findings and conclusions submitted by hearing participants, in preparation for making its decision.
- c. If the zoning board of appeals determines to grant variance relief, it shall be the minimum relief required to allow reasonable use of the property, while maintaining the essential character of the area. Such relief may be in the form of one or more non-use variances and/or in the form of a use variance. The motion may include conditions that are authorized by law.
- d. If the zoning board of appeals adopts a motion to grant variance relief, such motion may be made as a tentative grant of relief, subject to review by the planning commission, planning director/consultant, engineer or other person or official with expertise, with a view of obtaining recommendations on any conditions that may be relevant and authorized by law, and for the further purpose of ensuring that the grant of relief would not violate applicable law. If such a tentative grant of relief is approved, the zoning board of appeals shall request the completion of all reviews by other boards or persons by a specific date, so that relief may be expeditiously finalized.

**SECTION 2207. SPECIAL EXCEPTIONS**

The Board, after public hearing, shall have the power to grant special exceptions from prohibitions against expansion of nonconforming structures and from required setback distances in designated high risk erosion areas pursuant to Section 1605.

**SECTION 2208. CONDITIONS OF APPROVAL**

1. In authorizing a variance, the Board may impose specific conditions regarding the location, character, fencing, buffering or landscaping, or such other design changes as are reasonably necessary for the furtherance of the intent and spirit of this Ordinance and to ensure the protection of the public interest and abutting properties.. (see also Section 2110 on Conditions). To ensure compliance with such conditions, the Board may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond per the requirements of Section 2107. (Amended 6/30/88; Ord. No. 714)
2. Expiration of Authorization
  - a. If the variance is granted or if the issuance of the zoning permit is finally approved, or other action by the appellant or applicant is authorized, the necessary permit(s) shall be secured and authorized action begun within twelve (12) months after the date when the variance is granted or the issuance of the permit is approved by the Board.
  - b. Should the appellant or applicant fail to obtain the necessary permit or permits within the twelve (12) month period, or having obtained the same, fail to commence work thereunder within the same twelve (12) month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, and abandoned his appeal or his application, and all permissions, variances, and permits granted to him shall be deemed automatically rescinded by said Board. (Amended 6/30/88; Ord. No. 714).
  - c. Before permission is actually rescinded, the Zoning Administrator shall notify the property owner of the pendency of such voiding action by sending a notice to the owner at the address indicated on the permit or variance at least ten (10) days

before such voidance is effective. The permit may be renewed for not more than two (2) additional months but without payment of the original fee, subject to the provisions of all Ordinances in effect at the time of renewal. (Amended 6/18/07, Ord. # 955)

## **SECTION 2209. PROCEDURE**

The following procedures shall be followed:

1. An appeal for a hearing by the Board regarding any ruling of the Zoning Administrator or other person or body administering this Ordinance may be filed on a form established for that purpose with such person or body and with the Zoning Administrator. Appeal requests may be made to the Zoning Board of Appeals by any person aggrieved, or by an officer, or department of the City. An appeal shall be accompanied with such information as is necessary to decide such request. At a minimum, eight (8) copies of the information required to be submitted for a Zoning Permit in Section 2102 shall be submitted along with the alleged basis for the appeal. Such appeal shall be filed within twenty-one (21) days of the action from which the appeal is taken.
2. An application for decision by the Board for all matters delegated to the Board by this Ordinance, including variances or for the interpretation of the provisions herein or of the Zoning Map may be filed on forms established for that purpose with the Zoning Administrator for hearing by the Board. An application shall be accompanied with such information as is necessary to decide the variance or interpretation request. At a minimum, eight (8) copies of the information required to be submitted for a Zoning Permit in Section 2102 shall be submitted along with the circumstances that give rise to the variance or interpretation request.

## **SECTION 2210. DECISION OF THE BOARD**

1. The concurring vote of a majority of the Board is necessary to reverse an order, requirement, decision or determination of the administrative official or body from whom the appeal is taken, or to decide in favor of the applicant on any matter upon which the Board is required to pass.
2. Notwithstanding the forgoing, a vote of 2/3 of the members of the zoning board of appeals is required to approve a use variance.
3. The Board shall decide all applications and appeals within 60 days of filing of an application for Ordinance interpretation, a variance or an appeal; unless in the opinion of the Board, an extension of time is necessary to review or gather additional information pertinent to making the decision. A copy of the Board's decision shall be transmitted to the applicant or appellant, and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by him, and he shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. The decision of the Board may be recorded with the Register of Deeds.

## **SECTION 2211. STAY OF PROCEEDINGS**

When a decision made under this ordinance is appealed to another administrative body or to state circuit court, the decision may be stayed in accordance with applicable provisions of state law.

## **SECTION 2212. HEARINGS** (Amended 8/14/86; Ord. No. 689)

When an application for hearing or appeal has been filed with the required data, in proper form, and the fee paid, the Zoning Administrator shall immediately place the said application or appeal upon the calendar for hearing and cause to be served notices stating the time, date, place, and

purpose of the hearing. Such notice shall be given to all persons to whom real property within 300 feet of the premises in question is assessed and to the occupants of single and two-family dwellings within the said 300 feet. The names of owners shall be determined from the last assessment roll. If a tenant's name is not known, the term "occupant" may be used. The notices shall be served by mailing by first class mail or by personal delivery to the aforesaid parties and shall be given not less than fifteen (15) days prior to the hearing.

Any interested party may appear and be heard at such hearing in person or by agent or attorney. Upon the date for hearing any application or appeal, the Board may adjourn the hearing in order to obtain additional information, or to cause service of such further notice as it deems proper. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the resumption of the hearing. When a variance request is made for any property located in the designated High Risk Erosion Area, or within the 100-year floodplain, the Michigan Department of Environmental Quality shall be notified prior to the hearing (see Article XVI, Sections 1603.2, 1617, and 1618.1).

### **SECTION 2213. REHEARING**

No rehearing on an application denied by the Zoning Board of Appeals shall be conducted except upon the grounds of newly discovered evidence or a falsehood previously relied upon which is found upon review by the Board of the inspection by the Zoning Administrator to be valid. A rehearing shall be processed in the same manner as the original application, including a new fee unless it is initiated by the Zoning Board of Appeals or City Council. A request for rehearing shall be made within eight (8) days of the decision of the Zoning Board of Appeals. No Zoning Permit shall be granted which relies upon a variance before eight (8) days following the decision of the Zoning Board of Appeals have expired.

### **SECTION 2214. REAPPLICATION**

No application for a variance, Ordinance interpretation, or appeal which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on proof of changed conditions found upon inspection by the Board to be valid.

### **SECTION 2215. REVIEW BY CIRCUIT COURT**

1. **Circuit Court Review** - The decision of the Zoning Board of Appeals shall be final. However, any party having an interest affected by an order, determination or decision of the Zoning Board of Appeals may obtain a review thereof both on the facts and the law, in the Circuit Court; provided that application is made to the Court within thirty days after the delivery of a final decision.
2. **Standards for Review** - The Circuit Court shall review the record and decision of the Zoning Board of Appeals to insure that the decision:
  - a. Complies with the constitution and laws of the State.
  - b. Is based upon proper procedure
  - c. Is supported by competent, material, and substantial evidence on the record.
  - d. Represents the reasonable exercise of discretion granted by the Board of Appeals.
3. **Inadequate Record** - If the Court finds the record of the Zoning Board of Appeals inadequate to make the review required, or that additional evidence exists which is material and with good reason was not presented to the Board of Appeals, the Court shall

order further proceedings before the Board of Appeals on conditions which the Court considers proper. The Board of Appeals may modify its findings and decision as a result of the new proceedings, or may affirm its original decision. Any supplementary record and decision shall be filed with the Court.

4. **Authority of Court** - As a result of the review required by this section, the Court may affirm, reverse, or modify the decision of the Zoning Board of Appeals.

**ARTICLE XXIII  
MARIJUANA BUSINESS OVERLAY ZONING DISTRICT**

**Sec. 2300. Marijuana Business Overlay Zoning District Regulations.**

1. *Intent.* The Marijuana Business Overlay Zoning District is established in order to provide appropriate locations within the City where certain businesses licensed under the Michigan Medical Marijuana Facilities Licensing Act, 2016 PA 281, as amended, MCL 333.27102 et seq. and/or the Michigan Regulation and Taxation of Marijuana Act, 2018 IL 1, as amended MCL 333.27951 et seq. may operate.
2. *Boundaries.* The Marijuana Business Overlay Zoning District shall consist of all land currently zoned B-2, B-3, B-4, 1-1, 1-IB or 1-2 zoning districts (the "underlying zoning districts"), and located east of the Blue Star Highway and north of Superior Street. The boundaries of the Marijuana Business Overlay Zoning District shall be automatically modified to correspond to any relevant modification of the boundaries of the underlying zoning districts.
3. *Permitted uses.* In addition to any use permitted in each underlying zoning district, medical marijuana safety compliance facilities are permitted as special uses in the Marijuana Business Overlay Zoning District when approved by the Planning Commission in accordance with Section 1510.35.
4. *Dimensional regulations.* A marijuana business in the Marijuana Business Overlay Zoning District must comply with the height, area, setback, and other dimensional regulations for the underlying zoning district.

