

# **Village of Lakeview Zoning Ordinance**

**Adopted December 13, 2022**

Village of Lakeview Zoning Ordinance  
 Adopted as of December 13, 2022

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## **Chapter 1 Misc. Provisions**

### **SECTION 1.01 TITLE**

This Ordinance shall be known and may be cited as the VILLAGE OF LAKEVIEW ZONING ORDINANCE.

### **SECTION 1.02 PURPOSE**

This ordinance's provisions are established pursuant to the authority conferred by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, and other Public Acts of the State of Michigan. As described in Public Act 110 of 2006, the purpose of a zoning ordinance is to:

1. 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.
2. Ensure that uses of the land shall be situated in appropriate locations and relationships.
3. Limit the inappropriate overcrowding of land and congestion of population and transportation systems and other public facilities.
4. Facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs.
5. Promote public health, safety, and welfare.

### **SECTION 1.03 VESTED RIGHTS**

Nothing in this ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification of any permissible activities therein; and they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

### **SECTION 1.04 CONFLICTING REGULATIONS**

Wherever any provision of the Ordinance imposes more stringent requirements, regulations, restrictions, or limitations than are imposed or required by the provisions of any other law or ordinance, then the provisions of this Ordinance shall govern unless such requirements, regulation or law preempts local zoning. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Ordinance, then the provisions of such law or ordinance shall govern.

### **SECTION 1.05 REPEAL AND ADOPTION**

The following zoning ordinance was adopted by the Village Council on December 13, 2022 following a public hearing by the Planning Commission on November 8, 2022.

A notice of adoption of this zoning ordinance was published in a newspaper with general circulation in the Village of Lakeview, on December 22, 2022

The provisions of this Ordinance shall take effect 7 days after the notice of publication is published, pursuant to the provisions of Michigan Zoning Enabling Act, PA 110 of 2006, as amended.

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## Chapter 2 Definitions

### SECTION 2.01 RULES OF CONSTRUCTION

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

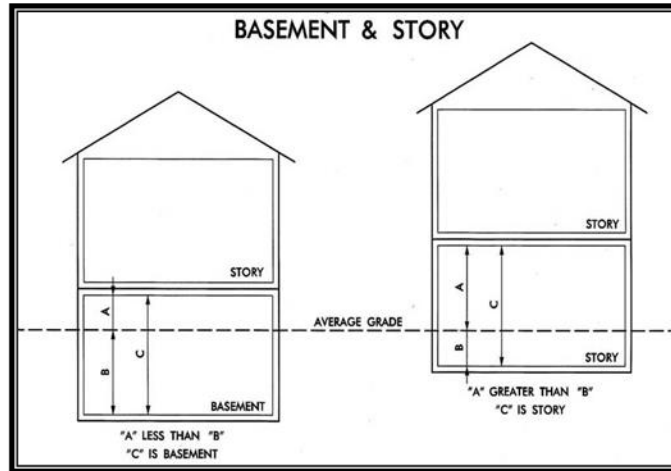
1. The particular shall control the general.
2. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
4. Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
5. A building or structure includes any part of it.
6. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
7. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
8. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions or events connected by the conjunction "and," "or," "either ... or," the conjunction shall be interpreted as follows:
  - a. "And" indicates that all the connected items, conditions, provisions or events shall apply.
  - b. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
  - c. "Either or" indicates that the connected items, conditions, provisions or events shall apply singly, but not in combination.
9. Terms not defined in Chapter 2 shall have the meaning customarily assigned to them. For terms which are not defined in this Chapter, the definition of the term shall be taken from Webster's Seventh Edition.
10. "Village" shall refer specifically to the Village of Lakeview.

### SECTION 2.02 DEFINED TERMS

1. Terms A-C
  - a. **Alley:** A public way which affords a secondary means of access to abutting property but is not intended for general traffic circulation.
  - b. **Alteration:** Any modification, remodeling, change, or rearrangement in the structural or supporting members such as bearing walls, columns, or girders, as well as any change in the doors or windows which affect the means of egress which is undertaken without adding to the floor area height or physical size of the building or structure.
  - c. **Basement:** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical

