

**TITLE V
ZONING AND PLANNING**

**Chapter 50
ZONING**

Preamble. In accordance with the authority and interest of Act 207 of the Public Acts of the State of Michigan 1921, as amended, in such case made and provided to meet the needs of the State's residents for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; to promote public health, safety, and welfare, and for those purposes the City of Harbor Springs is divided into districts with regulations imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and other land uses or activities that shall be permitted or excluded or subjected to special regulations; to regulate and limit the height and bulk of buildings erected, and regulate and determine the area of yards, courts, and other open spaces, and for those purposes dividing the City into districts of the number, shape, and area, all in accordance with an adopted Master Plan considered for the purposes of this Chapter to be the plan referred to in Act 207 of the Public Acts of the State of Michigan 1921, as amended.

**ARTICLE 1
GRAMMATICAL USAGE**

50.100 Grammatical Usage, Generally. For the purposes of this Chapter, certain terms and words shall have the meaning as is hereinafter provided.

(1) Words used in the present tense include the future; words in the singular number include the plural, and words in the plural include the singular; words in each gender include each of the other genders.

(2) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.

(3) The word “building” is included in the word “structure”. A “building” or “structure” includes any part thereof.

(4) The words “dwelling”, “dwelling unit”, “one-family building”, “two-family building”, “multi-family building”, “building”, “house”, “premises”, or “lot” as used in this Chapter shall be construed as if followed by the words “or any part thereof”.

(5) The phrase “used for” may include “arranged for”, “designated for”, “intended for”, “maintained for”, or “occupied for.”

(6) Unless the context clearly includes the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “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.

**ARTICLE 2
DEFINITIONS**

50.200 Definitions, Generally. For the purposes of this Chapter, certain terms and words are hereinafter defined. Terms not herein defined shall have the meaning customarily assigned to them. Reference may be made to WEBSTER'S NEW COLLEGIATE DICTIONARY (the latest edition) to assist in the determination of the meaning of any term not herein specifically defined.

50.201 Definitions (A - B).

(1) **Accessory Agricultural Sales.** The sale by the proprietor or the residing family of agriculture raised or produced at that location on land devoted principally to agricultural use.

(2) **Accessory Building.** A subordinate detached building situated upon the same lot as the principal building, the use of which is clearly incidental to the use of the principal building. A subordinate building as aforesaid (including a garage) shall be considered an accessory building, even if attached to the principal building unless there is at least a portion of a building face on the subordinate building which is common with a portion of a building face of the principal building and the common portion constitutes at least 50 percent of the principal building face's total area.

(3) **Accessory Use.** [A use subordinate to the permitted principal use of a lot and which is clearly incidental to the permitted principal use. If the majority of an establishment's floor space is devoted to a particular use, it will be presumed that such use is the principal use. If the owner or operator of an establishment can satisfactorily demonstrate to the Zoning Administrator or the Planning Commission through presentation of compiled financial statements that the principal use of a lot is a use other than the one to which a majority of the establishment's floor space is devoted, said Establishment shall be re-classified by the Zoning Administrator as is appropriate for the

type of business primarily engaged in by the operator. Such re-classification shall be subject to periodic review as deemed appropriate by the Zoning Administrator, and shall be returned to its original classification unless the owner or operator can continue to demonstrate that re-classification is appropriate, based on the compiled financial statements.]³⁵

(4) **Agriculture.** The tilling of soil, the raising of crops, horticulture, and gardening, but not including keeping or raising of animals and fowl, except customary household pets, and not including any disposal of garbage, sewage, rubbish, offal or rendering plants, or the slaughtering of animals. (Also see Farm.)

(5) **Alley.** Any dedicated public way which is not a street but which affords a secondary means of access to abutting property, and is not intended for general traffic circulation.

(6) **Alteration.** Any change, addition or modification in construction or type of occupancy of a building.

(7) **Apartment.** See Building, Apartment.

(8) **Auto Repair Garage.** A place where the following activities may be carried out: vehicle body repair, engine rebuilding repair, undercoating, painting, tire recapping, upholstery work and auto glass work. (Also see Vehicular Service Stations.)

(9) **Awning (or Canopy).** A metal, wooden, fiberglass, canvas, or other fire retardant fabric cover, not a part of the roof or the building to which it is attached, which extends over a porch, patio, deck, balcony, walk, window, door or open space.

(10) **Basement.** That portion of a building which is partly or wholly below grade but is 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

next floor above. A BASEMENT SHALL NOT BE COUNTED AS A STORY. (See illustration on Page 17.1)

(11) Bed and Breakfast Establishment. An establishment where the resident owner of an existing, private single-family home offers overnight (transient) lodging and breakfast for compensation to no more than six (6) persons, using no more than three bedrooms and limiting occupancy to no more than two persons per bedroom.

(12) Berm. A mound of earth material graded, shaped and improved with landscaping in such a fashion as to be utilized for screening purposes.