## ARTICLE XXIV

### M-43/I-196 BUSINESS LOOP CORRIDOR OVERLAY ZONING DISTRICT

#### SECTION 2400. INTENT

1. The M-43/I-196 Business Loop Corridor Overlay Zoning District (the “Corridor Overlay Zone”) is established to enhance the quality and compatibility of development, to establish consistent design guidelines, to encourage the most appropriate use of lands, to promote the safe and efficient movement of traffic and preserve property values along the M-43/I-196 Business Loop through the City of South Haven, Michigan.

Specifically the Corridor Overlay Zone is intended to:

- a. Accommodate a variety of uses as permitted by the underlying zoning, and ensure such uses are designed to achieve an attractive built and natural environment.
  - b. Provide site design standards that are developed specifically for the areas in order to promote harmonious development and complement the natural characteristics in the City.
  - c. Ensure safe access for vehicles and pedestrians.
  - d. Provide landowners with reasonable and safe access via the use of shared driveways, service drives, and access from side streets.
  - e. Require demonstration that prior to approval of any land divisions, the resultant parcel is accessible through compliance with the access standards herein.
  - f. Ensure that distractions to motorists are minimized by avoiding blight and clutter while providing property owners and businesses with appropriate design flexibility and visibility.
  - g. Establish uniform standards to ensure fair and equal application.
  - h. Address situations where existing development within the Corridor Overlay Zone does not conform to the standards of this chapter.
  - i. As development continues, it is the intent of the city to provide regulations which protect the adjacent residential properties.
2. In order to accommodate the varying characteristics found along M-43 and I-196 in the city, this zoning overlay district is divided into three (3) Areas.
    - a. **Area A** includes the B-4 zoned parcels along Phoenix Street from the I-196 Interchange west to Blue Star Highway. These areas are characterized as accommodating highway oriented businesses. It is anticipated that large retailers and those needing highway access will continue to be drawn to these areas. (See Figures 1 and 2 regarding general site design intent for Area A.)

Figure 1

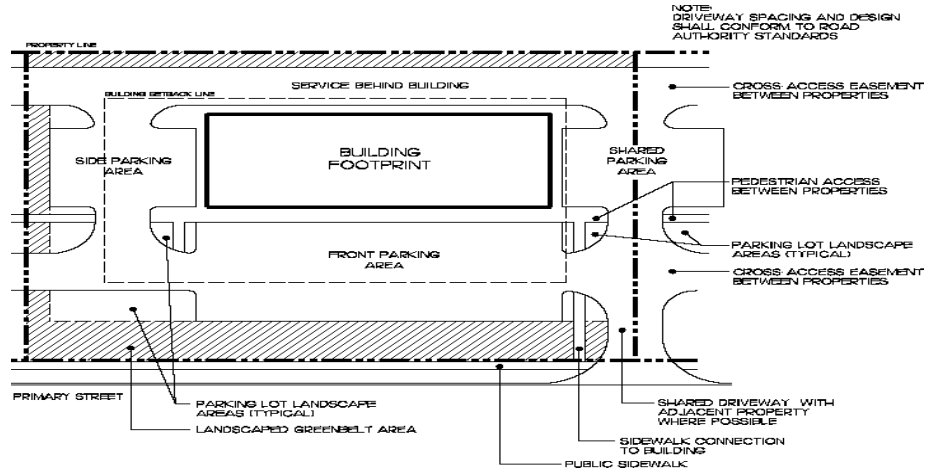
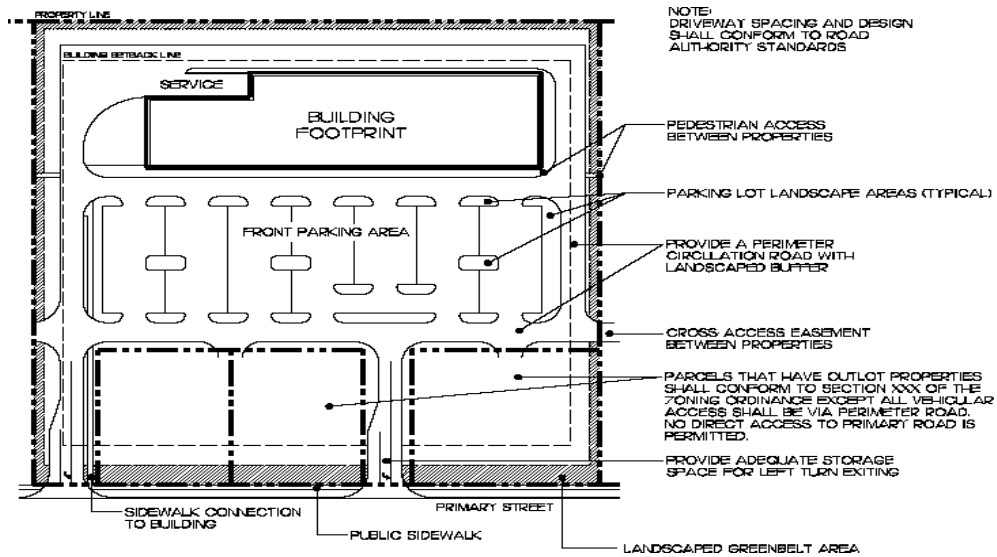
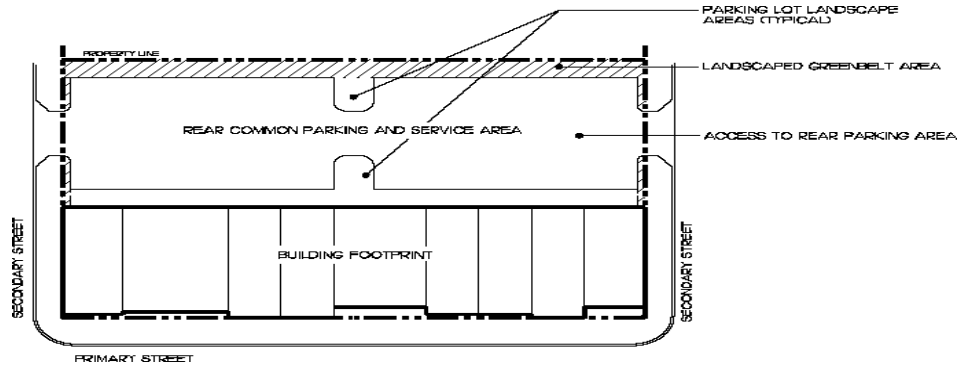


Figure 2



- b. **Area B** includes the non-single family residential (CBD, B-2 and RM-1) parcels from the Phoenix Street and Pearl Street intersection west to Broadway Street and south along Broadway to Superior Street. The area provides for compact development similar to that found in the Central Business District. Walkability and nonmotorized access to this area is critical. (See Figure 3 regarding general site design intent for Area B.)

Figure 3



- c. **Area C** comprises the remainder of the corridor overlay properties including those properties zoned B-2 adjacent to Broadway Street from Superior south to LaGrange, Phillips and Bailey Streets to Aylworth Avenue. Also included are properties along the west side of Blue Star Highway south from Phoenix Street to Superior Street. This is generally an area which is developing with a large number of medical and professional services. The scale of new development and the transportation orientation of this Area are important factors in establishing the site development requirements contained in this Article. (See Figure 4 regarding general site design intent for Area C.)

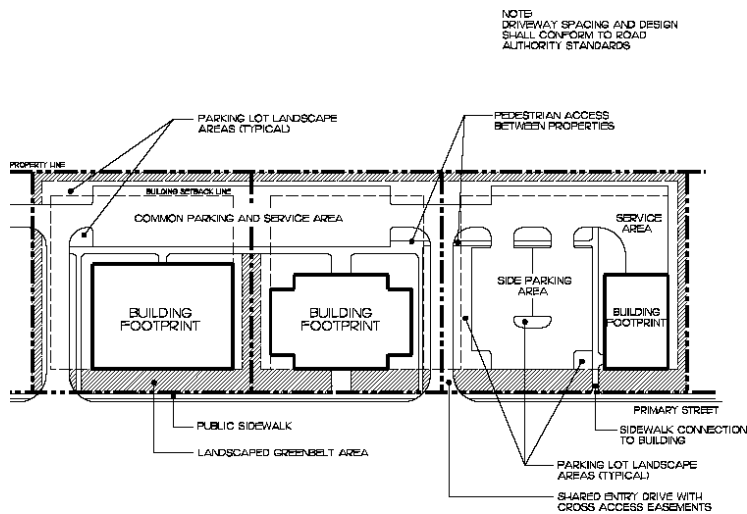


Figure 4



3. The overlay zoning map graphically depicts the boundaries of the Corridor Overlay Zone.

#### **SECTION 2401. APPLICABILITY**

1. Except as otherwise provided in this Section, the regulations herein apply to all existing or future parcels directly adjacent to or having access on the M-43/I-196 Highway corridor through the City of South Haven, as identified on the overlay zoning map.
2. Single-family dwellings are exempt from these Corridor Overlay Zone regulations, unless the dwelling is later changed to a nonresidential use as permitted in the underlying zone.
3. Where the standards of this Corridor Overlay Zone are more restrictive, as determined by the Zoning Administrator, such standards supersede and replace those that apply to the underlying zoning district. For example, if the underlying zoning district illustrated on the City Zoning Map is B-2, the uses listed as permitted in Section 901 of this chapter are permitted for that lot, but the access, landscaping, setbacks, freestanding signs and building facade must comply with this Corridor Overlay Zone.
4. Proposed planned unit developments (PUD) within the Corridor Overlay Zone shall generally be consistent with the standards herein, but may be modified by the planning commission based upon the requirements and criteria for PUDs located in this chapter and the specifics of the particular site and proposed use(s).