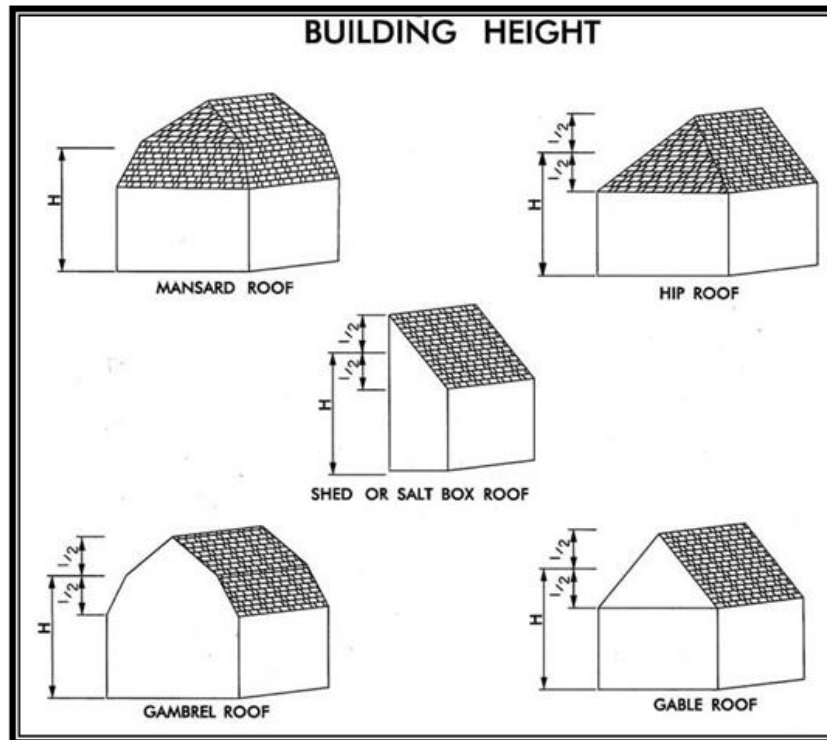
distance from the average grade to the ceiling. A basement shall not be counted as a story. (See Figure 2-1).

Figure 2-1



- d. **Bedroom:** A dwelling room used or intended to be used by human beings for sleeping purposes.
- e. **Block:** The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets, or between one (1) intersecting street and railroad right-of-way, unsubdivided acreage, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development.
- f. **Building:** Any structure having a roof supported by columns or walls for the shelter or enclosure of persons, animals, or property of any kind.
- g. **Building Height:** The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of a mansard roof; and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs. When the terrain is sloping, the ground level is measured at the average wall line. (See Figure 2-2).

Figure 2-2



- h. **Building Permit:** Written authority as issued by Building Inspector on behalf of the village permitting the construction, moving, alteration, or use of a building in conformity with the provisions of the Building Code.
- i. **Building Line:** A line formed by the front face of the building.
- j. **Commercial Vehicles:** Any vehicle bearing or required to bear commercial license plates.  
 Examples include: Truck tractors; semi-trailer (including flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box type enclosures); ice cream trucks; milk trucks; bread trucks; fruit trucks; delivery trucks; electrician or electrical business trucks; plumbing business trucks; heating and cooling business trucks; other construction oriented trucks; tow trucks; commercial banking trucks; vehicle repair service trucks; snowplowing trucks; any other vehicle with a commercial license plate having a gross vehicle weight in excess of ten thousand (10,000) pounds or a total length in excess of twenty-two (22) feet.
- k. **Condominium:** A division of property or enclosed airspace under the procedures and requirements of the Condominium Act (PA 59 of 1978).
  - 1) Condominium, general common elements: Portions of the condominium development owned and maintained by the condominium association, as defined in the Condominium Act (PA 59 of 1978).
  - 2) Condominium, limited common elements: Portions of the condominium development other than the condominium unit itself reserved for the exclusive use of less than all of

the co-owners of the condominium development, as defined in the Condominium Act (PA 59 of 1978).

- 3) **Condominium, master deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and including those items required in Section 8 of the Condominium Act (PA 59 of 1978).
- 4) **Condominium, subdivision plan:** Drawings and information prepared pursuant to Section 66 of the Condominium Act, (PA 59 of 1978).
- 5) **Condominium Unit:** That portion of a condominium subdivision designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed.

- I. **Curb Cut:** The provision of vehicular ingress or egress between property and an abutting public street.

