

## Article 5: Definitions

### **501 Purpose**

For the purpose of this Ordinance certain terms are defined. When not inconsistent with the context, the present tense includes the future, words used in the singular number include the plural number.

### **502 Undefined Words**

Any word not defined **shall** be interpreted within its common and approved usage.

### **503 Definitions of words**

**ACCESSORY BUILDINGS** means a **Use** which is a supplementary **Building** or **Structure** on the same **Parcel** as the main **Building**, or part of the main **Building, Occupied** by or devoted exclusively to an **Accessory Use**. Such **Use shall** not include any **Building** used for **Dwelling**, residential or lodging purposes, or sleeping quarters for human beings.

**ACCESSORY USE** means a **Use** naturally and normally incidental to, subordinate to, and devoted exclusively to the main **Use** of the land or **Buildings**, but not including **Uses** considered **Accessory Buildings** or accessory **Structures**.

**ADMINISTRATOR** means the Suttons Bay **Village** Zoning **Administrator** as created in **Section** 8202 et. seq.

**ADULT BOOK AND/OR VIDEO STORE** means an establishment having, as a substantial or significant portion of its stock in trade or business, books, videotapes, CDs, DVDs, computer software, computer services, magazines and other periodicals or other writings as defined in M.C.L. 15.232(e), MSA 4.1801(2)(e) which are distinguished or characterized by their emphasis on matter depicting , describing or relating to "specified sexual activities" or specified anatomical areas," hereinafter defined.

**ADULT LIVE ENTERTAINMENT ESTABLISHMENTS REGARDLESS OF WHETHER ALCOHOLIC BEVERAGES MAY OR MAY NOT BE SERVED** means establishments which include a nightclub, bar, restaurant, or similar commercial establishment, which features (a) **Persons** who appear nude or in a "state of nudity" or "semi-nude"; and/or (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

**ADULT MOTION PICTURE THEATER** means 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.

**ADULT MINI MOTION PICTURE THEATER** means 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.

**ADULT PANORAMS** means an establishment which has a substantial or significant portion of its business devoted to the viewing by patrons of films, tapes, or live entertainment showing "specified sexual activities" or "specified anatomical areas".

**ADULT PARAPHERNALIA/NOVELTY STORE** means an establishment having, as a substantial or significant portion of its stock in trade, paraphernalia designed or usable for sexual stimulation or arousal.

**ALTERED/ALTERATIONS** means any construction, modification, remodeling, repair, improvement, relocation,

and a replacement of a **Structure, Building, Dwelling**, accessory **Building** or **Structure** which needs a permit and any changes in the location or **Use** of a **Building**, or any change in the supporting members of a **Building** such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls under the provisions of **Article 84** or under the provisions of **Article 86**.

**APARTMENT BUILDING** means a **Use** which is a **Dwelling** designed for three or more **Housing Units** or **Occupied** by three or more families, with separate housekeeping, cooking, and bathroom facilities for each. **Apartment Buildings** are also known as, but not limited to, triplex, quad-plex, garden apartments, townhouses

**APPEALS BOARD** means the Suttons Bay **Village** Board of Appeals, created in **Section 9601**.

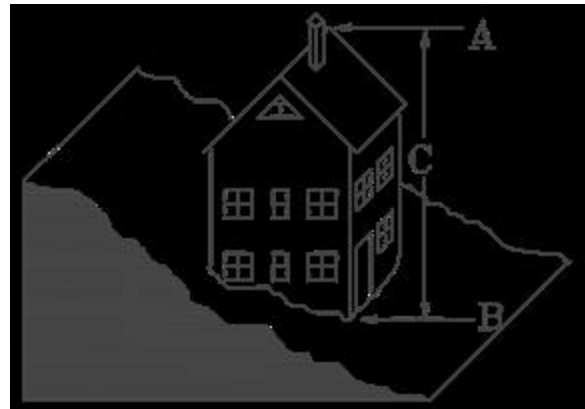
**ARTICLE** means the main divisions of this Ordinance. **Articles** are further divided by **Sections**.

**BUILDING** means any **Structure**, either temporary or permanent, having a roof and **used** or built for the shelter or enclosure of **Persons**, animals, chattel, or property of any kind. **Buildings shall** include awnings; eaves to the drip line; attached decks and **Porches** with or without a roof; and **Trailers**, whether mounted or on wheels and situated on private property and used for purposes of a **Building**.

**BUILDING AREA** means the total exterior foundation or framing area taken on a horizontal plane at the largest floor level of a **Building** or an accessory **Building** exclusive of unroofed **Porches**, terraces, patios and steps, and of awnings and nonpermanent canopies. (See **Building Coverage, Building Envelope, Impervious Surface Coverage**.)