#### **SECTION 2402. APPLICABILITY MATRIX**

The standards described or referenced in this article apply to both new and existing development as listed or exempted in the following table for all parcels in the Corridor Overlay Zone. All development in the Corridor Overlay Zone shall require full compliance with all applicable regulations including reviews, approvals, and permits from the planning commission prior to the start of any project or land disturbance.

**Figure 5 Applicability Matrix**

	LANDSCAPING/SIGN IMPROVEMENTS	FASCADE IMPROVEMENTS	DISCRETIONARY IMPROVEMENTS*	FULL COMPLIANCE
<b>Parking Area Expansion (5% or greater increase in spaces)</b>				
Any New or Expanded Parking Area	X		X	
<b>Existing Development</b>				
Change in Use – Minor**	X		X	
Change in Use – Major***	X	X	X	
Reoccupation of Principal Building after Extended Vacancy (Greater than 180 consecutive days)	X		X	
Alteration of Existing Principal Building (When site plan review is required and/or the alteration involves a building increase over 20% of the existing building size)	X	X (for expanded portion)	X	
Renovation Due to Disaster (fire, flood, tornado, etc.)		X		
<b>New Construction</b>				
New Construction (Including tear down redevelopments of 60% or more of existing structure)	X	X		X

\* The planning commission may have discretion in required improvements based upon the circumstances of the property. In determining whether to impose discretionary improvements of the Corridor Overlay Zone, the planning commission shall determine whether those improvements are reasonably necessary to ensure compliance with the standards of Section 1502 of this chapter for Special Land Uses.

\*\* A minor change in use occurs when one permitted land use is replaced by a different permitted land use.

\*\*\* A major change in use occurs when one permitted land use is replaced by a special land use, a special land use is replaced by a different special land use, or the property is rezoned to allow for a different permitted or special land use.

**X** = Compliance with regulations required. No

**X** = Compliance not required.

### **SECTION 2403. PERMITTED AND SPECIAL USES**

1. Permitted and special land uses within the Overlay Zone shall be as regulated in the underlying zoning district (as designated on the Zoning Map) with the following additional provisions:
  - a. To ensure adequate information is provided to evaluate the impact on traffic operations, any permitted use that can be expected to generate 50 peak hour directional trips or 100 peak hour trips (in and out) or 1000 trips during a typical day shall be classified as a special land use. Calculations of trips shall be based on the most recent edition of Trip Generation published by the Institute of Transportation Engineers. The applicant shall be responsible for providing the traffic calculations for review. Where no information is provided, the City shall make the determination. (A guideline that lists typical sizes for various uses where the thresholds are met is available from the zoning administrator.)
  - b. Any site that provides more than the minimum parking required shall be considered a special land use in this chapter.
  - c. The use and site design shall comply with the standards of this section and other applicable regulations of the Corridor Overlay Zone.
  - d. Outdoor cafes and outdoor seating shall be allowed by special use permit in Area B subject to Section 1502 and 1510.34 of this chapter as applicable. Outdoor seating encroaching on public property shall be subject to obtaining a license agreement from city council.
  - e. For special land uses, the following standards shall be considered along with those listed in Section 1502 of this chapter:
    - I. The building and site design will be designed to promote consistency and quality of development within the Corridor Overlay Zone.
    - II. Access spacing from intersections, other driveways, and any median crossovers will meet the standards within the Overlay Zone and will meet

the standards of the applicable road agency (MDOT or the Van Buren County Road Commission), and will be the maximum practical.

- III. Where shared access is proposed or required, provision will be made to share access with adjacent uses, either now or in the future, and shall include written shared access and maintenance agreements to be recorded with the Van Buren County Register of Deeds.
- IV. Traffic impacts associated with the proposed use will be accommodated by the road system without degradation in the level of service<sup>1</sup> below one grade (example from B to C) but in no case shall any movement(s) be projected at a level of service below D, unless improvements are being made to address the impacts.

#### **SECTION 2404. SUBMITTAL INFORMATION**

In addition to the submittal information required for site plan review in Section 1405 of this chapter, the following shall be provided with any application for site plan or special land use review. Additionally, the information listed in items 1-4 below shall be required with any request for a land division.

1. Existing access points within 500 feet of the frontage, on both sides of any adjoining roads, shall be shown on the site plan or on a separate plansheet.
2. Information on sight distance. The applicant shall submit evidence indicating that the sight distance requirements of the MDOT or Van Buren County Road Commission, as applicable, are met.
3. Dimensions between proposed and existing drives, intersections, and any median crossovers shall be shown.
4. Where shared access is proposed or required, a shared access easement and maintenance agreement shall be submitted for approval. Once approved, this easement shall be recorded with the Van Buren County Register of Deeds.
5. The site plan shall illustrate the route and dimensioned turning movements of any expected truck traffic, tankers, delivery vehicles, waste receptacle vehicles and similar vehicles. The plan should confirm that routing the vehicles will not disrupt operations at the access points nor impede maneuvering or parking within the site. All ingress and egress shall be by forward movement unless waived by the planning commission based on lot size.
6. Traffic impact study. Submittal of a traffic impact study may be required for any special land use that would be expected to generate 100 or more vehicle trips during any peak hour, or 1000 or more vehicle trips daily, or where modifications from the generally applicable access spacing standards are requested. The traffic impact study shall be prepared by a firm or individual that is a member of the Institute of Transportation Engineers with demonstrated experience in production of such studies. The methodology and analysis of the study shall be in accordance with accepted principles as described in the handbook "Evaluating

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<sup>1</sup> As established by the Transportation Research Board, Washington DC. Traffic Impact Studies, a Recommended Practice for Michigan," developed by the MDOT and other Michigan transportation agencies.

7. Review coordination. The applicant shall provide correspondence that the proposal has been submitted to the MDOT or Van Buren County Road Commission (“VBCRC”), as applicable, for their information. Any correspondence from the MDOT and VBCRC shall be considered during the site plan review process. The City may request attendance at coordination meetings with representatives of the applicable road agency. An access permit shall not be requested from the road agency until a land division or site plan is approved by the City. The approval of a land division or site plan does not negate the responsibility of an applicant to subsequently secure access permits from the road agency.
8. Building elevations. Elevation drawings shall be submitted illustrating the building design and height, and describing construction materials for all proposed structures. Elevations shall be provided for all sides visible from an existing or proposed public street or visible to a residential district. Color renderings of the building shall be submitted for planning commission review and approval. Proposed materials and colors shall be specified on the plan and color chips or samples shall also be provided at the time of site plan review. These elevations, colors and materials shall be considered part of the approved site plan.
9. Sign Design Details. Information shall be given on all proposed signs, including details on the base materials and sign materials, and on landscaping around the base. Material used for all proposed signs (whether freestanding or ground) is acceptable only if found by the planning commission to be similar to or at least compatible with materials used for the principal building on the lot where the signs are located.
10. Parking Information. A parking study shall be required wherever requested parking or paved areas exceed the minimum required by this chapter.

## **SECTION 2405. DIMENSIONAL STANDARDS**

1. General
  - a. Variable front and rear setback. Upon written request, the planning commission may reduce the required front and rear yard setback by up to 10 feet for the greenbelt and up to 10 feet for the building from that required along the corridor frontage upon a finding that the reduced setback is due to lot depth.
    - I. Front Yard Setback.
      - Area A - Buildings shall be set back a minimum of 50 feet from the right-of-way.
      - Area B – As provided in zoning ordinance Section 603.
      - Area C – Buildings shall be set back a minimum of 25 feet from the right-of-way.
    - II. Side Yard Setback.
      - Area A – 30 feet
      - Area B – Per zoning ordinance section 603.
      - Area C – 20 feet
    - III. Rear Yard Setback.
      - Area A – 30 feet if abutting commercial zone; 50 feet if abutting residential zone.
      - Area B – Per zoning ordinance section 603.
      - Area C – Buildings shall be setback at least 25 feet from the rear lot line.

## SECTION 2406. LANDSCAPING, PARKING AND OVERALL SITE DESIGN

Design elements shall comply with the applicable regulations in the article, with the following additional requirements.