## 2. Terms D-F

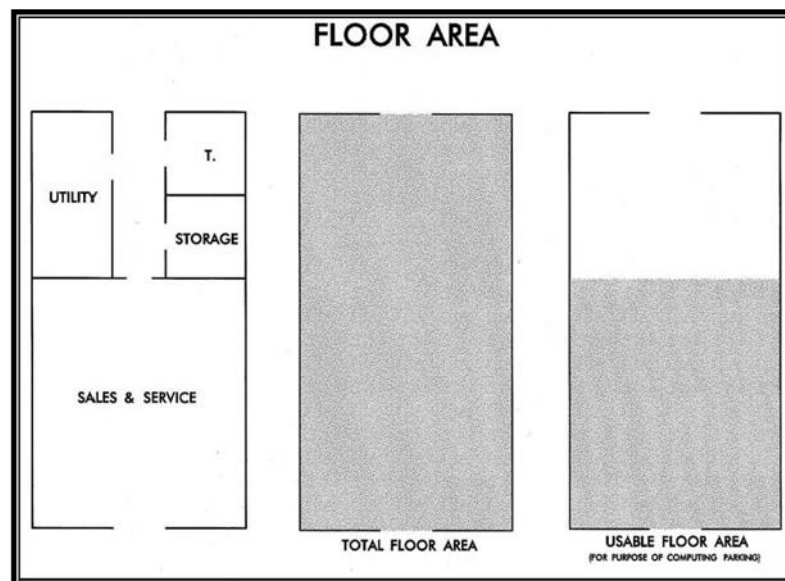
- a. **Detention:** The collection and storage of surface water for subsequent gradual discharge.
- b. **District:** An area or areas within the limits of the village, delineated on the official zoning district map.
- c. **Dwelling Unit:** A building or portion of a building, either site-built or pre-manufactured, that has sleeping, living, cooking and sanitary facilities and can accommodate one (1) family or functional family, either permanently or transiently. In the case of buildings that are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings.
- d. **Erected:** Includes built, constructed, reconstructed, extension, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements that are not required for a building or structure, shall not be considered to fall within this definition.
- e. **Family:** A group of two or more persons related by blood, marriage, or adoption, including foster children, together with not more than one additional person not related by blood, marriage, or adoption living together as a single housekeeping unit in a dwelling unit.
- f. **Functional Family:** A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.
- g. **Fence:** Any permanent or temporary means, partition, structure, or gate erected as a dividing structure, barrier, or enclosure, and not part of a structure requiring a building permit.
- h. **Floor area, gross:** The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/ storage rooms, thickness of walls, columns, or other features.

- i. **Floor area, usable:** Usable floor area, for the purposes of computing parking needs for off-street parking spaces, is net floor area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage of merchandise or for utilities shall be excluded from this computation of "Usable Floor Area." Measurement of floor area shall be the sum of horizontal areas of all the floors of a building, measured from the interior faces of the exterior walls
- j. **Frontage:** The dimension of a lot measured along the public road right-of-way line or easement.

3. Terms G-I

- a. **Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.
- b. **Gross Floor Area:** (See Figure 2-3).

