

December 3, 2012 - DRAFT
Regulations to address rental of residential property

Revise definitions

31.14 Boarding House. A dwelling, or other structure other than a hotel or motel, in which ~~more than two~~ persons are sheltered and/or fed for profit for one week or longer at a time ~~during which time the property owner or property manager resides at the property.~~

31.45 Cottage, Duplex. A structure consisting of two separate units separated by a ~~party~~ **common** wall, each of which has a minimum floor area of 400 square feet, designed or primarily used for seasonal ~~rental-occupancy.~~

31.46 Cottage, One Unit. A structure having a minimum floor area of 400 square feet designed or primarily used for seasonal ~~rental-occupancy.~~ A bus **or recreational vehicle** is not construed to be a cottage.

31.57 Dwelling. A house or other building designed or used primarily for year-round human habitation. The word "dwelling" shall not include tourist homes, motels, hotels, or other structures designed for transient residence, or cottages or cabins designed or primarily used for seasonal ~~residence~~ **rental.**

31.125 Residence. A **residential** dwelling **occupied by the property owner. If on exception the dwelling is offered for rent, the rental term is for an extended time period e.g., minimum one year period.**

31.126 Residence, Seasonal. A dwelling, **used by the property owner the use** of which is limited to a seasonal occupancy, such as a summer cottage or a winter chalet.

31.155 Tourist Home or Bed & Breakfast. A structure, other than a hotel or motel, in which overnight accommodations are provided for **profit for more than two guests, for less than one week at a time, which is operated either for profit, or as a business, including a bed and breakfast** **during which time the property owner or property manager resides at the property.** A tourist home is also a boarding house if ~~more than two~~ persons are sheltered and/or fed for profit for one week or longer at a time. **A tourist home or boarding house may be ~~or, or~~ which is operated appurtenant to, or in association with another business, including fishing charters**

New definition

31.____ Residence, Seasonal Rental. A structure offered for short term rental during which rental period the property owner or manager is not resident in the structure.

Other

Amend the Schedule of Regulations Table to add Seasonal Residence Rental – “SP” required in Resort, Residential and R-15000 areas. A Seasonal Residence Rental is permitted “P” in all other zoning districts

43.0 SPECIAL PERMITS

43.10 Procedure

(a) Application to the Building Inspector. As provided by section 50.2 of this law, application for a building permit shall be made to the Building Inspector prior to the commencement of the excavation for, or the construction of any building or structure or the use of land. If, upon receipt of such application, the Building Inspector determines the excavation, construction or use of land for which the application is made requires the issuance of a special permit, he or she shall, within five days of its receipt, forward the application to the Board of Appeals.

(b) Action of Board of Appeals. Following receipt of an application from the Building Inspector and any additional materials required pursuant to this section 43.0, any reference to the Wayne County Planning Board which may be required by section 55.40 of this law, and compliance with the procedures set forth in section 55.0 of this law, and except as provided in section 44.0, the Board of Appeals may grant a special permit, which shall authorize the Building Inspector to issue a building permit for buildings, structures or uses of land as provided in this law.

(c) Material To Be Submitted By Applicant. To assist the Board of Appeals in its determination, an application for a special permit shall be accompanied by plans and other descriptive matter sufficient, **as determined by the Board of Appeals**, to clearly portray the intention of the applicant, and such plans and other descriptive matter shall become a part of the record.

43.20 Standards. A special permit may be authorized by the Board of Appeals only upon satisfaction in each instance as to the general character, height and use of structures and property, **maximum number of patrons, hours of operations, terms and conditions of use, onsite management**, provision of surrounding open space and the treatment of grounds, general fitness of structures and uses in their proposed location, provision for automobile parking or storage, street capacity and use, and protection of the environment; **and all other information** as in the opinion of the Board, may be necessary to safeguard public health, comfort, and convenience, and as may be required for the preservation of the general character of the neighborhood in which such structure is to be placed or such use is to be conducted. The standards established by sections 42.0 and 45.0 of this law shall be applied as they may be applicable to a specific request for a special permit. If granted, a special permit is conditioned upon the specific conditions outlined in the applicant's proposal (including submitted plans and any revisions to the proposal), unless otherwise specifically stated in the decision of the Board of Appeals, **and conditions contained in the Board of Appeals motion to approve**.

43.30 Extensions of Special Permit Uses.

(a) Specified Period. **Special Permit Uses may be approved for a specified period (having a set expiration date, e.g., 2 years). The holder of a Special Permit with a specified period may reapply for the Special Permit not less than (3) months before the scheduled termination of the permit.**

(b) Change in or expansion of use. Following approval of a special permit, any change from the approved proposal that results in an extension of use requires a new special permit.

43.40 Preexisting Special Permit Uses. Structures and uses which existed at the time that this law, or any relevant amendment thereto, became effective, and which now require a

special permit, may be continued. Extension of use of these structures or uses, however, requires a special permit. Any building, structure or lot containing a use which now requires a special permit which is destroyed or damaged beyond fifty (50%) percent of the cost of replacement by fire, flood, wind, or other act of God or man shall not be repaired or reconstructed except in conformity with this law, unless such reconstruction:

- (a) Is completed within (12) months of the damage or destruction; and
- (b) Is equal to or less than the size of damaged or destroyed building or structure; and
- (c) Complies with section 42.02 of this law, pertaining to area, yard, coverage, height and related requirements, or the owner obtains an area variance from the Board of Appeals.

43.50 Expiration of Special Permits.

(a) **Indefinite or Specified Term.** The Board of Appeals shall, if approving a Special Permit, determine if the Special Permit is issued for a specific term or if the Special Permit is approved for an indefinite period. Unless specifically recorded as a condition of the Special Permit, the permit is issued for an indefinite period. If issued for a specific term, the Board of Appeals shall establish an expiration date for the Special Permit (e.g., 2 years from date of approval).

(b) **Start of Construction or Use.** Any special permit shall expire and cease to be in effect if the approved construction, use, or other right granted by the special permit is not commenced within twelve (12) months from the date of approval. However, upon application, the Board of Appeals may, by resolution and without public notice or hearing, grant an extension of an additional twelve (12) months, so that the special permit shall expire and cease to be in effect if the approved construction, use, or other right granted by the special permit is not commenced within two (2) years from the date of the original approval.

43.60 Running With the Parcel. Unless otherwise expressly stated as a condition of approval, any special permit shall apply to and run with the parcel, and remain in effect after changes in ownership.