

CHAPTER XII

GENERAL PROVISIONS

These general provisions shall apply to all Zoning Districts.

Section 12.01 The Effect of Zoning. 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.

Section 12.02 Restoration of Unsafe Building. Subject to the provisions of the Nonconforming Uses Chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

Section 12.03 Area, Height and Use Conditions and Exceptions.

- (a) Required Area or Space - A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.
- (b) Existing Lots of Record - A lot which is platted or otherwise of record as of the effective date of this Ordinance, which was platted or otherwise created in conformity with applicable laws and regulations, and which is located in a AG, R-1, R-2 or R-3 Zoning District may be used for one family use only if the lot has a minimum lot area of twelve thousand (12,000) square feet and if there is compliance with all yard requirements for the zoning district in which the lot is located. If a lot in an Agricultural or Residential Zoning District, which is platted or parcel otherwise of record as the effective date of this Ordinance, does not comply with the area and/or width requirements of its Zoning District, then such lot may be used for one family use only and then only if application is made to the Board of Appeals for a variance. In considering such variance, the Board of Appeals shall consider the following standards: (1) the size, character and nature of the residential building and accessory buildings to be erected and constructed on the lot; (2) the effect of the proposed use on adjoining properties and the surrounding neighborhood; (3) the effect of the proposed use on light and air circulation of adjoining properties; (4) the effect of any increased density of the intended use on the surrounding neighborhood; and (5) available parking for the intended use.

A lot which is platted or otherwise of record as of the effective date of this Ordinance, and which was platted or otherwise created in conformity with applicable laws and regulations may be used for a Commercial or Industrial use if the lot has a minimum area of twelve thousand (12,000) square feet and if there is compliance with all yard requirements for the Commercial or Industrial Zoning

District. If a lot in a Commercial or Industrial District, which is platted or otherwise of record as of the effective date of this Ordinance, does not comply with the area and/or width requirements of the Commercial or Industrial Zoning District, then such lot may be used only if application is made to the Board of Appeals for a variance. In considering such variance, the Board of Appeals shall consider the following standards: (1) the size, character and nature of the commercial building and accessory buildings to be constructed on the lot; (2) the effect of the proposed use on adjoining properties and the surrounding neighborhood; (3) the effect of the proposed use on light and air circulation of adjoining properties; (4) the effect of increased density of the intended use on the surrounding neighborhood; and (5) available parking for the intended use.

Where two (2) or more such noncomplying lots are adjacent to each other and in common ownership, such lots shall be combined so that the lot or lots created by this combination comply with the minimum requirements of this Ordinance.

- (c) Exceptions - The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, and television and radio reception and transmission antennas and towers which do not exceed fifty (50) feet in height. Additions to existing buildings and structures which now exceed the height limitations of their zoning district up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.

Section 12.04 Essential Service. 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, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith 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.

Section 12.05 Required Yard or Lot. All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the Zoning District in which they are located.

Section 12.06 Control of Heat, Glare, Fumes, Dust, Noise, Vibration and Odors. Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

Section 12.07 Temporary Uses Or Structures Requiring Zoning Inspector Authorization.

- (a) Upon application, the Zoning Inspector shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.
- (b) Upon application, the Zoning Inspector shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Inspector for four (4) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

Section 12.08 Accessory Uses. In any Zoning District, accessory uses, incidental only to a permitted use, are permitted when located on the same lot provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry.

Section 12.09 Accessory Buildings.

- (a) In any Zoning District, an accessory building may be erected detached from the permitted principal building or as an integral part of the permitted principal building. When erected as an integral part of the permitted principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted principal building. The architectural character of all accessory buildings shall be compatible and similar to the principal building.
- (b) Detached accessory buildings shall not be located closer than five (5) feet to the rear lot line or closer than (40) feet to the waters' edge in the case of a waterfront lot (except that pump houses may be located within forty (40) feet of the waters' edge if they do not exceed three (3) feet in height) and shall not occupy more than thirty percent (30%) of any required rear yard space; they shall not be closer to any side lot line or front lot line than the principal building is permitted.
- (c) The distance between a detached accessory building and any principal building shall not be less than ten (10) feet. Accessory buildings shall be considered as attached to a

principal building when the distance between the two (2) buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.