**BUILDING COVERAGE** means the area of a **Parcel** covered by a principle and **Accessory Buildings, Porches**, decks. (See **Building Area, Building Envelope, Impervious Surface Coverage**.)

**BUILDING HEIGHT** means the vertical distance measured from the lowest elevation of the ground next to the **Building** to the highest point of the roof (for flat roofs, to the deck line), but not including chimneys, antennas, steeples, and other similar non-inhabitable **Structures** or portions of **Structures**. (See illustration to the right)



**CIVIC BUILDING** means **Buildings** open to the public (such as private and public schools, churches, museums, meeting halls and libraries) owned by government, quasi governmental and service organizations

**COMMISSION** means the Suttons Bay **Village** Planning **Commission** created pursuant to P.A. 285 of 1931, as amended, (being Municipal Planning Act, M.C.L. 125.31 et. seq.), and has vested with it all the powers and duties of a zoning board pursuant to P.A. 207 of 1921, as amended, (being the Michigan Zoning and Enabling Act, M.C.L. 125.1301 et. seq.)

**COMMONS** means an area for the **Use** of the public or for all owners of a defined area.

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

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

**DUPLEX** means a **Use** which is a **Dwelling** designed for two **Housing Units** or **Occupied** by two families only, with separate housekeeping, cooking, and bathroom facilities for each which complies with the standards given in this Ordinance.

**DWELLING** means a **Use** which is a **Structure, Mobile Home**, pre-manufactured or precut **Dwelling Structure** designed as a single **Housing Unit** and used for the complete living accommodations of a Single-Family which complies with the standards given in this Ordinance.

**DWELLING HEIGHT** means **BUILDING HEIGHT**.

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

**FAMILY** means an individual or a collective number of individuals living together in one house under one head, whose relationship is of a permanent and distinct domestic character, and cooking as a single housekeeping unit. However, this **shall** not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

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

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

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

**GREENS** means a buildable upland open space which is a manicured lawn, garden, passive-**Use**-park, with or without trees, a similar **Use**, or combination of **Uses**.

**GREENBELT** means a landscaped or natural area for purposes of aesthetics and for purposes of a buffer area.

**HAZARDOUS SUBSTANCES** means one or more of the following:

- A. A chemical or other material which is or may become injurious to the public health, safety, or welfare or to the environment;
- B. Hazardous substance” as defined in [Hazardous Substance Act being MCL 286.452(d)]
- C. “Hazardous waste” as defined in **Article II** Chapter 3 Part 111 of P.A. 451 of 1994, as amended, (being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act, M.C.L. 324.11101 et. seq.) and/or;
- D. “Petroleum” as defined in **Article II** Chapter 8 Part 213 of P.A. 451 of 1994, as amended, (being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act, M.C.L. 324.213012 et. seq.) [Annotation: M.C.L. 324.45101 et. seq. is formerly P.A. 478 of 1988 (being M.C.L. 299.831 to 299.850, the Leaking Underground Storage Tank Act).]

**HOME OCCUPATION** means a **Use** which includes any activity which is clearly secondary to a residential Use and carried out for economic gain.

**HOUSING UNIT** means a house, apartment, **Mobile Home**, group of rooms, or single room occupied as a separate living quarter (or if vacant, intended for occupancy as a separate living quarter.) Separate living quarters are those in which the occupants live and eat separately from any other **Persons** in the **Building** and which have direct access from the outside of the **Building** or through a common hall.

**IMPERVIOUS SURFACE** and **IMPERVIOUS SURFACE COVERAGE** means the area of a **Parcel** which results in surface water runoff with a runoff curve number of 95 or greater, and includes, regardless of the rate of infiltration, any cover on or over the ground which is a **Building**, **Structure**, driveway, patio, paved or gravel **Street**/drive/parking **Parcel** surface, lined pond, swimming pool. Runoff curve number, as used here, is as defined and calculated by the Natural Resources Conservation Service, United States Department of Agriculture. (See **Building Area**, **Building Coverage**, **Building Envelope**.)

**MASSAGE PARLOR** means any establishment having a fixed place of business where massages are administered for pay, including but not limited to **Massage Parlors**, 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 of Michigan, nor barber shops or beauty salons in which massages are administered only to the hands, feet, scalp, face, neck or shoulder. This definition **shall** not be construed to include the practices of massage therapists who meet one or more of the following criteria:

- A. Proof of graduation from a school of massage licensed by the State of Michigan;
- B. Official transcripts verifying completion of at least 300 hours of massage training from an American community college or university; plus three references from massage therapists who are professional members of a massage association referred to in this **Section**;
- C. Certificate of professional membership in the American Massage Therapy Association, International Myomassethics Federation, or any other recognized massage association with equivalent professional membership standards and/or;
- D. A current occupational license from another state.