1. Front yard greenbelt.
  - a. Area A – A minimum 25 foot greenbelt is required. Plantings shall include a minimum of two (2) shade trees and three (3) ornamental trees for every one hundred (100) linear feet of lot frontage. The number of plants required shall be proportional to the frontage, with fractions rounded up. Plant materials may be clustered. Additional landscaping is encouraged. A mixture of ornamental and shade trees is encouraged. The planning commission may allow a reduction in the number or a variation in the mixture of the tree types. Identification signs may be placed in this greenbelt area.
  - b. Area B - As required in Section 1709 of this chapter with the addition of a five (5) foot wide greenbelt consisting of evergreen and ornamental shrubs with a mature height of four (4) feet when the parking lot abuts a public right-of-way.
  - c. Area C - A minimum twenty-five (25) foot greenbelt is required. Plantings shall include a minimum of two (2) shade trees and three (3) ornamental trees for every one hundred (100) linear feet of lot frontage. The number of plants shall be proportional to the length of frontage, with fractions rounded up. Plant materials may be clustered. Additional landscaping is encouraged. The planning commission may allow a reduction in the number or a variation in the mixture of the tree types. Identification signs may be placed in this greenbelt area.
2. Side yard greenbelt
  - a. General
    - I. A minimum of forty (40) percent of the required trees shall be deciduous canopy trees, except columnar trees or other vegetation if recommended by the City arborist, may be used in areas with existing overhead utilities;
    - II. The minimum width of the side greenbelt is 10 feet, and
    - III. At least fifty (50) percent of the required trees shall be of an evergreen variety.
  - b. Area A – As required in Section 1709-1 of this chapter. Landscaping shall be provided along walls to reduce the visual impact of building mass as viewed from the street or along the property line subject to Section 1709.2a of this chapter.
  - c. Area B – As provided in Section 1709-1 of this chapter unless the underlying zoning district is CBD.
  - d. Area C - As required in Section 1709-1 of this chapter. Landscaping shall be provided along walls to reduce the visual impact of building mass as viewed from the street or along the property line subject to Section 1709.2a of this chapter.
3. Rear yard greenbelt
  - a. General
    - I. A minimum of forty (40) percent of the required trees shall be deciduous canopy trees, except columnar trees or other vegetation if recommended by the City arborist, may be used in areas with existing overhead utilities;
    - II. The minimum width of the rear yard greenbelt shall be 10 feet;
    - III. At least fifty (50) percent of the required trees shall be of an evergreen variety;

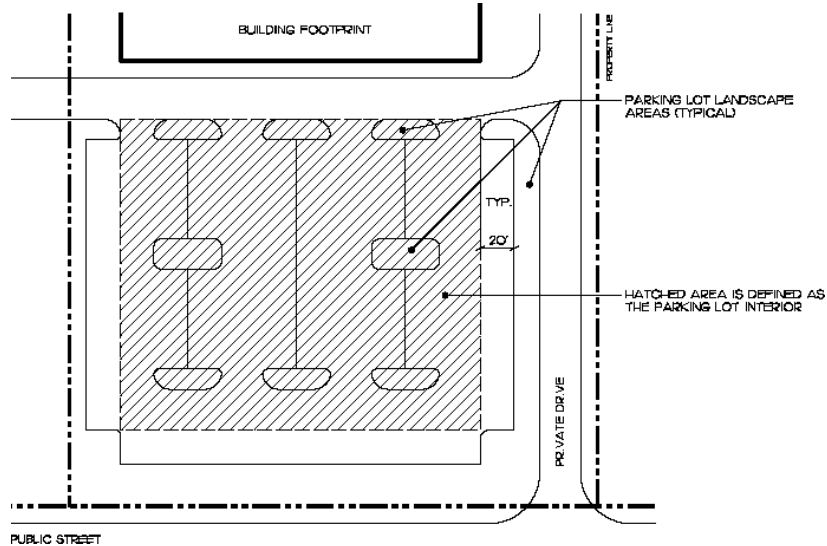
- and
- IV. At least seventy five (75) percent of all shrubs shall be evergreen or a dense variety of deciduous bush that provides year-round screening.
    - b. Area A – As required in Section 1709-1 of this chapter.
    - c. Area B – When abutting residences in this area, both fence and landscaping will be required unless waived by the planning commission based on depth and opacity of existing vegetation.
    - d. Area C - When abutting residences in this Area, both fence and landscaping will be required unless waived by the planning commission based on level and opacity of existing vegetation.

#### General Standards

1. The overall design, particularly along the corridor frontage, shall promote the impression of a well-tended landscape.
2. Where practical, existing trees that are in good health and above three inches in caliper along the frontage shall be preserved.
3. Retention, detention and the overall stormwater system shall be designed to use “best management practices” and create the appearance of a natural pond or feature including gentle (5:1) or varying side slopes, irregular shapes, water tolerant grasses and seed mixes at the bottom of the pond/basin; appropriate flowers, shrubs and grasses along the banks based on environment (wet, dry, sedimentation basin v. pond) to improve views, filter runoff and enhance wildlife habitat. This requirement may be waived by the planning commission at the recommendation of the city engineer.
4. For all parking areas that accommodate ten (10) cars or more, the following shall apply:
  - a. Plant material shall be calculated per section 1709.3 of this chapter. Additionally, each landscape feature shall be planted with a minimum of one (1) canopy tree and ground cover and/or grass and will be protected by raised concrete or asphalt curbing.
  - b. Landscape islands shall be calculated on the basis of one (1) landscape island for every ten (10) parking spaces. Landscape islands may be aggregated.
  - c. Landscape islands shall be a minimum of one hundred sixty (160) square feet and a minimum of nine (9) feet wide. Each island should be planted at least three (3) feet from the edge of the island.
  - d. Landscaped islands shall be curbed.
  - e. Landscape features including end islands, peninsulas, and strips shall be installed in the interior of parking lots to delineate on-site circulation, ensure adequate sight distance at the intersection of aisles and interior roadways, and to prevent diagonal vehicular movement through parking lots. Features shall be designed with sufficient radii to ensure drivers are able to make 90 degree right turns without encroaching upon landscaping or adjacent traffic lanes.
  - f. The planning commission may reduce the number of required landscape islands if it finds that adequate relief and shade is provided by other plantings in and around the parking area.
5. At least 40% of the required parking lot landscaping shall be within the interior of the parking lot, not on the edges. Islands shall be located to improve traffic flow and views. Details on

islands shall be provided including radii, length two feet shorter than parking space depth, trees, ground cover and any lighting or irrigation in accordance with zoning ordinance section 1709-3a. (See Figure 6 for limits of parking lot interior.)

**Figure 6**



6. To improve views and reduce impacts on the environment, the amount of parking constructed shall be less than what is typically required for commercial uses as follows: Parking shall be provided at a rate of one space per 200 square feet of useable floor area, unless a parking study demonstrates the need for additional parking to the satisfaction of the planning commission.
7. As a means of avoiding greater amounts of parking spaces and impermeable surface than are reasonably needed to serve a particular use while still ensuring site adequacy, the planning commission may allow deferred construction of some required spaces for any non-residential use if the following conditions are satisfied:
  - a. The applicant submits a site plan including the design and layout of all required parking areas including areas proposed for deferred parking. Such deferred parking area shall not include areas required for setbacks, landscaping or greenspace or land otherwise unsuitable for parking due to environmental or physical conditions.
  - b. The applicant demonstrates, to the satisfaction of the planning commission, that a reduced number of parking spaces will meet the parking needs due to the nature, size, density, location or design of the proposed development. Pedestrian access and use may be considered.
  - c. At any time subsequent to approval, the applicant or city may require the construction of additional parking spaces based on review of the parking needs by the planning commission.
  - d. Any other factors reasonably related to the need for parking for the proposed development as determined by the planning commission.



8. Loading and service bay doors shall not face a public street. Such doors shall be in the rear of the site. Where this is not practical, location on the side may be permitted provided additional walls and landscaping are provided, and/or such areas are recessed, to minimize the negative visual impact.
9. Any proposed fence must be shown on the site plan, including details on materials and color. Fences shall be durable and decorative in nature.
10. Chain link fences shall only be approved for a location not generally visible to the public or neighboring dwelling units. Chain link fencing is not acceptable for screening purposes. Any visible segments of fence will be vinyl coated with additional landscaping provided to screen the view.
11. Non-motorized Trails and Sidewalks. Where the site directly abuts an existing public trail or sidewalk, or is along a segment where a trail or sidewalk within the public right-of-way is proposed by the City and documented in a plan approved by the city a similar trail or sidewalk shall be constructed, in accordance with city ordinances and specifications, along the frontage within the public right-of-way. The planning commission may also require internal safety paths during the site plan review process.
12. Interior Sidewalks. Interior sidewalks shall be constructed, in accordance with city ordinances and specifications, to access buildings in the most efficient location for barrier free access.