- (d) A garage may be constructed, erected and placed in the front yard of any waterfront lot which is platted or otherwise of record as of the effective date of this Ordinance if it is an accessory building and if it is located not less than ten (10) feet from the edge of the street or private road right of way.
- (e) No accessory building or structure shall include residential or living quarters for human beings located in the R-1 or R-2 Zoning Districts.
- (f) Accessory buildings or structures may not be erected on a lot prior to construction or erection of a permitted principal building or structure.

Section 12.10 Principal Building on a Lot. A lot or parcel shall not be devoted to more than one principal use except for groups of apartments, commercial or industrial buildings, agricultural buildings, or other buildings which the Zoning Inspector deems to be a principal use collectively.

Section 12.11 Double Frontage Lots. Buildings on lots having frontage on two (2) intersecting or nonintersecting streets shall comply with front yard requirements on both such roads or streets, public or private.

Section 12.12 Signs.

- (a) No sign or sign structure shall be erected at any location where it may interfere with, obstruct the view of, or be confused with an authorized traffic sign, signal or device. No rotating beam, beacon or flashing illumination resembling an emergency light shall be used in connection with any sign.
- (b) Banners, pendants, balloons, light strings, flashing or blinking lights, and other similar devices used to attract the attention of the public are prohibited; provided, however, that this provision shall not prohibit the display of a governmental or organizational flag in the manner prescribed by law for such display.
- (c) Subject to the provisions of Chapter XV, all signs shall be maintained in good condition and repair.
- (d) No permanent business sign, billboard, or other type of permanent sign shall be constructed, erected, or attached to a building prior to the issuance of a permit therefore by the Zoning Inspector.
- (e) All signs may be illuminated if the source of light is not visible. Flashing type signs of any kind are prohibited.
- (f) The following signs are exempt from the provisions of this Ordinance with respect to permits, heights, area, and location, unless otherwise specified herein:
 - (1) Highway signs erected by the State of Michigan, County of Allegan, or the Township;
 - (2) Governmental use signs erected by the governmental agencies to designate hours of activity or conditions of use for parks, parking lots, recreational areas, other public space, or for governmental buildings;
 - (3) Directional signs erected in conjunction with private off-street parking area, provided any such sign does not exceed four (4) square feet in area and is limited to traffic control functions only;

- (4) Historic signs designating sites recognized by the State Historical Commission as Centennial Farms and Historic Landmarks.
- (5) Placards posted to control or prohibit hunting within the Township.
- (6) Subdivision signs not exceeding thirty-two (32) square feet in area; provided, however, signs shall be removed after all lots are sold.
- (7) One (1) construction sign per project of no more than thirty (30) square feet in area denoting architects, engineers, or contractors in conjunction with the work under construction, other than one and two family dwellings, provided such signs do not exceed one (1) per project and thirty (30) square feet in area.
- (8) Essential service signs denoting utility lines, railroad lines, hazards, and precaution.
- (9) Memorial signs or tablets which are either (a) cut into the face of a masonry surface; or (b) constructed of bronze or other incombustible material when located flat on the face of a building.
- (10) Special decorative displays or signs used for holidays, public demonstrations or promotion of civic welfare of charitable purposes when authorized by the Planning Commission.
- (11) Signs in the agricultural district that serve only to identify the name of a farm, farm owner or crops or livestock produced thereon.

Section 12.13 Additional Setbacks for Structures Adjacent to Major Streets

Notwithstanding any other provision of this Ordinance, no building or structure shall be hereafter constructed, erected or enlarged on a lot abutting a street designated as a major thoroughfare on the “Overisel Township Master Plan”, as the same shall be amended from time to time, unless the following minimum building setbacks measured from the street centerline are maintained.

- (a) State Highway — one hundred (100) feet
- (b) County Highway - eighty-three (83) feet
- (c) Township Road - eighty-three (83) feet

Section 12.14 Minimum Public Street or Private Road Frontage. Every principal building and use shall be located on a lot having a minimum of fifty (50) feet of frontage on a public or approved private road. Each lot must also meet the minimum lot width requirements of the zoning district in which it is located.

The Planning Commission, following a public hearing on the application of an interested party, shall approve a private road which meets the standards contained in the following paragraphs, by issuing a special use permit which states that the minimum public street or approved private road frontage for the parcel in question has been met.