(13) Billboard. A billboard shall mean any structure or portion thereof designed or intended to be used for posting, painting, or otherwise affixing any advertising sign, larger than 20 square feet, which advertising sign does not pertain to the premises or to the use of premises on which the billboard is located or to goods sold or services rendered or activities conducted on such premises.

(14) Bituminous Material. Whenever the term “bituminous material” is used in this Code, said term shall be deemed to mean a plant-mixed bituminous aggregate in conformance with Section 7.10, Michigan Department of Transportation 1984 Standard Specifications for Construction”, as amended.

(15) Boarding House. A building, other than a hotel, bed and breakfast establishment, or convalescent home, where lodgings and meals for not more than six (6) persons, other than the family, are regularly served for compensation.

(16) Boat, Commercial. Any vessel used for the purpose of generating revenue, excepting vessels leased or chartered to others for non-revenue generating purposes.

(17) Boat, Recreational. Any vessel used by the owner or lessee thereof for a non-revenue generating purpose.

(18) Building. A framed, enclosed structure designed to stand permanently and covering a space of land, for use as a dwelling, store, storehouse, factory, shelter or some other useful purpose. A tent or similar structure, or a recreation vehicle, is not a building, nor is a mere wall, fence or monument.

(19) Buildable Area. The buildable area of a lot or parcel is the space remaining after setback, parking, or any other requirements of this Ordinance have been satisfied.

(20) Building, Apartment. A building containing three (3) or more dwelling units whose entrances are from a common hallway or area or series of hallways or areas.

(21) Building, Existing. For purposes of the off-street parking requirements specified in this Zoning Code, an “existing building” is any building actually constructed, or the construction of which was started, prior to October 4, 1976.

(22) Building Face. A vertical exterior wall forming a side of the building.

(23) Building, Front Line. The building line which lies closest to the front lot line. (See illustration on Page 17.2)

(24) Building, Height Of. [The vertical distance from the average elevation of the natural, undisturbed terrain paralleling the front of a building, or if on a street corner, the average elevation of the natural undisturbed terrain paralleling the front and side of a building, measured at the building line to the highest point of the structure, but not including chimneys, spires, life-safety features, mechanical equipment and similar projections.]¹³⁹

(25) **Building Line.** A line formed by the intersection of a building face and the horizontal plane of a lot. (See illustration on Page 17.2)

(26) **Building, Multi-family.** A building containing three (3) or more dwelling units. The term includes apartment buildings and multiplexes.

(27) **Building, Multiplex.** A building containing three or more dwelling units, where each dwelling unit has a separate main entrance directly to the outside.

(28) **Building, One-family.** A building designed and used as a dwelling entirely separated from other structures on adjacent properties.

(29) **Building, Principal.** The largest building on a lot devoted to a permitted principal use.

(30) **Building, Temporary.** A building without permanent foundation erected or devoted to the development of or in connection with the principal site use for a limited period of time.

(31) **Building, Townhouses.** A multiplex building containing three (3) or more dwelling units where: each dwelling unit is divided from the one adjacent to it by a party wall extending the full height of the building; and, each dwelling unit has a separate exterior entrance and is capable of individual use and maintenance without trespassing upon adjoining properties; and each dwelling unit has independent utilities and service facilities.

(32) **Building, Two-family.** A building containing two dwelling units.

(33) **Building, Within.** The enclosed space located within the confines of the faces of a building. (See illustration on Page 17.3)

50.202 Definitions C - D)

(1) **Carport.** A partially open structure for sheltering vehicles erected in conformity with the site requirements for garages.

(2) **Carriage.** Any horse-drawn passenger vehicle.

(3) **Church.** A building used principally for religious worship, but the word "church" shall not include or mean an undertaker's chapel or funeral building.

(4) **City.** The incorporated municipality of Harbor Springs, Michigan.

(5) **Clinic.** A place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but shall not include facilities for in-patient care or major surgery.

(6) **Club, Lodge or Fraternity.** An organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or the like, but not for profit, and without payment of dividends to members. Serving of meals and beverages to members and guests on an infrequent basis is part of the principal activity of a club, lodge or fraternity. Serving of meals and beverages on a regularly-scheduled basis to members and guests is an accessory use to a club, lodge or fraternity.

(7) **[Coffee/beverage Bar.** An Establishment (other than a Drive-in or Drive Through Establishment) which: (a) is accessory to a retail establishment; and, (b) prepares and/or sells non-alcoholic beverages and only such limited food items as are customarily accessory to beverage sales, such as cookies, doughnuts or baked goods (and specifically excluding such food items as pizza, soups, sandwiches, salads, ice creams, frozen yogurt and other food items

to which beverage sales are normally accessory) for immediate consumption on or off-site; and (c) has no more than 349 square feet devoted to a bar and/or beverage preparation areas; and, (d) has no more than 8 seats for customer seating.]³⁶

(8) Coin-operated Amusement Device. An instrument, machine or contrivance which may be operated, or set in motion upon the insertion of a coin, token or similar object, or activated and/or paid for by any other means, and which provides games, entertainment or amusement.

(9) Coin-operated Amusement Device Arcade. Any establishment open to the public wherein the principal use consists of coin-operated amusement devices.