#### **SECTION 2407. COMMERCIAL, OFFICE AND INSTITUTIONAL EXTERIORS**

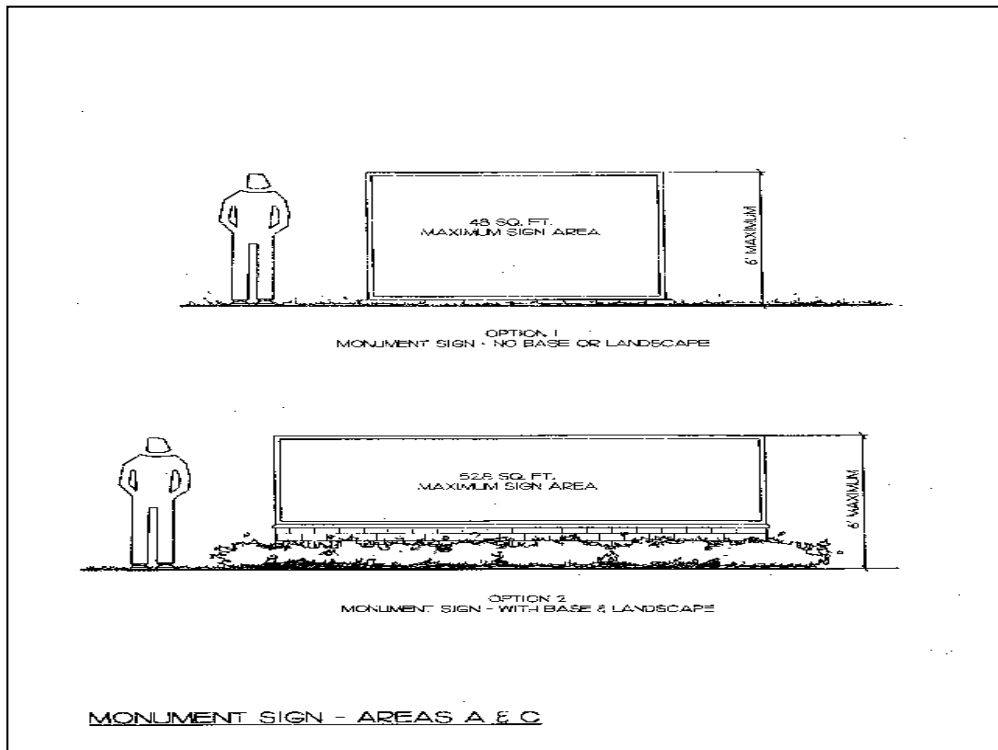
1. The applicant and the applicant's design professionals are encouraged to submit or present design concepts and alternatives at a study session with the planning commission to receive comments on compliance with the guidelines prior to preparation of detailed design drawings. This can include sketches, photographs or other graphic materials.
2. Commercial, office, and institutional building facades shall be reviewed by the planning commission as a part of site plan review under the following criteria:
  - a. Front building facades shall provide a minimum 30% glass windows in Areas A and C and a minimum of 60% glass windows in Area B on the first floor between two (2) and eight (8) feet above the sidewalk but shall not exceed 80% glass overall. Calculations are exclusive of the roof area.
  - b. Florescent colors will not be permitted in any capacity on the site.
  - c. Subtle colors shall be used for roofing material. Metal roofs shall only be permitted if compatible with the overall character of the building.
  - d. Buildings, ground signs and freestanding signs shall be of the same design character and material as the primary structure. The signs shall provide design features, details, or ornaments similar to the primary building.
  - e. Building walls over 30 feet in length shall be broken up with items such as varying rooflines, varying building lines, recesses, projections, wall insets, windows, design accents and/or bands of complementary building materials.
  - f. Building entrances shall utilize windows, canopies, and/or awnings; provide unity of scale, texture, and color; and provide a sense of place. Outward swinging doors shall not intrude into the ROW and shall be recessed when necessary.
  - g. Rooftop equipment shall be illustrated on the plans, and shall be screened from view by parapet walls or other design elements that complement the overall building design.

- h. Building rear and side facades shall be constructed to a finished quality comparable to the front facade where visible to a public street or residential district or use.
- i. Any interior play place associated with a restaurant or lodging facility shall be designed in accordance with the above standards.
- j. Overhead canopies for gas stations or other uses shall be designed to be compatible with the design characteristics of the principal building such as peaked roofs, shingles, support structures that match or simulate materials of the principal building, lighting fixtures shall be full cutoff and fully recessed into the canopy which shall be designed in neutral colors.
- k. Neon lights, excluding signage, is prohibited

**SECTION 2408. SIGNS**

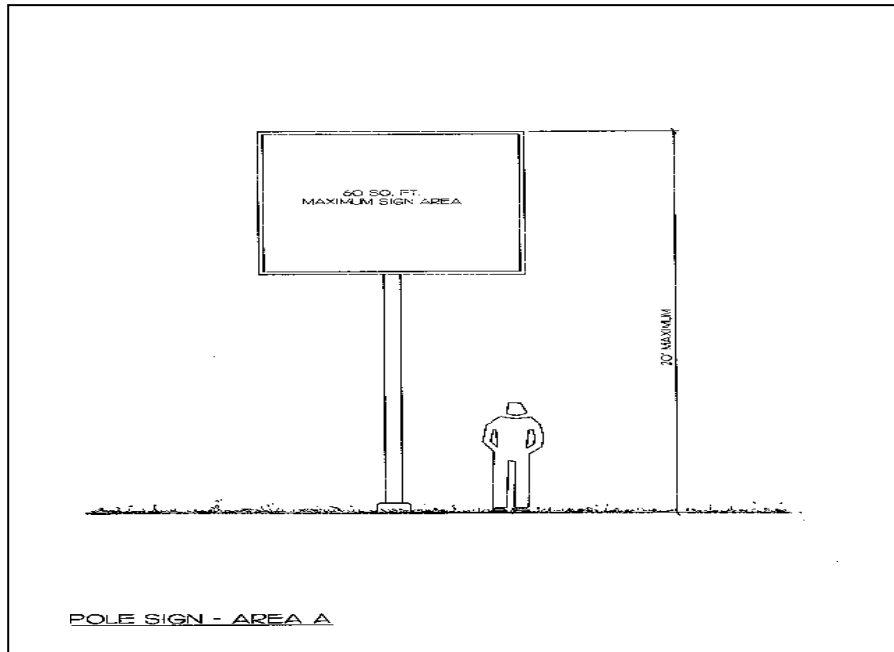
- 1. Area A – As permitted in Section 2008-3 of this chapter except:
  - a. Monument signs may not exceed six (6) feet in height and 48 square feet in area. (See Figure 7, Option 1)

**Figure 7**



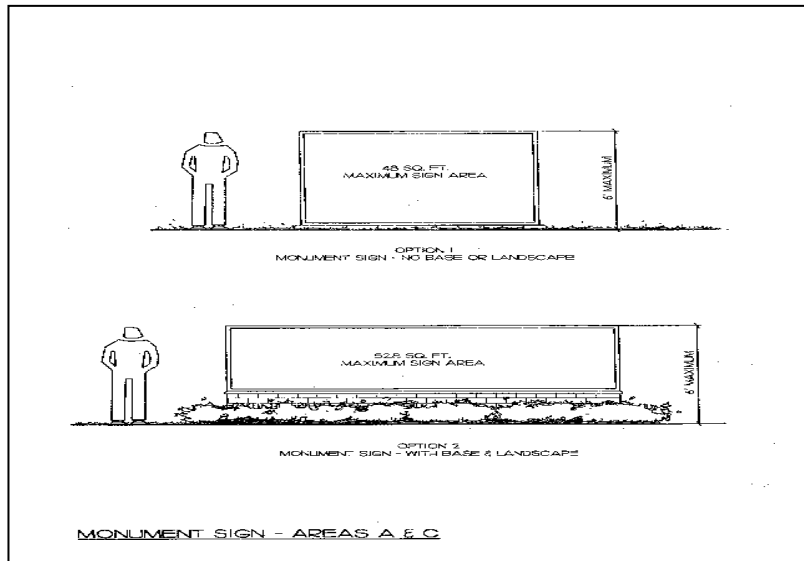
- b. If a monument sign is provided, the size of the sign may be increased 10% above that otherwise permitted if the sign base materials match the building, and foundation plantings are provided around the sign base. (See Figure 7, Option2)
- c. Pole signs may not exceed 20 feet in height. (See Figure 8)

**Figure 8**



- d. Pole sign area shall be calculated as one (1) square foot for each foot of front setback plus one (1) square foot for each linear foot of lot frontage. Sign area shall not exceed 60 square feet.
2. Area B - As permitted in Section 2008-2.
3. Area C - As required in Section 2008-3 except as provided herein:
4. Monument signs may not exceed six (6) feet in height and 48 square feet in area. (See Figure 9, Option 1)
5. If a monument sign is provided, the size of the sign may be increased 10% above that otherwise permitted if the sign base materials match the building, and foundation plantings are provided around the sign base. (See Figure 9, Option 2)
6. Pole signs are not permitted.

Figure 9



**ARTICLE XXV  
AMENDMENTS AND ADOPTION**

**SECTION 2500. AMENDMENT PROCEDURE**

The Planning Commission, City Council, an owner of property in the City, a representative of another governmental body, or any other interested person may make a written request to the Planning Commission for initiating a zoning map change or text amendment to this Zoning Ordinance. The following procedures shall be followed:

1. The applicant shall submit a formal application to amend the zoning ordinance on a form established for that purpose to the City Clerk through the Zoning Administrator, along with the fee specified in Section 2106. (Amended 9/1/85; Ord. No. 673) The Zoning Administrator shall review the application form to ensure it is complete. Any application not properly filed or incomplete shall be returned to the applicant. Complete applications shall be transmitted to the Planning Commission. The application shall include the applicant's name and address, the applicant's interest in the property, and if the applicant is not the owner, the name and address of the owner. If a rezoning is proposed, the application shall include a legal description of the property proposed for rezoning; a scaled map of the property clearly showing the location of the property; and the desired change and reasons for such change. The reasons shall address all the factors in Section 2501.
2. The Planning Commission may authorize the preparation of a proposed amendment to be considered if the written request does not come in the form of an application, or if the Planning Commission independently desires to propose ordinance text to be amended or parcels to be rezoned. The Planning Commission may prepare an alternative to any application which has been submitted, if in the opinion of the Planning Commission it is in the public interest to do so. If an alternative is proposed, both the original application and the alternative shall be considered at the same public hearing.
3. The Planning Commission shall set a time and place for a public hearing and provide for the legal publishing and proper posting of notices of such hearing, time, and date in a newspaper of general circulation in the City, to be printed not less than fifteen (15) days before the date of the hearing. A notice shall also be sent by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question. Such notices shall include the places and times at which the tentative text or map change(s) may be examined. A record of all notices prepared and sent, and to whom they are sent shall be maintained with the file of the application. The notices shall include the places and times at which the tentative text and/or any rezoning maps may be examined.
4. At said hearing, the Planning Commission shall establish that the applicant has paid to the City the fees required by this Ordinance and that proper notices have been made.
5. The Planning Commission shall hold said public hearing, noting all comments and reports requested, or noting the absence of such. The Planning Commission shall consider each proposed amendment according to the factors in Section 2501.
6. If the Planning Commission votes to recommend approval of such amendment without change, it shall forward the amendment to the City Council with recommendation for approval or denial, which recommendation shall be accompanied by a summary of the comments made at the public hearing and the findings of the Planning Commission relative to the factors in Section 2501.