**MASTER PARCEL** means a **Parcel** of land or adjacent **Parcels** of land under a single **Ownership** as of the date of adoption of this ordinance.

**MOBILE HOME** means a **Dwelling**, transportable in one or more **Sections** which is built on a permanent 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 therein and is installed by a Michigan Licensed **Mobile Home** dealer or Michigan Licensed **Mobile Home** installer as required by P.A. 419 of 1976, as amended, (being the **Mobile Home Commission** Act, M.C.L. 125.1101 et. seq.,) and administrative rules promulgated thereunder.

**MOBILE HOME PARK** means a **Use** which is a **Parcel** of land under the control of a **Person** upon which three or more **Mobile Homes** are located on a continual non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any **Building, Structure**, enclosure, **Street**, equipment, or facility used or intended for **Use** incident to the occupancy of a **Mobile Home** and which is not intended for **Use** as a temporary **Mobile Home** or **Trailer**.

**NONCONFORMING BUILDING, Structure** means a **Structure** or **Building** lawfully constructed that does not conform to the requirements of the Area in which it is situated and existed prior to the effective date of this Ordinance.

**NONCONFORMING USE** means **Structure, Building, Parcel**, premise or land lawfully occupied by a **Use** that does not conform to the regulations of the Area in which it is situated and lawfully existing on the effective date of this Ordinance.

**OUTDOOR LIGHT FIXTURES** means outside electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. Such devices **shall** include, but are not limited to, search, spot, and flood lights for **Buildings** and **Structures**, security, recreational areas, parking **Parcel**, landscape, billboard and other sign (advertising or other), **Street** lighting, product display area, **Building** overhangs and open canopies lighting.

**OPEN DANCE HALL** means an establishment where open public dancing by patrons is available during at least four days per week with partners furnished by the establishment.

**OUTDOOD RECREATION PARKS** means **Uses** which are public or private playgrounds, vest pocket parks, nature areas, natural areas, ball fields, open space preserves, arboretums, gardens, beaches, and so on but not including facilities designed for overnight or camping **Use**

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

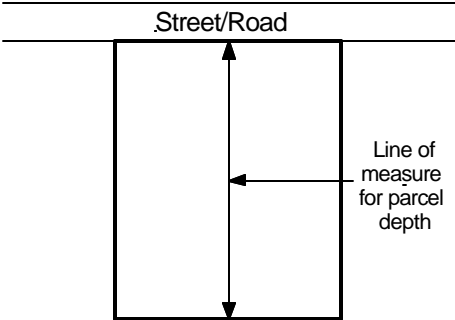
**PARCEL** means a tract of land or one or more **Parcels** having a single tax identification number or a condominium unit of land space and directly associated limited common element, except that if two or more **Parcels** meeting the foregoing definition are contiguous and under common **Ownership**, then all of such **Parcels shall** be deemed a single **Parcel** for purposes of this Ordinance on which one (1) principal **Building**

and its **Accessory Buildings** are placed, together with the open spaces required by this ordinance.

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

**PARCEL MEASUREMENTS** means:

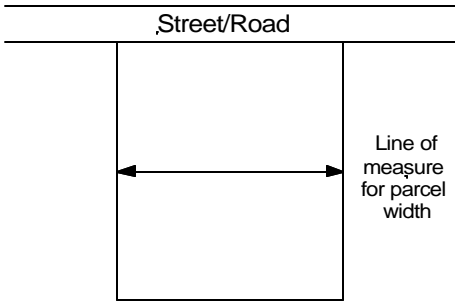
- A. DEPTH of a Parcel **shall** be considered to be the distance between the midpoints of straight lines connecting the foremost points of the front **Property Line** and rearmost points of the rear **Property Line**.
- B. WIDTH
  - 1. The distance between the side **Property Lines** at each side of the Parcel.
  - 2. In determining Parcel Width on odd-shaped Parcels, if the Parcel abuts a curving **Street** and, as a result, the side **Property Lines** are not parallel, the measurement of the width **shall** be at the front yard setback line.
  - 3. In determining Parcel Width on other odd-shaped Parcels, the average width measured at right angles to its depth.



**PARKING SPACE** means one unit of parking area provided for the parking of one vehicle.

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

**PERSONAL PROPERTY SALES** means events such as garage sales, yard sales, basement sales, auctions or other similar events where **Personal** property is offered for sale on a limited basis and not for a duration of more than three days within any three month period.