Figure 2-3

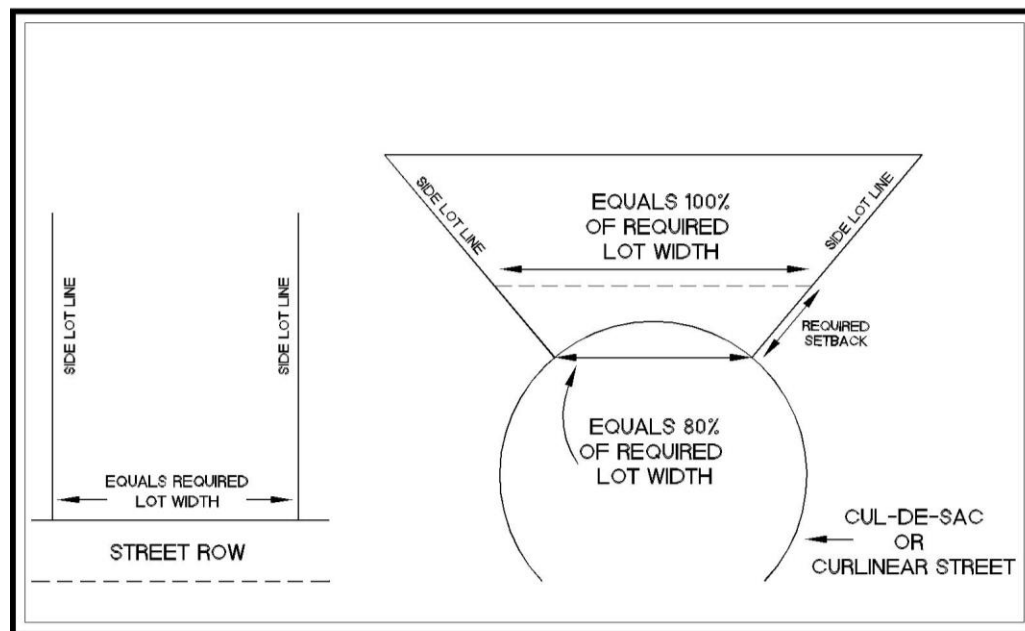


- c. **Hazardous Substances:** Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such material or substance.
- d. **Height:** When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna. For buildings see "Building height".

4. Terms J-L

- a. **Loading Space:** An off-street space on the same lot with a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as off-street parking space in computation of required off-street parking.
- b. **Lot:** The parcel of land including condominium units and their associated limited common elements in site condominiums, occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width required by this Ordinance for the district in which located, but not including any area within any abutting right-of-way or traffic lane. (See Figure 2-6)
- c. **Corner Lot:** A lot located at the intersection of two streets, or a lot bounded on two sides by a curving street, any two (2) sides of which form an angle of one hundred thirty-five (135) degrees or less. (See Figure 2-5)
- d. **Front Lot Line:** In the case of an interior lot abutting upon one public or private street, the front lot line shall be the line separating such lot from the street right-of-way. In the case of a corner lot, the front lot lines shall be the shorter of the two lines separating the lot from the streets. The other line separating the lot from the street shall be the "street side lot line". In case of a double frontage lot, both lot lines separating the lot from the street shall be front lot lines. In the case of a lot having frontage upon a lake, river, or stream, the front lot line shall be the line separating such lot from the street right-of-way. (See Figure 2-6)
- e. **Lot Lines:** The property lines bounding the lot.
- f. **Lot of Record:** A parcel of land defined by a legal description and recorded in the office of the Montcalm County Register of Deeds on or before the effective date of this Ordinance.
- g. **Lot Width:** The horizontal distance between the side lot lines, measured at the two (2) points where the building setback line intersects the side lot line. In the case of a lot on a cul-de-sac or curvilinear street the lot width shall be measured at the required front setback line. (See Figure 2-4 and 4-1)

Figure 2-4



- h. **Rear Lot Line:** In the case of an interior lot, the lot line being opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot. In the case of a corner or through lot, there is no rear lot line.
- i. **Side Lot Line:** Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line.
- j. **Through Lot:** A lot other than a corner lot having frontage on two (2) more or less parallel streets.
- k. **Zoning Lot:** A contiguous tract of land which at the time of filing for a zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership.

Figure 2-5

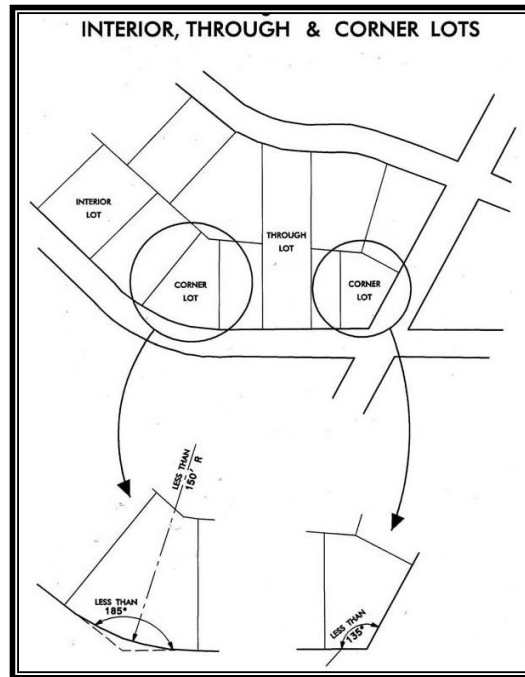
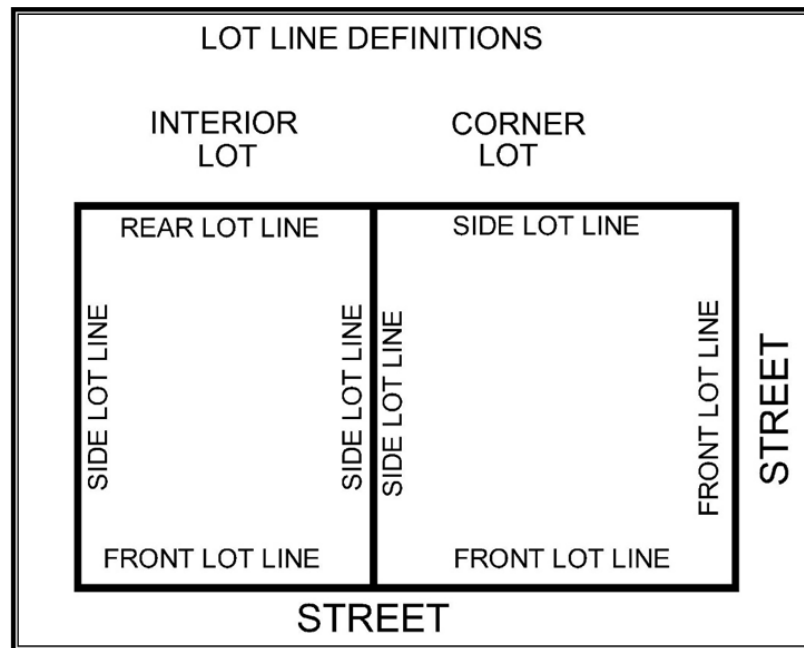