The Planning Commission shall not issue such a permit, unless the applicant or other interest party submits a fully executed agreement that has been or will be recorded in the Office of the Register of Deeds for Allegan County, and which specifies that some or all of the owners of real property bordering the private road in question, or the owner or owners of record of such private road shall be responsible for the entire cost of maintaining the road in a safe, passable and usable condition. Such agreement shall specifically require the responsible party or parties to:

- (a) Grade the private road to remove bumps or obstructions which may be hazardous to life or property; and
- (b) To remove snow, add salt, sand or gravel, and take any other necessary steps to maintain such private road in a safe and usable condition, at all times of the year. The agreement shall further provide that its provisions shall constitute covenants which will run with the land. The Planning Commission shall further require that the private roadway in question have a minimum width of 66 feet for its entire length, and that the intersection of the private road and the public road shall be fully and clearly marked by a sign which is visible to the public and indicates the name of the private road.
- (c) The Planning Commission may require a bond in the amount sufficient to guarantee the performance of the party or parties responsible for maintaining such private road before issuing a special use permit. In determining whether or not a special use permit should issue, the Planning Commission shall take into consideration the requirements of Section 12.20 of this Zoning Ordinance concerning private roads.

Section 12.15 Governmental Improvements. The provisions of this Ordinance shall be applicable to and enforceable against the Township itself and all other governmental agencies and units, federal, state or local.

Section 12.16 Health Department Approval. No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, does not comply with the rules and regulations governing waste and sewage disposal of Allegan County.

Section 12.17. Mobile Homes as Temporary Uses. The use of a mobile home as a temporary dwelling is permitted only under the following circumstances:

- (a) The Zoning Inspector may issue a permit to an individual to park and occupy a mobile home as a temporary dwelling in any zoning district which allows single family dwellings, provided that the Zoning Inspector makes the following determinations:
 - (1) The mobile home will be used only as a temporary use on the same lot while the person is constructing a permanent residence.
 - (2) A building permit has been issued for the construction of a permanent residence to the person applying for the temporary mobile home permit.
 - (3) The mobile home shall be attached to drinking water and sanitary facilities which comply with applicable rules and regulations, as provided in Section 12.16.

- (4) The mobile home shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission for mobile homes installed in mobile home parks, and shall also be installed in accordance with the manufacturer's instructions. No permanent foundation shall be required for such temporary mobile homes.

Upon applying for a temporary mobile home permit, the applicant shall pay a fee to the Zoning Inspector as determined by the Township Board. The permit fee shall be remitted to the Township Treasurer. All original temporary mobile home permits shall be limited to a period of six (6) months. If the permanent residence is not approximately fifty percent (50%) complete, as determined by the Zoning Inspector, within the six (6) month period, a six (6) month extension shall be permitted by the Zoning Inspector only for the purpose of completing the residence. No more extensions shall be permitted by the Zoning Board of Appeals.

Upon the filing of an application for continuation of any mobile home permit, the applicant shall pay a fee, as determined by the Township Board; and such fee shall be remitted to the Township Treasurer. Such fee shall be for the consideration of such application, and no refund shall be made in the event of denial.

Section 12.18 Natural River Overlay District. In accordance with the Lower Kalamazoo River Natural River Plan, adopted June 11, 1981 by the Michigan Department of Natural Resources, the following regulations shall apply to all uses within three hundred (300) feet on each side of the Rabbit River.

- A. The building setback for new structures, including accessory buildings, shall be a minimum of two hundred (200) feet from the river's edge.
- B. Permanent docks must be constructed in accordance with the rules of Act 346 of Public Acts 1972.
- C. The setback for septic tanks and absorption fields shall be a minimum of one hundred (100) feet from the river's edge.
- D. The bottom of the absorption field shall be at least four (4) feet above the known high groundwater table.
- E. No absorption field shall be closer than fifty (50) feet from any permanent surface or subsurface drainage system.
- F. A natural vegetation strip of fifty (50) feet shall be maintained on each side of the river.
- G. Dead, diseased, unsafe or fallen trees, shrubs and noxious plants, including poison ivy, poison sumac, and poison oak, and other plants regarded as a common nuisance in Section 2, Public Act 359 of 1941, as amended, may be removed.
- H. Trees and shrubs may be pruned for a filtered view of the river within the natural vegetation strip.
- I. Trees and shrubs may be selectively removed in the natural vegetation strip for harvest of merchantable timber, public utility facilities, to achieve a filtered view of the river from the principal structure, and for reasonable private access to the river upon approval of the Zoning Inspector. If the Zoning Inspector feels it is necessary to direct the property owner to consult with the Department of Natural Resources forester in Plainwell to establish an acceptable selective cutting plan for the area.