(10) Conditional Use. A use specified in this Chapter as permissible in a specific use district only after special conditions are met.

(11) [Condo-Hotel. A facility meeting the definition of a Hotel with ownership structured as a condominium, co-operative or other ownership/financing arrangement found by the Planning Commission to be similar in function and/or operation, but shall not include timeshare estates or timeshare licenses of condominium units as defined in the Condominium Act. A Condo-Hotel may include cooking facilities, a kitchen, and a clothing washer and dryer.]¹⁰²

(12) Contiguous. In actual contact with; adjoining.

(13) Convalescent or Nursing Home. A structure with sleeping rooms where persons are housed or lodged and are furnished with meals and nursing care, and where limited medical care may be available.

(14) Court. An open, unoccupied land area other than a yard, bounded on three (3) sides by buildings.

(15) Day Care Center. Any facility, other than a day care home, in which minor children

are received for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Day care center does not include a Sunday school or a vacation bible school.

(16) Day Care Home. A home occupation in a private dwelling unit in which no more than six (6) minor children are received for care and supervision for periods of less than twenty-four (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. Day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

(17) [Deck. A non-load bearing outdoor platform without walls or a roof, that is wholly or partially supported from the ground below, and is more than thirty (30) inches above grade, and which may be surrounded by a railing, balustrade, or parapet. A deck can be freestanding or attached to a building.

(18) Deck, Roof Top. A deck constructed above any top plate of a structure and which is designed to function as useable outdoor area.]¹³⁴

(19) [Delicatessen. An Establishment which primarily sells bulk food specialty items for home consumption such as breads, cheeses and meats, and, may, as a subordinate, incidental use, sell prepared food items such as sandwiches, soups, salads, cooked meats and poultry, for home or workplace consumption, but is not a Take-Out Food Establishment.]⁷⁰

(20) [Density, Residential. The number of dwelling units on a parcel of property.]¹⁹

(21) District. A portion of the incorporated part of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

(22) Drive-in or Drive-through Establishment. 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.

(23) Drive-in Restaurant. A business establishment for the serving of food and/or beverages, with driveways and approaches so developed and designed so as to serve patrons while in the motor vehicle, or permit patron self-service for consumption within motor vehicles, as differentiated from a restaurant with indoor seating only.

(24) [Dwelling or Dwelling Unit. A room or rooms connected together, constituting a separate independent housekeeping establishment for one (1) family only, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities. An individual apartment unit, as distinguished from an apartment building, is one (1) type of dwelling unit.]¹⁵⁶

50.203 Definitions (E - G).

(1) Earth Materials. Earth materials include top soil, subsoil, sand, gravel, clay and any combinations of natural materials located on or in the earth itself (but not including oil or gases) as they exist in their normal state.

(2) Efficiency Unit. An efficiency unit is a dwelling unit consisting of one (1) room exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room providing not less than three hundred and twenty (320) square feet of floor area.

(3) Erected. The word “erected” includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erecting.

(4) Essential Services. The phrase “essential services” means the erection, construction, alteration, maintenance, addition,

reconstruction, or replacement by public utilities or the City's Departments of Public Works of underground, surface or overhead distribution of gas, electricity, communications, steam or water transmission or distribution systems, and collection, supply or disposal systems; including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith (but not including buildings), reasonably necessary for the furnishing of adequate service to this City and surrounding territory by such public utilities or the City's Departments of Public Works or for public health, safety or general welfare.

(5) Establishment. A person, firm or organization transacting business or providing service or information to its members or to the public.

(6) [Establishment, Drive-in Food. An Establishment which:

(a) Prepares food intended for consumption in vehicles that may or may not be parked on the site; or

(b) Provides for the ordering of food while the customers are seated in vehicles.

(7) Establishment, Fast Food. An Establishment where food is consumed on or off the site and food is:

(a) Pre-made and wrapped before customers place orders, and/or

(b) Served with disposable tableware for on-site food consumption.

(c) A fast food Establishment also exhibits two or more of the following characteristics:

(i) Food is ordered from a wall menu at a service counter.

(ii) Food consumed on the premises is ordered while customers are standing.

(iii) Payment is made by customers before food is consumed.

(iv) The service counter is closer to an entry/exit than is the seating/dining area.

(v) The business interior is brightly illuminated (greater than eight candle foot power as measured in a horizontal plane three feet above the floor).

(8) Establishment, Formula Food. Means an Establishment which:

(a) Is required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, employee uniforms, interior decor, signage or exterior design; or

(b) Adopts a name, appearance and food presentation format (such as standardized menus, standardized ingredients, standardized food preparation, employee uniforms, interior decor, signage or interior design) which causes it to be substantially identical to another food Establishment regardless of ownership or location.