Figure 2-6



## 5. Terms M-O

- a. **Manufactured Home:** A factory-built single-family structure that is manufactured under the authority of 42 U.S.C., Sections 5401 to 5426 (National Manufactured Home Construction and Safety Standards Act 1974), is transportable in more than one section,

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is built on a permanent chassis and does not have a hitch, axles, or wheels permanently attached to the body frame.

- b. **Master Plan:** The statement of policy by the Village Planning Commission relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions. It is adopted under the authority of PA 33 of 2008, the Michigan Planning Enabling Act.
- c. **Mobile Home:** A structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.
- d. **Motor Home:** See Recreational Vehicle definition.
- e. **Non-Conforming Lot:** A parcel of land that was lawfully created but does not meet the current zoning ordinance requirements for lot width or area in the zoning district it is located in.
- f. **Non-Conforming Structure:** A structure which was lawful when erected or moved on to a lot but does not meet the current zoning requirements for setback, size or other zoning requirements related to the physical characteristics of the structure.
- g. **Non-Conforming Use:** A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.
- h. **Off Street Parking Lot:** A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted access and egress to at least two (2) vehicles.

## 6. Terms P-R

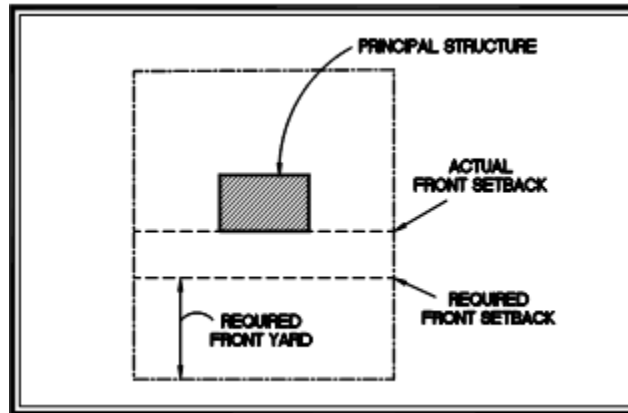
- a. **Parking Space:** An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.
- b. **Planning Commission:** The Village Planning Commission established under the authority of Public Act #33 of 2008.
- c. **Porch, Enclosed:** A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.
- d. **Porch, Open:** A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.
- e. **Principal Use:** The main use of land or structures, as distinguished from a secondary or accessory use.

- f. **Public Right-of-Way:** An easement for the construction and maintenance of a street dedicated or public use
  - g. **Public Sewer Systems:** A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes; conduits; manholes; pumping stations; sewage and waste water treatment works; diversion and regulatory devices; and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment of it, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid waste of such a nature as to be capable of adversely affecting the public health operated and maintained by the general public.
  - h. **Public Utility:** Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under federal, state, or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, water services, or sewage disposal.
  - i. **Recreational Vehicle:** Any vehicle regulated under the Village Recreational Vehicle Ordinance and designed to be used primarily for recreational purposes to move one or more persons over the ground, air, water, ice or snow, and which is either self-propelled or connects to a vehicle which is self-propelled, including, but not limited to house trailers, recreational trailers, trailer coaches, campers, fifth wheels, pickup campers, motor homes, folding tent trailers, boats and boat trailers, pole-trailers, semi-trailers and tractor trailers PROVIDED, however, that any such vehicle or unit which is over forty (40) feet or more in overall length and connected to water or sewer facilities shall be considered a mobile home and shall be subject to all regulations of all ordinance applicable to a mobile home.
  - j. **Retention:** The permanent on-site restraining of storm water.
- Road:** A public thoroughfare that has been or is intended to be dedicated for public use and has been accepted or is acceptable into the county transportation system.