- J. Clear cutting is not allowed in the natural vegetation strip.
- K. New development, exploration or production of oil, gas, salt brine, sand and gravel, or other minerals except groundwater are not permitted within three hundred (300) feet of the designated river.
- L. Existing agricultural practices are permitted within the natural vegetation strip. Grazing is permitted within the natural vegetation strip unless the Bureau of Environmental Protection of the Department of Natural Resources determines that it contributes to stream degradation (Act 245, PA 1929). In those cases, livestock will be fenced out to protect the river banks. Cattle crossings and watering areas shall be constructed according to accepted methods, after the landowner has consulted with the Soil Conservation District, Soil Conservation Service, County Extension Service, and/or Department of Natural Resources.

Section 12.19 Minimum Standards for Dwellings. All dwellings in Overisel Township located outside of designated mobile home parks shall comply with the following standards, in addition to those contained elsewhere in this Zoning Ordinance:

- (a) The minimum usable square footage for all dwellings, including manufactured housing and mobile homes, shall be uniform in each zoning district, although such standards may vary from zoning district to zoning district.
- (b) All dwellings shall have a minimum width across any front, side or rear elevation of 20 feet, and shall comply in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 P. A. 230, as amended. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction, and where such standards or regulation for construction are different than those imposed by the Michigan State Construction Code, then and in that event such Federal or State standard or regulation shall apply.
- (c) All dwellings shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code and shall have a wall of the same perimeter dimensions as the dwelling and constructed with such materials and type as required in the applicable building code for single family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall also be installed pursuant to the manufacture's set up instructions, and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
- (d) No dwellings shall have any exposed towing mechanism, undercarriage or chassis.
- (e) All dwellings must have a storage area within a basement, closet areas, an attic, or in a separate fully enclosed structure constructed of equal or better quality than the principal dwelling not less in area than fifteen percent (15%) of the interior living area of the dwelling exclusive of storage space for automobiles.
- (f) All dwellings must be aesthetically compatible in design and appearance with other residences in the vicinity, including where appropriate, roof overhang, a front and rear or front and side exterior door, and permanently attached steps or porch areas where an elevation differential requires the same. The compatibility of design and appearance shall be determined in the first instance by the Township Zoning Inspector upon, a review of the plans submitted for a particular dwelling, subject to

appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of the Zoning Inspector'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 one or more residential dwellings located outside a mobile home park within 2000 feet of the subject dwelling, where such area is developed with dwellings to the extent of not less than twenty percent (20%) of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside a mobile home park throughout the Township. 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 design home.

- (g) All room or other area additions to a dwelling must be of equivalent quality in workmanship and materials as the principal structure, including a foundation as for the principal structure and permanent attachment to said foundation.
- (h) All dwellings shall comply with all pertinent building and fire codes. All construction and all plumbing, electrical apparatus and insulation within and connected to said home shall be of a type and quality conforming to the Michigan State Construction Code. Additionally, all dwellings shall meet or exceed all applicable snow load and roof strength requirements.
- (i) All dwellings must be properly maintained against deterioration and/or damage from the elements, or otherwise, by prompt and appropriate repairs, surface coating and other appropriate protective measures.
- (j) The foregoing standards shall not apply to a mobile home located within a licensed mobile home park, except to the extent required by law.

Section 12.20 Private Roads. A private road which serves 1 parcel shall have a 66 foot right-of-way and may be constructed to Allegan County Road Commission standards.

A private road which serves 2-4 separately held parcels or 2-4 dwelling units shall be constructed to Allegan County Road Commission standards, exclusive of the requirement for blacktop or other final finishing. The planning commission may, in its discretion, allow the driving surface to be reduced to eighteen (18) feet, as part of the special use permit approval for the private road.

A private road which serves 5 or more separately held parcels or 5 or more dwelling units, or 1 or more commercial or industrial use shall be constructed to Allegan County Road Commission standards with blacktop or other final finishing.

Section 12.21 Regulation of Adult Businesses, Bathhouses, Massage Establishments and Similar Enterprises.