7. Prior to voting to recommend approval, the Planning Commission may propose minor changes in the amendment to reflect objections raised at the hearing, to correct typographical or grammatical errors, or for other reasons stated in the minutes of the meeting. The text or zoning map as proposed to be changed shall be forwarded as above without further hearing.
8. If the Planning Commission desires to make major changes in the proposed amendment, it shall either adjourn the hearing, announcing at that time, the time and place of the continuation thereof, or set a time and place for a new public hearing as called for above.
9. Within two (2) weeks following the decision of the Planning Commission, a copy of the recommendation on the proposed amendment shall be forwarded to the City Council.
10. Following a public hearing, the City Council may adopt or deny said amendment with a concurring vote of a majority of its members, with or without any amendments that have been previously considered at a public hearing.
11. If the City Council considers amendment changes, additions, or departures advisable to the proposed text or zoning map, it shall refer the same to the Planning Commission for a report thereon within a time specified by the City Council. After review of such report, the City Council may then proceed to consider the adoption of any such amendment.

#### **SECTION 2501. FACTORS TO CONSIDER ON AMENDMENTS**

1. **Scope of Examination** - In reviewing any application for an amendment to this Ordinance, the Planning Commission shall identify and evaluate all factors relevant to the application, and shall report its findings in full along with its recommendations for disposition of the application to the City Council within a period of thirty-five (35) days from the public hearing. The matters to be considered by the Planning Commission shall include, but shall not be limited to, the following:
  - a. What, if any, identifiable conditions related to the application have changed which justify the proposed amendment?
  - b. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the application?
  - c. What is the impact of the amendment on the ability of the City and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the proposed amendment is adopted?
  - d. Does the proposed district change adversely affect environmental conditions, the character or the likely value of the surrounding property?
  - e. Does the proposed district change comply with the adopted City Comprehensive Plan? If not, and if the proposed zoning change is reasonable, in light of all other relevant factors, then the Plan should be amended before the requested zoning amendment is approved.
  - f. If a specific property is involved, can the property in question be put to a reasonable economic use in the zoning district in which it is presently located.
  - g. Is another procedure, such as a variance, special land use or planned unit development procedure a more appropriate alternative than a rezoning?
2. **Outside Agency or Consultant Review** - In determining the degree to which a rezoning request conforms with the factors listed above, the Planning Commission may solicit information and testimony from officials in other public offices including, but not limited to, the following agencies:
  - a. County Health Department
  - b. County Road Commission
  - c. County Drain Commission

- d. Any school district affected
- e. Any City agency
- f. Any State or Federal agency or office with an interest in the proposed change
- g. Any firm hired by the City to provide a review or comments on the proposed amendment.
- h. Joint Township/City Advisory Board

**SECTION 2502. PUBLICATION OF A NOTICE OF ORDINANCE AMENDMENTS**

Following adoption of amendments to this Ordinance by the City Council, one (1) notice of adoption shall be published in a newspaper of general circulation in the City within fifteen (15) days after adoption. The notice shall include the following information:

- 1. Either a summary of the regulatory effect of the amendment including the geographic area affected, or the text of the amendment.
- 2. The effective date of the amended Ordinance.
- 3. The place and time where a copy of the amended Ordinance may be purchased or inspected.

**SECTION 2503. OPTIONS UPON DENIAL OF AMENDMENT REQUEST**

A property owner whose amendment or rezoning request is denied may file an appeal with Circuit Court. If the property owner alleges that the denial of the amendment has the result of leaving the property owner with no reasonable or economically viable use of the property, then the property owner may request a Hardship PUD pursuant to the requirements of Article XII or request a use variance pursuant to the requirements of Section 2206.

**SECTION 2504. RESUBMITTAL**

No application for a rezoning which has been denied by the City Council shall be resubmitted for a period of one (1) year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection by the City Council to be valid.

**SECTION 2505. COMPREHENSIVE REVIEW OF ZONING ORDINANCE**

The Planning Commission shall in the year 2000 and at intervals of not more than five (5) years thereafter, examine all the provisions of this Ordinance and the location of zoning district boundary lines and shall submit a report to the City Council recommending changes and amendments, if any, which are deemed to be desirable in the interest of public health, safety and general welfare.

**ARTICLE XXVI  
REPEAL OF PRIOR ORDINANCE**

The Zoning Ordinance adopted by the City of South Haven, known as Ordinance No. 571 and all amendments thereto, are hereby repealed. The repeal of the above ordinance and its amendments does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture, or punishment incurred prior to the time enforced, prosecuted, or inflicted.



**ARTICLE XXVII  
VESTED RIGHT**

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change, or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

**ARTICLE XXVIII  
ENFORCEMENT, PENALTIES, AND OTHER REMEDIES**

**SECTION 2800. VIOLATIONS**

At the discretion of the City Attorney or City Council, either or both of the following violation remedies may be pursued:

1. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500.00) and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both fine and imprisonment in the discretion of the court, together with the costs of such prosecution.
2. Any person who shall violate any provision of this Ordinance shall be responsible for a municipal civil infraction and subject to enforcement procedures and penalties as set forth in Section 1-16 of the Code of Ordinances, City of South Haven, Michigan.

**SECTION 2801. PUBLIC NUISANCE PER SE**

Any building or structure which is erected, altered, or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Ordinance, or an amendment to it, and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by the order of any court of competent jurisdiction.

**SECTION 2802. FINES, IMPRISONMENT**

The owner of any building, structure, or premises or part thereof, where any condition in violation of this Ordinance is or shall be created and who has assisted knowingly in the commission of such violation, shall be guilty of a separate offense and, upon conviction thereof, shall be liable for the fines and imprisonment herein provided.

**SECTION 2803. EACH DAY A SEPARATE OFFENSE**

A separate offense shall be deemed committed upon each day during or when a violation occurs or continues.

**SECTION 2804. RIGHTS AND REMEDIES ARE CUMULATIVE**

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

**ARTICLE XXIX  
SEVERANCE CLAUSE AND INTERPRETATION**

1. Sections of this Ordinance shall be deemed to be severable; and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid.
  
2. In the interpretation and application of this Ordinance, all provisions shall be (a) considered as minimum requirements, (b) liberally construed in favor of the City of South Haven and (c) deemed neither to limit nor repeal any other powers granted under State law.

**ARTICLE XXX  
EFFECTIVE DATE**

Public hearing having been held hereon, the provisions of this Ordinance are hereby given immediate effect upon its publication, pursuant to the provisions of Section 4 of Act 207 of the Public Acts of 1921, as amended.

Made and passed by the City Council of the City of South Haven, Van Buren County, Michigan on this 24th day of January, 1983.

1. Date of Public Hearing: December 2, 1983.
2. Date of Publication: January 26, 1983.
3. Date of Adoption by City Council: January 24, 1983.
4. Date Ordinance Shall Take Effect: February 3, 1983.
5. Dates of Subsequent Amendments:
  - #653 Adoption of South Haven Zoning Ordinance. 1/24/83
  - #663 Amend Articles II, X, XIV. 1/7/85
  - #668 Add Section 1729, Satellite Antennas. 5/6/85
  - #673 Add Schedule of Fees to Ordinance. 9/1/85
  - #674 Amend Section 1708, Accessory Buildings. 9/4/85
  - #675 Amend Section 1730, Principle Use. 10/7/85
  - #676 Amend Section 1720, Moving of Buildings. 12/9/85
  - #677 Map Change B-1 and B-3 to B-2. 12/19/85
  - #680 Map Change RM-2 to B-3 and 1-1. 4/17/86
  - #681 Map Change R-2 to B-3. 4/17/86
  - #686 Amend Section 1800, Off Street Parking Requirements. 7/17/86
  - #687 Amend Section 1402, Site Plan Review Application Procedures. 8/4/86
  - #688 Map Change RM-2 to B-3, R-1 to B-3. 8/14/86
  - #689 Amend Section 2212, Zoning Board of Appeals Hearings. 8/4/86
  - #692 Map Change R-2 to R-1. 2/12/87
  - #694 Map Change R-2 to B-3. 5/4/87
  - #699 Map Change B-2 to RM-2. 10/15/87
  - #700 Map Change RM-2 to R-1. 10/15/87
  - #701 Amend Section 1800, Off Street Parking Requirements. 10/15/87
  - #702 Add Section 1803, Community Parking Plan. 12/17/87
  - #705 Denied. 3/1/88
  - #706 Map Change R-2 to PUD. 4/7/88
  - #711 Map Change to PUD. 5/12/88
  - #712 Map Change R-1 to B-2. 5/12/88
  - #714 Amend Section 1302, 2208, 2002. 6/30/88
  - #728 Amend Section 1709. 12/14/89
  - #744 Amend Section 201. 7/18/91
  - #750 Map Change B-1 to R-1. 2/13/92
  - #773 Map Change I-1 to R-1. 12/7/93
  - #777 Map Change R-1 to B-3. 3/1/93
  - #786 Amend Section 2001, Signs in the B and CBD Districts. 9/20/93
  - #790 Map Change RM-2 to B-3. 10/4/93
  - #791 Map Change RM-2 to B-3. 10/4/93
  - #794 Amend Section 1725, Pools. 11/1/93
  - #798 Amend Section 1704, Conditions and Exceptions. 12/6/93
  - #805 Map Change RM-2 to I-2. 2/22/94