(9) Establishment, Take-out Food. An Establishment that offers ready-to-eat, prepared snack foods, beverages or full meals for immediate consumption off the site, which foods are normally consumed while patrons are walking or standing in the public right-of-way or are seated in vehicles.]⁷¹

(10) [Family. An individual; or, an individual plus one (1) non-related individual; or a group of individuals related by blood, marriage or adoption, plus one (1) non-related individual; or, a group not exceeding four (4) unrelated persons plus descendants, but not exceeding eight (8) in total, all of whom are domiciled together as one functional unit, whose relationship is of a continuing, non-transient, permanent and distinct domestic character with a demonstrable and recognizable bond among them characteristic of a cohesive unit whose intention is to live and cohabit together for the foreseeable future, using common cooking facilities and who are living together as a single, nonprofit housekeeping unit. "Family" shall not include any society, club, employee housing,

dormitory, fraternity, sorority, association, lodge, organization, school, boarding house or group of students or other individuals whose relationship is of a transitory or seasonal nature, such as students living together for the limited duration of a school term, or others living together for similar determinable periods of time, or whose primary motivation for sharing a residence is convenience or economics.]¹⁴⁵

(11) Farm. All of the contiguous neighboring or associated land operated as a single unit on which agriculture is carried on directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however, a farm shall not include activities which are not permitted under the definitions of "Agriculture" contained in this Chapter.

(12) Fence, Residential. A man-made, unroofed barrier which may act as an enclosure or which is decorative or ornamental.

(13) [Fitness Center. An establishment that provides physical fitness training to individuals via the use of exercise equipment or individual physical fitness training.]⁸⁴

(14) Floor Area, Residential. For purposes of computing parking requirements, the measurement of usable floor area for residential uses shall be the sum of the area of the first story measured to the exterior building faces, and, similarly measured, the area having more than seven (7) feet six (6) inches headroom, of any upper story that is connected by a fixed stairway and which may be made usable for human habitation; but excluding the floor area of basements, garages, accessory buildings, attics, breezeways, and unenclosed porches.

(15) Floor Area, Commercial. For purposes of computing parking requirements, the measurement of usable floor area for commercial purposes shall be the sum of the horizontal areas of the several floors of the building measured to the exterior building faces.

Unfinished attics, attached garages, mechanical rooms, and areas included in structures or buildings providing parking for motor vehicles shall not be included.

(16) [Food Market, Full Line. A retail food Establishment providing a full range of food and grocery items including meats, poultry, produce, dairy products, canned and dried goods for home preparation.

(a) A Delicatessen may be allowed as a subordinate and incidental use. Cooking equipment shall be limited to indoor ovens.

(b) No seating shall be provided outdoors on the site and no more than 8 seats indoors.

(c) Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(d) No Full Line Food Market shall be permitted that can be classified as a Drive-In Establishment, Take-Out Food Establishment or Fast Food Establishment as defined in this Code.

(17) Food Market, Specialty. A retail food Establishment, with no more than 8 seats on site, which sells a limited range of bulk food items sold primarily for off site preparation and consumption.

(a) The following types of markets are Specialty Food Markets:

- (i) Full line bakery
- (ii) Candy, cookies, nuts and confectionery
- (iii) Meat or produce market
- (iv) Vitamins/health food store

(v) Cheese store

(vi) Delicatessen.

(b) No Specialty Food Market shall be permitted that can be classified as a Drive-In Establishment, Take-Out Food Establishment, Fast Food Establishment or Formula Food

Establishment as defined in this Code, provided, a Specialty Food Market selling frozen desserts as an incidental, subordinate use shall be permitted, subject to all other provisions of this Code.

(c) All food sold for consumption off the premises shall be placed in covered containers or wrappings.

(d) Adequate facilities shall be provided on-site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(e) Cooking equipment shall be limited to indoor stoves and ovens.

(f) The use may be combined with a liquor store having an SDD (Specialty Designated Distributor) or SDM (Specialty Designated Merchant) license, but not a Class C license.⁷²

(18) Front Line. See Building, Front Line.

(19) Front Yard. See Yard, Front.

(20) Garage, Private. [An accessory building or portion of a principal building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory. A private garage which is a portion of a principal building shall not exceed one-half (1/2) of the total square footage of the living space of the principal building; provided that no property owner shall be prohibited from building an attached private garage not exceeding 576 square feet, regardless of the total square footage of the principal living space. A garage attached to a principal building must satisfy the minimum setback requirements for a principal building in the District in which it is located.]⁴⁴

(21) Garage, Public. Any building or premises other than a vehicular service station

used for housing or care of more than three (3) automobiles, or where any number of automobiles are: equipped for operation; repaired; or kept for remuneration, hire or sale. A public garage as herein defined shall not be construed as an accessory building.

(22) Garage, Service-repair. See Auto Repair Garage.

(23) Grade. The ground elevation established for the purpose of regulating the number of stories and the height of buildings.

(24) Greenbelt. A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Chapter.

50.204 Definitions (H - L).

(1) Hard Surfaced. See Bituminous Material or Paving Surface.

(2) Home Occupation. An occupation or profession customarily carried on by an occupant of a dwelling unit AT THE DWELLING UNIT as a secondary use which is clearly subservient to the use of the dwelling for residential purposes.