A. Purpose of Section.

The purpose of this Section is to establish regulations and restrictions regarding uses which, by their nature, have serious operational characteristics relating to their proximity to residential areas and other business and commercial uses resulting in potential deleterious effects on areas adjacent areas. The regulations as hereinafter set

forth are to insure that the potential adverse effects of the regulated uses will not constitute blighting or deterioration of surrounding neighborhoods or existing commercial uses. The regulations herein set forth are not intended nor shall the regulations be interpreted to legitimize a use otherwise prohibited.

B. Applicability of Section.

The following uses, as defined in sub-section (C), below, shall be subject to the regulations of this Section:

- (1) Adult bookstores;
- (2) Adult cabarets;
- (3) Adult motion picture theaters;
- (4) Bathhouses;
- (5) Massage establishments;
- (6) Nude artist and photography studios.

C. Definitions.

For the purposes of this Section, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- (1) 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 defined herein, or an establishment with a segment or section devoted to the sale or display of such material.
- (2) Adult cabaret. A cabaret which features go-go dancers, erotic dancers, strippers, male or female impersonators or similar entertainers.
- (3) Adult motion picture theater. An establishment 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 defined herein, for observation by patrons therein.
- (4) Bathhouse. An establishment or business which provides the services of baths of all kinds, including all forms of hydrotherapy, unless operated by a medical practitioner or professional physical therapist licensed by the state.
- (5) Cabaret. A café, restaurant or bar where patrons are entertained by performers who dance or sing or play musical instruments.
- (6) Massage. A method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.
- (7) Massage establishment. Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, health clubs, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic or the office of a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the state, or barbershops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a nonprofit organization operating a community center, swimming pool,

tennis court or other educational, cultural, recreational and athletic facilities for the welfare of the residents of the area.

- (8) Nude artist and photography studio. Any building, structure, premises or part thereof used solely or primarily as a place which offers as its principal activity the providing of models to display “specified anatomical areas”, as defined herein, for artists and photographers for a fee or charge.
- (9) Specified anatomical areas. “Specified anatomical areas” are defined as:
 - (A) Less than completely opaquely covered:
 - (A) Human genitals and pubic regions;
 - (B) Buttocks, and;
 - (C) The female breast below a point immediately above the top of the areola; and
 - (B) Human male genitals in a discernible turgid state, even if completely and opaquely covered, of sexual stimulation or arousal;
- (10) Specified sexual activities. “Specified sexual activities” are defined as:
 - (A) Human genitals in a state of sexual stimulation or arousal;
 - (B) Acts of human masturbation, sexual intercourse or sodomy;
 - (C) Fondling or other erotic touching of human genitals, pubic regions, buttocks or the female breast.

D. Uses to be permitted as principal uses only.

None of the uses specified in sub-section 12.22 (B), above, shall be permitted as accessory or incidental uses in any zoned district, and the uses specified herein shall be permitted solely as principal uses to the extent permitted within the C-2 General Business Zoning District, subject to the regulations of this Section and other statutes, codes or ordinances.

E. Special Use Permit Prerequisite to Issuance of Building Permit or Certificate of Occupancy.

No use specified in Section 12.21 (B) shall be conducted, nor shall a building permit or certificate of occupancy be issued by the Building Official, until the applicant has obtained a special use permit as provided in this ordinance.

F. Special Use Permits.

The uses specified in sub-section 12.21 (B) shall be allowable as special uses, subject to the following restrictions:

- (1) Such uses are permitted only in the C-2 General Business Zoning District.
- (2) In determining whether a special use permit should issue, the Planning Commission will apply the provisions of Chapter XIII of this Ordinance and applicable state statutes, and the applicant shall meet the specific standards and requirements contained in the next sub-section.

G. Applicant to comply with certain standards.

The Planning Commission shall grant a special exception use to allow the uses specified in Section 12.22 (B) only if the applicant complies with each of the following requirements:

- (1) The proposed use is not located within five hundred (500) feet of a residential zoning district, school, or church.
- (2) The proposed use will not be contrary to the public interest or injurious to adjacent and adjoining properties.
- (3) The proposed use will not enlarge or encourage a blighted or deteriorated area for the activities to be conducted.
- (4) The materials to be distributed shall not be in violation of any applicable statute, code or ordinance.

H. Severability.

Should any section, clause or phrase of this Section be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Section as a whole, or any part thereof other than the part so declared to be invalid.