- #809 Map Change RM-2 and R-1 to B-3. 5/2/94
- #812 Amend Section 2200, Zoning Board of Appeals. 7/5/94
- #813 Map Change R-1 to I-1. 9/16/94
- #814 Amend Section 1302, Planned Unit Development Density. 9/19/94
- #819 Amend Article XXVIII, Municipal Civil Infraction. 2/6/95
- #821 Map Change Annexed Areas to I-1, B-2, R-1 and RM-2. 3/6/95
- #822 Map Change B-3 to R-1. 4/3/95
- #823 Amend Section 201, 300 and 3100, Planned Shopping District, Major Thoroughfare Business District. 4/3/95
- #824 Map Change R-2 to B-2. 4/3/95
- #825 Map Change B-2 to B-4. 6/19/95
- #836 Map Change I-1 to I-1. 4/1/96
- #839 Map Change B-2 to B-4, I-1 to B-4. 9/3/96
- #845 Amend Sections 1001, 201 and 1708, Campground Ordinance. 6/16/97
- #846 Map Change to R-1, B-2 and RM-2. 8/4/97
- #849 Map Change I-1 to I-2. 9/2/97
- #854 Add PB-1 Professional Business District, Map Change for same, 4/6/98
- #855 Map Change, 71700 CR388, I-1 to B-4, 4/20/98
- #857 Major Text and Map changes. 4/20/98
- #859 Map Change I-1 to RM-1, 125 Elkenburg. 6/1/98
- #862 Map Change, R-1 to B-2, 72636 2<sup>nd</sup> Avenue. 8/3/98
- #863 Amend Sections 2000.1.g, 2002.7, 2000.1, 2002.8, 1904, 201, 1738, 1731.7, 1302, 1736.3, 2101.12, and 1510.27. 8/13/99
- #867 Amend Section 1510.34, Outdoor Sidewalk Café. 12/7/98
- #869 Amend Sections 1904, 1310, 1305, 201, 1302, 1307, 801, 1709, 1510.27, 702.3, 802.3, 902.5, 1002.2, 1101.20, and 1108.3. 3/1/99
- #870 Map Change, R-2 to B-3, 729 Kentucky. 3/1/99
- #871 Map Change, B-3 to RM-1, 404-436 Virginia Avenue. 3/1/99
- #873 Amend Sections 201, 1714, and 1713, Fences, Landscaping Structures and retaining walls. 8/19/99
- #874 Add Sections 1112, 1113, 1114, 1115, 1116, 1117, Create I-1B Industrial District. 9/30/99
- #875 Map Change, I-1 to I-1B, 200 Aylworth Avenue. 9/30/99
- #876 Add Section 601.23. 9/30/99
- #877 Map Change, R-2 to RM-1, 720 and 724 Kentucky Avenue. 1/7/00
- #878 Amend Sections 201 and 1901, Deck Additions on Non-conforming Residential Uses. 3/9/00
- #885 Amend Sections 1704, 1716, 402.1, 1717, Zoning Administrator approval of lotsplits, average front setbacks, storm retention, 8/7/00
- #891 Map Change, 879 and 883 Indiana Ave., R-1 to B-1, 10/01/01
- #896 Map Change, 1675 Phoenix Street, I-1 to B-4, 4/1/02
- #898 Map Change, 352 and 354 Broadway, B-2 to CBD, 4/15/02
- #899 Map Change, 913 Indiana Ave., I-1 to R-1, 5/20/02
- #901 Major Amendment of Zoning Ordinance, 8/19/02
- #904 Amend Sections 2000.2 (h) and 2002.2 (m) Flags and banners, 10/7/02
- #905 Map Change, R-1A to RM-1, 1555 and 1557 2<sup>nd</sup> Avenue, 10/21/02
- #906 Amend Section 405, Overall height in R-1 Districts, 11/4/02
- #911 Map Change, I-1 to RM-1, portion of 1800 2<sup>nd</sup> Avenue, 3/3/03
- #917 Map Change, I-1 to RM-1, 900 and 1070 Indiana Street, 7/7/03
- #918 Amend Sections 501.10 and 1510.20, Permit new marinas in RM-1 District by Special Use Permit, 7/7/03
- #919 Amend Sections 402 and 403, Permit average of adjacent front setbacks in R-1A and R-1B Districts, 8/4/03
- #922 Map Change, R-1A to CBD, 300, 306, and 308 Kalamazoo Street, 9/2/03
- #923 Amend Sections 1001 and 1510.08, regulate communication towers by special use permit in the B-4 District, 9/2/03

- #925 Amend Section 501 to add Section 501.12, regulate existing bakeries as permitted uses in the RM-1 District, 2/2/04
- #927 Map Change, RM-1 to B-1, portion of 140 North Shore Drive, 10/4/04
- #933 Amend Section 901.11, regulating style of buildings in planned unit developments in the B-3 District, 6/6/05
- #935 Map Change, R-1B to RM-1, 458 Broadway, 413 Center, 532 Erie, 514 Michigan, 507 Superior, and 513 Superior (Central School), 8/1/05
- #937 Map Change, I-1 to RM-1, portion of 1800 2<sup>nd</sup> Avenue (Sherman Hills), 11/7/05
- #938 Article XIII, Planned Unit Development, amended in its entirety, 12/5/05
- #939 Map Change, R-1B to RM-1, 418 School Street, 2/6/06
- #945 Article XX, Signs, amended in its entirety, 7/17/06
- #946 Amend the following sections for Hotel/Motel regulations: Article II, definition of Residence Hotel; Article VI, Section 601.12; Article VIII, Section 801.27; Article IX, Section 901.9; Article XIII, Section 1307.2(a)9; Article XV, Section 1510.22(1.a); 8/21/06
- #947 Map Change, RM-1 to R-1A, 900 Indiana Avenue, Lots 26, 27, 28, 29, 44, 45, 46, & 47, Pleasant View Addition, Parcel Numbers 80-53-200-026-01 and 80-53-200-044-01, 8/21/06
- #948 Map Change, B-4 to RM-1, 1150 Wilson Street, a portion of 1140 Wilson Street and a portion of 1233 Phoenix Street, 10/2/06
- #949 Article II, Section 201, Definition of Sign, 11/20/06
- #950 Article IV, Section 401, add paragraph 14 permitting and regulating model homesales offices in residential districts, 11/20/06
- #951 Article XX, Section 2008.1, changing the permitted locations for permitted wall signs for residences with 6 or fewer units in the R-1, R-2 and RM-1 Districts, 11/20/06
- #952 Article XV, Section 1510.3 and Article XXII, Section 2212, change the amount of time prior to a public hearing that notices must be published, posted, and mailed to be compliant with the Zoning Enabling Act of 2006, 11/20/06
- #953 Article XIV, Section 1402.2 and Article XV, Section 1501.1, changing the application deadline for Planning Commission business to 31 days prior to the meeting date, 11/20/06
- #954 Article XIX, Section 1913.c, added paragraph permitting extension of nonconforming setbacks in residential districts, 2/5/07
- #955 Article XVIII, Section 1803, Community Parking Plan deleted, and Article XXII, Section 2208.2(c), reference to Community Parking Plan deleted, 6/14/07
- #958 Article XIX, Section 1901, Permit accessory buildings on single-family homes in business districts.
- #959 Article XVIII, Section 1801.8, Permit Pervious Paving.
- #960 Map Change, I-1 to B-2, the southerly 330 ft of the property on the north side of 2<sup>nd</sup> Ave. being a part of that property commonly known as 1600 2<sup>nd</sup> Ave., and part of Parcel Numbers 80-53-869-002-65 and 80-53-867-003-08, 3/3/08
- #961 Map Change, R-1A to B-1, 614 Maple Street, Parcel Number 80-53-032-015-25, 3/3/08
- #965 Article XIV, Section 1403.5.e, 1404.3, and 1405.3.h adding standards for roof, sump and gutter drains, 7/21/08
- #969 Article XVII, Section 201 and 1723 clarifying the definition of yards being to the nearest wall of the main building, and projections into said yards, 6/15/09
- #970 Article XVII, Section 1713 limiting fill on a site in establishing retaining walls to no greater than 10 ft above the prior existing natural grade, 6/15/09
- #981 Article II and XVII, Sections 201 and 1724 modifying certain definitions and the front yard provisions for waterfront property, 4/19/10
- #987 Map Change, B-1 to R-1A, 614 Maple Street, Parcel Number 80-53-032-015-25, 10/4/10