(3) Hospital. A building, structure or institution in which sick or injured persons are given medical or surgical treatment, operating under license by the Health Department and the State of Michigan, and which is used for primarily in-patient services, including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

(4) [Hotel. A building containing a minimum of ten (10) individual sleeping rooms or suites not containing individual cooking facilities, kitchens or clothing washers or dryers (“overnight units”) in which: overnight lodging facilities are provided for compensation to the general public; and in which ingress to and

egress from the overnight units shall be made only through an inside office or lobby supervised at all hours of the day or night by an employee of the owner or operator of the hotel; and in which each overnight unit must have a private bathroom attached thereto. A hotel may include a restaurant, cocktail lounge, public banquet halls, ball rooms, or meeting rooms.]¹⁰³

(5) House, Boarding. See Boarding House.

(6) House, Rooming. See Rooming House.

(7) House, Trailer. See Mobile Home.

(8) Intensification of Use. To add a new or different use.

(9) Junk. Worn out and discarded material in general; or any material or thing not currently in use and not having any significant extrinsic value; also rubbish of any kind.

(10) Junk Yard. An open 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 wrecking yards.

(11) Kennel. Any lot or premises on which three (3) or more dogs, six (6) months old or over, are kept for sale, breeding, boarding or training purposes, or are either permanently or temporarily boarded for remuneration.

(12) Landfill. The orderly deposit of earth and non-earth materials not including putrescible materials for the purpose of elevating the grade to develop the site for use.

(13) [Life-Safety Features. A necessary component of a building whose primary use is to eliminate or reduce danger and hazards to occupants and users of a building, such as enclosed stairwells on a roof, or enclosed

elevator systems on a roof, railings on a roof, or fire suppression systems on a roof.]¹⁴¹

(14) **[Liquor Store.** [An establishment selling primarily packaged alcoholic beverages for consumption off the premises.]]⁷³

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

(16) **Lot.** A parcel of land, the dimensions of which are depicted on a properly recorded plat in the office of the Register of Deeds; or a parcel of land held in separate ownership from the ownership of adjacent parcels as evidenced by a bona-fide deed recorded in the office of the Register of Deeds.

(17) **Lot Area.** The total surface area within the lot lines of a lot.

(18) **Lots, Corner, Interior and Through.** A “corner lot” is a lot of which at least two (2) sides are contiguous to a street, for their full length; or a lot which is contiguous to a curved street. An “interior lot” is a lot other than a corner lot. A “through lot” is an interior lot or corner lot having frontage on two (2) streets which do not intersect at a point contiguous to such lot.

(19) **Lot Coverage.** The part or percent of the lot occupied by buildings including accessory buildings.

(20) **Lot Line, Front.** In the case of an interior lot, the line (and any straight line continuation thereof) contiguous to the street line. In the case of a corner lot, or a double frontage lot, the front lot line is that line contiguous to the street right-of-way line which is designated as the front street in a recorded plat, or if not designated in a plat, in the request for the zoning compliance permit.

(21) **Lot Line, Rear.** Any lot line which nearly parallels the front lot line.

(22) **Lot Line, Side.** Any lot line other than the front lot line or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

(23) **Lot Depth.** The horizontal distance between the front and rear lot lines. In the case of irregularly shaped lots, the mean depth shall be taken.

(24) **Lot Line.** Any boundary line separating one lot from another.

(25) **Lot Width.** The horizontal distance between the side lot lines measured at the points where said lot is the narrowest.]¹⁴⁰

50.205 Definitions (M - O).

(1) **Master Plan.** The comprehensive plan adopted by the Planning Commission, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the City and including any unit or part of such plan, and any amendment to such plan or parts thereof, and is intended to be the plan referred to in Act 207 Public Acts of 1921, as amended, Section 1, Part 2.

(2) **Mean Grade.** Mean grade is defined as the arithmetical average of elevations of points on the boundary lines of a lot uniformly spaced and not more than one hundred (100) feet apart.

(3) **Mobile Home.** A one- (1) family dwelling unit consisting of a pre-built (factory built) housing module, or a combination of such modules, designed so it may be drawn or carried to its site by a motor vehicle, and thus so constructed, equipped and installed on a lot (site), as to provide a dwelling unit for one (1) or more persons containing living, cooking, sleeping, heating, lighting, toilet and bathing facilities. Normally such home would not have a permanent foundation but would be readily

detachable and removable from its site. This definition does not include a vehicle such as a tent trailer, travel trailer, self-contained trailer, motor home or camp trailer twenty-eight (28) feet or less.

(4) **Mobile Home Park.** A parcel of land upon which two (2) or more mobile homes are located or any parcel of land licensed pursuant to the provisions of Act 419 of the Public Acts of 1976, as amended.

(5) **Modular Home.** A structure transportable in one or more sections, not built on a chassis, constructed according to the City's Building Code and designated to be used as a dwelling unit with permanent foundation when connected to the required facilities.

(6) **Motel.** A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units designed primarily for transient automobile travelers and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, motor courts, motels, and similar appellations which are designed as integrated units or individual rooms under common ownership.