**PLANNED UNIT DEVELOPMENT** means a special **Use** which encompasses more than one residential unit and/or more than one commercial **Use**.

**PRESIDENT** means the chief elected official of Suttons Bay **Village Council**.

**PRIVATE ROAD/STREET** means a **Street** which is not public which services more than one **Dwelling** or business. Private **Streets shall** not include driveways to a single **Dwelling** or business or **Accessory Buildings** when the driveway is located on the same **Parcel** of land as the serviced **Structure**.

**PROPERTY LINE** means the outside perimeter of a legally described **Parcel** of land.

**Property Line, Front:** That Line which faces the major street or as specified in the Zoning Area.

**Property Line, Rear:** That lot line opposite and most distant from the front lot line.

**Property Line, Side:** Any lot line other than the front lot line or the rear lot line.

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

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

**SECTION** means a part of this Ordinance, being the next division under an **Article**. A **Section** is cited by **Article** number and **Section** number, "XXX", with the last two digits being the **Section** number, and the remaining digits to the left being the **Article** number. **Sections** may be further divided into sub-**Sections** "A.", divisions "1.", paragraphs "a.", and subparagraphs "(1)", for example.

**SETBACK** means the minimum horizontal distance from an applicable property line within which no building or structure can be placed except as otherwise provided in this Ordinance..

**SEX-ORIENTED BUSINESS** means **ADULT BOOK AND/OR VIDEO STORES, ADULT LIVE ENTERTAINMENT ESTABLISHMENTS, ADULT MOTION PICTURE THEATERS, ADULT MINI MOTION PICTURE THEATERS, ADULT PANORAMS, ADULT PARAPHERNALIA/NOVELTY STORES, MASSAGE PARLORS AND OPEN DANCE HALLS** as defined in this **SECTION**.

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

**SIGN** means a **Structure**, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs or trademarks by which any message or image is afforded public visibility from out-of- doors on behalf of and for the benefit of any product, place, activity, individual, firm corporation, institution, profession, association, business or organization.

- A. **Off Premises Sign:** A Sign that is physically located on a different parcel than the parcel on which the advertised business , service, activity, event, product, or organization is located.
- B. **On-Premises Sign:** A Sign that is physically located on the parcel in which the advertised business, service, activity, event, product, or organization is located.
- C. **Temporary Sign:** A Sign that is intended to be displayed for a limited period of time to advertise a special event, activity, political campaign, sale or rent of real property, sale of personal property, or other similar purpose.

**STATE LICENSED RESIDENTIAL FACILITIES** means a **Use** which is a **Structure** constructed for residential purposes that is licensed by the state, pursuant to P.A. 218 of 1979, as amended, (being the Adult Foster Care Licensing Act, M.C.L. 400.701 et. seq.) or P.A. 116 of 1973, as amended, (M.C.L. 722.111 et. seq.) or for the care of six or fewer elderly (senior) citizens.

**STORY** means that portion of a **Building** included between the surface of any above floor grade and the surface of the floor next above it, or if there be no floor above it then the space between any floor and the ceiling next above it. A **Story shall** have vertical walls. A half **Story shall** be the upper-most **Story** of a **Building** and has one or more walls which are part the roof with at least an eight foot high ceiling.

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

**STREET** means a **Village Street** as shown on maps certifying the same to the Michigan Department of Transportation; a county road as shown on maps certifying the same to the Michigan Department of Transportation; highways.

**STRUCTURE** means anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, except, **Structure shall** not include automobiles, trucks, **Trailer**, hunting blinds, **Fences**, hedges, sidewalks, driveways, gardens, shore stabilization devices.

**TRAILER** means a vehicle which can be drawn or driven on a highway and is used for recreational or camping purposes. Includes but not limited to the terms motor home, pole-**Trailer**, **Trailer** coach, **Trailer**, **Mobile Home** as defined in P.A. 300 of 1949, as amended, (being the Michigan Motor Vehicle Code, M.C.L. 257.1-257.82), and including camping units, or any other temporary **Dwellings**.

**USE** means the purpose for which land or a **Building** thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

**USED** or **OCCUPIED** means the physical presence of a **Person** to **Use** a **Structure** and includes the words "intended", "designed", or "arranged" to be used or **Occupied**.

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

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

**VILLAGE COUNCIL** means the Suttons Bay **Village Council**.

**WATER'S EDGE** means the line where the water and shore meet when the water level is static. For fluctuating water bodies other than Lake Michigan, it **shall** be the line where the water and shore meet when the water is at its annual high level. For Lake Michigan it **shall** be "historic high water elevation" which is currently 581.87 feet above sea level.

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