## ADDENDUM. RECOMMENDED PLANT MATERIALS & LANDSCAPING

1. Recommended Plant List (General List)
  - a. Evergreens:
    - Fir
    - Spruce
    - Pine
    - Hemlock
    - Douglas fir
  - b. Narrow Evergreen Trees:
    - Red cedar
    - Arborvitae
    - Juniper (selected varieties)
  - c. Large Deciduous Trees:
    - Oak
    - Maple (not Red Silver or King  
Crimson) Beech
    - Linden
    - Ash
    - Ginko (male only)
    - Honeylocust (seedless, thornless)
    - Birch
    - Sycamore
  - d. Small Deciduous Trees (ornamental):
    - Flowering dogwood
    - Flowering cherry, plum, pear
    - Hawthorn (thornless)
    - Redbud
    - Magnolia
    - Flowering crabapple (disease resistant)
    - Mountain ash
    - Hornbeam
    - Russian olive
  - e. Large Evergreen Shrubs:
    - Hicks yew
    - Upright yew
    - Spreading yew
    - Pfitzer juniper
    - Savin juniper
    - Mugho pine
  - f. Small Evergreen Shrubs:
    - Ward's yews
    - Dwarf spreading juniper
    - Dwarf mugho pine
    - Euonymous varieties
    - Dwarf spruce
  - g. Large Deciduous Shrubs:
    - Honeysuckle

Border privet (hedge planting)  
Lilac  
Sumac  
Buckthorn  
Pyracantha  
Weigela  
Flowering quince  
Cotoneaster (Peking & spreading)  
Dogwood (Red osier & Grey)  
Euonymous varieties  
Viburnum varieties  
Tall hedge (hedge planting)

h. Small Deciduous Shrubs:  
Dwarf winged euonymous  
Regal privet  
Fragrant sumac  
Japanese quince  
Cotoneaster(Rockspray, Cranberry)  
Potentilla

i. Ground Cover:  
Periwinkle  
Baltic ivy  
Euonymous varieties  
Hall's Japanese honeysuckle  
Pachysandra

j. Vines:  
Euonymous varieties  
Virginia creeper  
Baltic ivy  
Wisteria

2. Recommended list of natural plantings:

The following list more specifically identifies plants that can be used where the appearance is intended to be more natural and less ornamental. These plants are listed according to the moisture level of the site, wet or dry, and include the scientific name to avoid confusion with similarly named species.

Wet To Medium Moisture Sites:

a. Large trees:  
Balsam fir (*Abies balsamea*)  
Basswood (*Tilia americana*)  
Black ash (*Fraxinus nigra*)  
Black cherry (*Prunus serotina*)  
Black spruce (*Picea mariana*)  
Larch (*Larix laricina*)  
Sugar maple (*Acer sacharum*)  
Sycamore (*Plantanus americana*)  
White pine (*Pinus strobus*)

b. Small trees:  
Alternate-leaved dogwood (*Cornus alternifolia*)  
American arborvitae (*Thuja occidentalis*)  
River birch (*Betula nigra*)



Serviceberry (*Amelanchier laevis*)

- c. Large shrubs:  
American cranberry bush viburnum (*Viburnum trilobum*)  
American elderberry (*Sambucus canadensis*)  
Arrowwood (*Viburnum dentatum*)  
Buttonbush (*Cephalanthus occidentalis*)  
Common witch hazel (*Hamamelis virginiana*)  
Gray dogwood (*Cornus racemosa*)  
Highbush blueberry (*Vaccinium corymbosum*)  
Michigan holly (*Ilex verticillata*)  
Nannyberry viburnum (*Viburnum lentago*)  
Red chokeberry (*Aronia arbutifolia*)  
Redosier dogwood (*Cornus sericea*)

- d. Small shrubs:  
Bush cinquefoil (*Potentilla fruticosa*)  
Canada yew (*Taxus canadensis*)  
Common juniper (*Juniperus communis*)  
New Jersey tea (*Ceanothus americanus*)

Dry, Sandy Sites:

- e. Large trees:  
American beech (*Fagus grandifolia*)  
Balsam fir (*Abies balsamea*)  
Cottonwood (*Populus deltoides*)  
Jack pine (*Pinus banksiana*)  
Large-tooth aspen (*Populus grandidentata*)  
Quaking aspen (*Populus tremuloides*)  
Red oak (*Quercus rubra*)  
Red pine (*Pinusresinosa*)  
Shagbark hickory (*Carya ovata*)  
Sugar maple (*Acer saccahrum*)  
White ash (*Fraxinus americana*)  
White oak (*Quercus alba*)
- f. Small trees:  
American mountain ash (*Sorbus americana*)  
Carolina buckthorn (*Rhamnus carolinianus*)  
Chokecherry (*Prunus virginiana*)  
Cockspur hawthorn (*Crataegus crus-galli*)  
Dotted hawthorn (*Crataegus punctata*)  
Downey hawthorn (*Crataegus mollis*)  
Eastern red cedar (*Juniperus virginiana*)  
Green hawthorn (*Crataegus viridus*)  
Ironwood (*Ostrya virginiana*)  
Nannyberry (*Viburnumlentago*)  
Prairie crab (*Malus ioensis*)  
Red mulberry (*Morus rubra*)  
Serviceberry (*Amelanchier laevis*)  
Wild red cherry or Pin cherry (*Prunus pensylvanica*)
- g. Large shrubs:  
American filbert (*Corylus americana*)  
Staghorn sumac (*Rhus typhinia*)  
Witch hazel (*Hamamelis virginiana*)

- h. Small shrubs:
    - Blackberry (*Rubus alleghaniensis*)
    - Bush honeysuckle (*Lonicera japonica*)
    - Highbush blueberry (*Vaccinium angustifolium*)
  - i. Ground-level shrubs and groundcovers:
    - Fragrant sumac (*Rhus aromatica*)
    - Ground juniper (*Juniperus communis-depressa*)
    - Horizontal juniper (*Juniperus horizontalis*)
    - River bank grape (*Vitis riparia*)
3. The following minimum standards are recommended for all landscape materials:
- a. Quality. Plant material and grasses should be of generally acceptable varieties and species, free of insects and diseases, hardy to the climate, conform to the current minimum standard of the American Association of Nurserymen, and should have proof of any required governmental regulations and/or inspections.
  - b. Composition. A mixture of plant material, such as evergreen, deciduous trees and shrubs, is recommended as a protective measure against insect and disease infestation. A limited mixture of hardy species is recommended rather than a large quantity of different species to produce a more aesthetic, cohesive design and avoid a disorderly appearing arrangement.
  - c. Existing Trees.
    - 1) If existing plant material is labeled "To Remain" on site plans by the applicant or required by the City, protective techniques, such as, but not limited to, fencing or barriers placed at the dripline around the perimeter of the plant material should be installed during construction. No vehicle or other construction equipment should be parked or stored within the dripline of any plant material intended to be saved. Other protective techniques may be used provided such techniques are approved by the City.
    - 2) In the event that healthy trees which are used to meet the minimum requirements of this Ordinance or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the City, the Contractor should replace them with trees which meet Ordinance requirements.
4. Standards for All Required Landscaped Areas:
- a. All landscaping materials should consist of healthy specimens compatible with local climate, soil characteristics, drainage, and water supply. All plant material should be reasonably resistant to drought and disease. Non-nursery derived stock should not be used to satisfy these requirements. All landscaping and landscape elements should be planted, and earth moving or grading performed, in a sound workmanlike manner and according to accepted good planting and grading procedures.
  - b. Grass or other living plants should be the primary ground cover in required landscaped areas unless a plan for permanently maintaining mulch is approved. Both sod planting and seeding are acceptable.
  - c. Ground covers other than grass should be planted in required areas to provide complete coverage within two (2) growing seasons. Vines should not be used adjacent to pedestrian areas.
  - d. Materials such as river rock, cobble, boulders, paving stone, patterned concrete, bark and wood chips should be limited to small areas and should not exceed twenty-five (25%) percent of the required landscaped area unless special circumstances are identified which warrant allowing a larger area in the opinion of the decision body. All such ground covers should be at least six (6") inches

deep. Loose gravel less than three (3") inch minimum aggregate size should not be used in areas abutting public streets or sidewalks.

- e. Salt tolerant vegetation should be encouraged to be planted along major thoroughfares. Common salt tolerant species are listed below:

Ground Covers:

Arctostaphylos uva-ursi	Bearberry
Calluna vulgaris	Heather (acid soils)
Euonymus fortunei	Euonymus
Parthenocissus quinquefolia	Virginia Creeper
Sedum acre	Stonecrop

Herbs and Sub-shrubs:

Artemisia Stelleriana	Dusty Miller
Lavandula Officinalis	Lavender
Sempervivium	Houseleek or Hens and Chickens
Statice	Statice

Shrubs:

Berberis Thunbergii	Barberry
Cotoneaster horizontalis	Rock Cotoneaster or Rockspray
Cytisus praecox	Broom
Myrica pennsylvanica	Bayberry
Pieris japonica	Japanese Andromeda
Rhus typhina	Sumac
Rosa rugosa	Red Rugosa Rose
Tamarix sp.	Tamarisk

Trees:

Acer pseudo-platanus	Sycamore Maple
Alnus glutinosa	Black Alder
Eleagnus angustifolius	Russian Olive
Picea abies	Norway Spruce

5. Maintenance: Maintenance should include all reasonable and regular irrigation, weeding, fertilizing, and pruning. Plant materials which show signs of insect pests, diseases and/or damage should be removed immediately or as soon as practical under the seasonal conditions existing and according to the approved site plan. The developer and subsequent owner(s) should be responsible for maintaining all on-site landscaping in a living condition. All landscaped areas should be provided with a readily available and acceptable water supply.