(7) **Non-conforming Building.** A building, or a portion thereof, lawfully existing as of the effective date of the Ordinance adopting the Harbor Springs Zoning Code of 1990, which does not conform to the provisions of the said Zoning Code in the district in which it is located.

(8) **Non-conforming Use.** Any lawful use made of a building or land as of the effective date of the Ordinance adopting the Harbor Springs Zoning Code of 1990, but which use does not conform to the use regulations of the district within which the building or land is located.

(9) **Nuisance.** The word "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence; and whatever is dangerous to human life or

detrimental to health; and any dwelling or building which is overcrowded with occupants or is not provided with adequate ingress or egress to or from the same, or is not sufficiently supported, ventilated, sewerred, drained, cleaned or lighted in reference to its intended or actual use; and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this Chapter, nuisances and all such nuisances are hereby declared illegal.

(10) **Nursery.** Any grounds, or premises on or in, which nursery stock is propagated, grown, or cultivated for the purpose of distributing and/or selling the same as a business and required to be licensed under Act 189, Public Acts of 1931, as amended.

(11) **Nursing Home, Also Convalescent Home.** A structure with sleeping rooms where persons are housed or lodged and are furnished with meals and nursing care, and where limited medical care may be available.

(12) **Occupancy Load.** The number of individuals normally occupying a building or part thereof, or for which the existing facilities have been designed.

(13) **Off-street Parking Lot.** An area for the parking of automobiles, not on a public right-of-way, providing vehicular parking spaces along with adequate drives and aisles for maneuvering, for the owner, employees, customers and patrons of the use for which the lot is created.

50.206 Definitions (P - R).

(1) **Parking Space.** An accessible area, either garage or surfaced area, of definite length and width, exclusive of drives, aisles, or entrances giving access thereto, and for the parking of permitted vehicles.

(2) **Parking Structure.** A structure utilized for the off-street parking of automobiles.

(3) **[Patio.** A level surfaced area adjacent to a principal building that has an average elevation of not more than thirty (30) inches above grade, and without walls or a roof and usually made of concrete, brick, or other masonry material.]¹³⁵

(4) **Paving.** Whenever the terms “to pave” or “paving” are used in this Code it shall be deemed to mean to construct a surface, or a surface constructed of a plant-mix bituminous aggregate at least two (2) inches thick in conformance with Section 4.00, or a concrete surface at least five (5) inches thick in conformance with Section 4.50, Michigan Department of Transportation 1979 Standard Specifications for Construction, as amended.

(5) **Person.** The word “person” means a natural person, firm, co-partnership, association or corporation and their legal successors.

(6) **Principal Use.** The primary use to which a lot is devoted.

(7) **Public Service Facilities.** Public service facilities shall include such buildings, uses and services as voting booths, pumping stations, fire houses, police stations, electric transmission facilities, temporary quarters for welfare agencies, public health activities and similar governmental uses, including essential services.

(8) **Public Utility.** Any person, firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation to the public, electricity, gas, steam, communication, transportation, drainage or water.

(9) **Putrescible.** Subject to decay and decomposition and to becoming putrid.

(10) **Rear Yard.** See Yard, Rear.

(11) **Recreation Vehicles.** Recreation vehicles include the following:

(a) A “travel trailer”, which is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and which is permanently identified as a “travel trailer” by the manufacturer.

(b) A “pickup camper”, which is a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational, and vacation uses.

(c) A “motorized home”, which is a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

(d) A “folding tent trailer”, which is a canvas or plastic folding structure mounted on wheels and designed for travel and vacation use.

(e) A “utility trailer”, which is a vehicle designed for the purpose of hauling miscellaneous goods and materials.

(f) “Boats” and “boat trailers”, which shall include boats, floats and rafts, plus the normal equipment to transport the same on the highway.

(g) Snow Mobile and All Terrain Vehicles, plus the normal equipment to transport the same on the highway.

(12) **Repairs.** The rebuilding or removal of a part of an existing building for the purpose of maintaining its original type and classification.

(13) **Restaurant.** [An Establishment (other than a Coffee/Beverage Bar) which (a) prepares and sells food or beverages for immediate consumption; or (b) sells for immediate consumption food prepared by others excepting sales (in their original package) of candy bars; or (c) sells for immediate consumption non-alcoholic beverages prepared by others, excepting sales (in their original package) of bottled or canned beverages which are subject to Michigan's bottle deposit laws. The determination of when food or beverages are sold for immediate consumption is based on criteria such as the type of packaging in which such food or beverages is contained when sold and delivered to a customer (e.g., whether sold

in disposable plastic or paper containers), whether the food or beverage is served hot or cold, and whether observable experience with a particular establishment or similar establishments demonstrates that such food or beverages is primarily consumed by the public either on premises or immediately off premises, on the public streets and parks.

(14) [Restaurant, Full Line. A Restaurant selling a full line of prepared food and drinks using non-disposable plates, glasses and utensils for immediate consumption on the site. The Restaurant provides tables and chairs, table service, and is available to persons of all ages.

(a) No Full Line Restaurant shall be permitted that can be classified as a Drive-In Food Establishment, Take-Out Food Establishment, Fast Food Establishment or Formula Food Establishment as defined in this Code.

(b) Sale of alcoholic beverages shall be subordinate to the primary use as a Restaurant, Full Line.

(c) Substantially all foods from the standard menu shall be available for purchase during the hours that alcoholic beverages are being served except for the first hour and the last hour of each business day.

(d) Customers shall be provided with individual menus while seated at a table or counter.

(e) Outside seating may be allowed subject to an approved design review application in accordance with the standards contained in this Code.

(f) Fast food for consumption off the premises shall be incidental to the primary use. Such food shall be placed in covered containers or wrappings.

(g) Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(h) At least one restroom shall be available for use by both sexes within, or conveniently adjacent to, the specific business premises and on the same property on which the use is located. This restroom shall comply with all provisions of the State Uniform Building and Plumbing Codes as to the required size, location and accessibility standards, and shall be available for use by both the employees and patrons of the business.

(i) Maximum seating capacity shall not exceed the standards in the State Uniform Building and Fire Codes, the number of seats approved by the Planning Commission through public review, or the number of seats in the previous business, whichever is less. The seating capacity shall be posted on the premises.

(15) Restaurant, Specialty. A Restaurant selling a limited range of food and/or beverage products, including frozen desserts, for immediate consumption on the site. Such Restaurants provide seating but are not required to provide table service or menus.

(a) No Specialty Restaurant shall be permitted that can be classified as a Drive-In Establishment, Take-Out Food Establishment, Formula Food Establishment or a Fast Food Establishment, as defined in this Code, PROVIDED a Specialty Restaurant selling predominantly frozen desserts, which would otherwise be classified as a prohibited Fast Food and/or Take Out Food Establishment, is permitted, subject to the other provisions of this Code.

(b) A Specialty Restaurant must contain at least 200 square feet, but not more than 1,349 square feet, in area.

(c) At least 8 seats must be available for use on-site. The customer seating area must be open to patron use during all hours of operation and the use is managed to encourage on-premises consumption of food products.

(d) The service counter must be located within the interior of the business premises and must be located and arranged so that customers must first pass by or through the

seating area to reach the counter and patron queues will be contained within the building.

(e) Outside seating may be allowed subject to an approved design review application in accordance with the standards contained in this Code.

(f) All products sold for consumption off the premises, other than frozen desserts, are to be placed in covered containers or wrappings.

(g) At least one restroom shall be available for use by both sexes within, or conveniently adjacent to, the specific business premises and on the same property on which the use is located. This restroom shall comply with all provisions of the State Uniform building and Plumbing Codes as to the required size, location and accessibility standards, and shall be available for use by both the employees and patrons of the business.

(h) Adequate facilities shall be provided on the site for storage of trash and garbage generated by the use. The on-site storage is designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on public sidewalks or other public ways. Incinerators shall not be permitted as a means of refuse or garbage disposal.

(i) [Cooking equipment shall primarily be limited to indoor stoves and ovens but outdoor grills may be permitted provided they comply with Health Department regulations.]¹⁵⁴

(j) The parking requirement for a Specialty Restaurant shall be based on a retail use.⁷⁴

(16) Roadside Stand. A wholly or partially enclosed stand for the temporary sale of products produced on the land where to be sold, which stand shall be located so as to permit customers to drive completely off the street right-of-way while dealing.

(17) Rooming House. A residence in which non-family members are sheltered for compensation.

(18) Rubbish. Rubbish means the miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, flyash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

50.207 Definitions (S - Z).

(1) Sanitary Land Fill. Any operation which involves piling, placing, storing, dumping or depositing, in a hole or trench, any material in the form of rubbish and/or waste materials.

(2) Satellite Dish Antenna. An earth-based station whose purpose is to receive communications or other signals from orbiting satellites or other extraterrestrial sources together with other equipment related to such purposes.

(3) Screening. A wall, berm, fence or line of growing trees and shrubs, or combination of these, for the protection of adjoining premises.

(4) Shed. A lightly constructed one- (1) or two- (2) story building for temporary use during the erection of a permanent building; or a light one- (1) story structure attached to, or auxiliary to another building and intended for storage only.

(5) Setback, Front Yard. The minimum distance between the street line and any point on a structure located on a lot, excluding approved fences or signs.

(6) Setback, Side Yard. The minimum distance between any side lot line and any point on a structure located on a lot, excluding approved fences or signs.

(7) Setback, Rear Yard. The minimum distance between any rear lot line and any point on a structure located on a lot, excluding approved fences or signs.

(8) **[Shopping Center.** A commercial establishment of at least ten thousand (10,000) square feet in building area, designed, constructed, and managed as a total entity and providing a combination of uses including, but not limited to, personal service, retail business, general and professional offices, and restaurants, excluding drive-through restaurants.]⁶²

(9) **Side Yard.** See Yard, Side.

(10) **Sign.** A publicly displayed, visible notice using words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to indicate an individual, a firm, a profession or a business. It shall include any publicly visible announcement, demonstration, display, illustration or insignia used to promote or advertise the interests of any person. It includes time and temperature clocks and similar devices.

(11) **Sign, Address.** A sign containing only numbers which locates a building on a given street.

(12) **Sign, Directional.** A sign stating the route to a use.

(13) **Sign, Off-premises.** A sign which advertises products, uses, goods, services or activities not available on the premises where the sign is located.

(14) **Sign, Principal.** A sign pertaining to products, uses, goods, services or activities available on the premises where the sign is located.

(15) **Sign, Free-standing.** A sign supported by its own foundation and not attached to a building.

(16) **[Sign, Message Board.** A sign with a message that can be changed periodically by mechanical means, such as by adding or replacing a preprinted message, using hand writing or using changeable letters. A message

board sign is subject to all other restrictions on signs in this Zoning Code as are now or hereafter adopted.

(17) **[Sign, Open House.** A temporary off-premises sign used to advertise the sale of real estate and direct traffic to the property for sale.]¹²⁴

(18) **Special Land Use.** A use specified in this Chapter as permissible in a specific use district only after certain special standards are met.

(19) **[Story, Half.** The top story of a building, the entirety of which story lies under a sloping roof and/or a sloping roofing system, and: (a) Each roof composing the roofing system slopes an equal distance in each direction from the peak of each roof, and each roof within the roofing system has a minimum slope of 4/12 pitch; and, (b) Wall plates on at least two opposite exterior walls under each roof within the roofing system do not extend more than one foot above the finished floor of the top story; and, (c) The floor area of the top story does not exceed fifty (50%) percent of the area within the exterior walls of the building beneath the top story, provided that for purposes of this calculation, any portion of the floor area of the top story where the distance between the base floor and the base of the sloping roof is four feet or less, shall be excluded. If the top story of a building does not fit within the definition of a half-story, or within the definition of an unhabitable attic, the top story shall be considered a full story.]⁵⁸

(20) **Story; Story Height.** The portion of a building included between the surface of any floor and the surface of the floor or roof next above it.

(21) **Street Line.** The street right-of-way line.

(22) **Structure.** Anything constructed or erected, the use of which requires location on the

ground or attachment to something having location on the ground.

(23) **Structural Alteration.** Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof, exterior walls, windows, or door openings.

(24) **Super Graphic.** A sign which is an integral architectural feature of a building and which, if removed, would obviously diminish a significant architectural objective of the structure.

(25) **Temporary Building or Use.** A structure or use permitted by the Zoning Administrator to exist for a specific limited period of time during periods of construction of a principal building or use, or for special events.

(27) **Tents.** Tents, as used in this Chapter, shall not include those used solely for children's recreational purposes.

(28) **Trailer Court.** See Mobile Home Park.

(29) **Travel Trailer Park (Overnight Camping Facility).** A place utilized for the temporary storage of travel trailers, for camping purposes, where there is no permanent storage of mobile homes for year-round occupancy, and where commercial activity is limited to service the needs of the temporary occupants of the travel park.

(30) **Uninhabitable Attic.** The space between the ceiling beams of the top habitable story and the roof rafters of a building, said space not intended for or usable as habitable living space. An uninhabitable attic shall not be considered a story or half story for the purposes of this Chapter.

(31) **Use.** Is the purpose for which land or a building is designed, arranged, or intended to be used, or for which land or a building is or may be occupied.

(32) **Utility Room.** A utility room is a room used primarily for storage, for housing a heating unit, or for laundry purposes.

(33) **Variance.** A modification of the literal provisions of the Zoning Ordinance, granted by the Zoning Board of Appeals.

(34) **Vehicular Service Station.** A space, structure, or building or part of a building, for the retail sale, service or supply of motor vehicle fuels, lubricants, air, water, batteries, tires, motor vehicle washing or lubricating, and the sale of other minor accessories, or customary facilities for the installation and replacement of such minor commodities.

(35) **Veterinarian Clinic.** A place for the care, diagnosis and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinarian clinic may include customary pens or cages which are permitted only within the walls of the clinic structure.

(36) **Video Store.** A retail establishment whose primary activity is the renting of video cassette tapes.

(37) **Wall.** A dense, impenetrable, vertical structure of definite height and location constructed of wood, glass, masonry, concrete or similar material.

(38) **Yard.** The area of a lot surrounding a principal building. A yard shall be unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter (See illustration on Page 17.4):

(a) **Front Yard.** A yard extending the full width of a lot, the depth of which is the minimum horizontal distance between the front lot line and the front line of the principal building.

(b) **Rear Yard.** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest line of the principal building.

(c) Required Yard. That portion of any lot on which a building is prohibited.

(d) Side Yard. A yard between a principal building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot lines to the nearest point of the principal building.

(39) Zoning Administrator or Zoning Official. The administrative official (or his designee) appointed by the City Council who is responsible for the enforcement of this Ordinance.]]^{50,146}