## 7. Terms S-U

- a. **Setback, actual:** The minimum horizontal distance between the principal building, excluding steps and unenclosed porches and the lot line. In the case of a lot on a cul-de-sac or curvilinear street, the setback is measured from the midpoint of the lot width on the front lot line, also referred to as the building line. (See Figure 2-7)

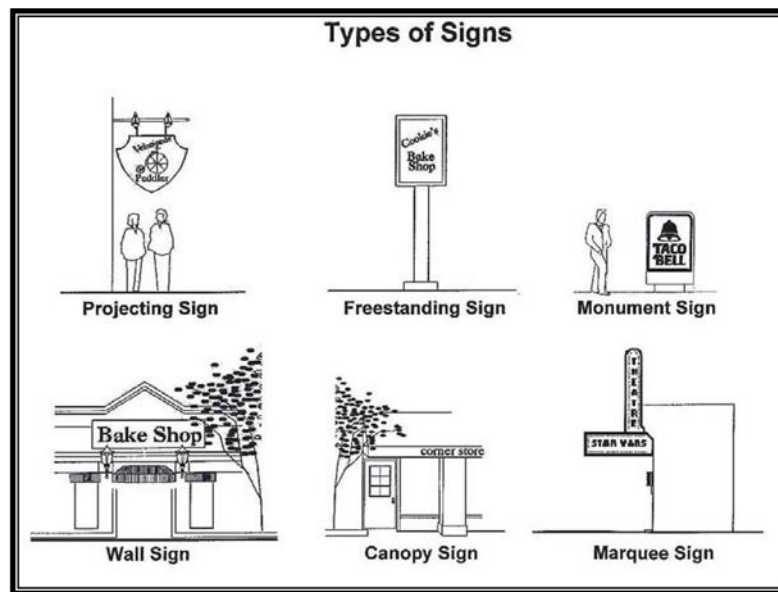
Figure 2-7



- b. **Setback, required:** The minimum front, rear and side setbacks as required by the ordinance. In the case of a lot on a cul-de-sac or curvilinear street, the setback shall be measured from the midpoint of the lot width on the front lot line. (See Figure 2-7)
- c. **Sign:** An identification, description, illustration, or device affixed to, or represented directly or indirectly upon a building, structure, or land and which directs attention to a product, place, person, activity, institution, or business.
- d. **Sign Definitions**
  - 1) **Abandoned Sign:** A sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product, or activity, and/or for which no legal owner can be found.
  - 2) **Banner:** A sign made of fabric or any non-rigid material with no enclosing framework.
  - 3) **Canopy Sign:** Any sign attached to or constructed within or on a canopy or on an awning, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area. (See Figure 2-8) A marquee is not a canopy and a protective roof over gasoline filling station areas shall not be considered a canopy for purposes of this chapter. Canopy signs shall not extend into a public right-of-way or encroach over abutting property lines and shall maintain an under clearance of eight (8) feet measured from the sidewalk surface.
  - 4) **Directional Sign:** A sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the lot on which the sign is located, such as parking or exit and entrance signs.
  - 5) **Electronic/Digital Signage:** Electronic signs include electronic message boards and changeable message centers, multi-media or computer-controlled variable message signs, and similar devices.
  - 6) **Flags:** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.
  - 7) **Ground Sign:** A monument sign or a sign suspended or supported by two or more uprights or braces anchored in the ground with no more than 30 inches clearance from the bottom of the sign to the ground below.

- 8) **Marquee Sign:** A business sign affixed to a marquee structure constructed and framed in steel or other durable material extending over the ground, sidewalk, or walkway. (See Figure 2-8) Marquee signs shall not extend into any public right-of-way more than seven (7) feet or one-half the width of the sidewalk. The minimum under clearance of such sign shall be eight (8) feet measured from the sidewalk surface.
- 9) **Monument Sign:** A freestanding sign supported primarily by an internal structural framework or integrated into landscaping or other solid structural features other than support poles. (See Figure 2-8)

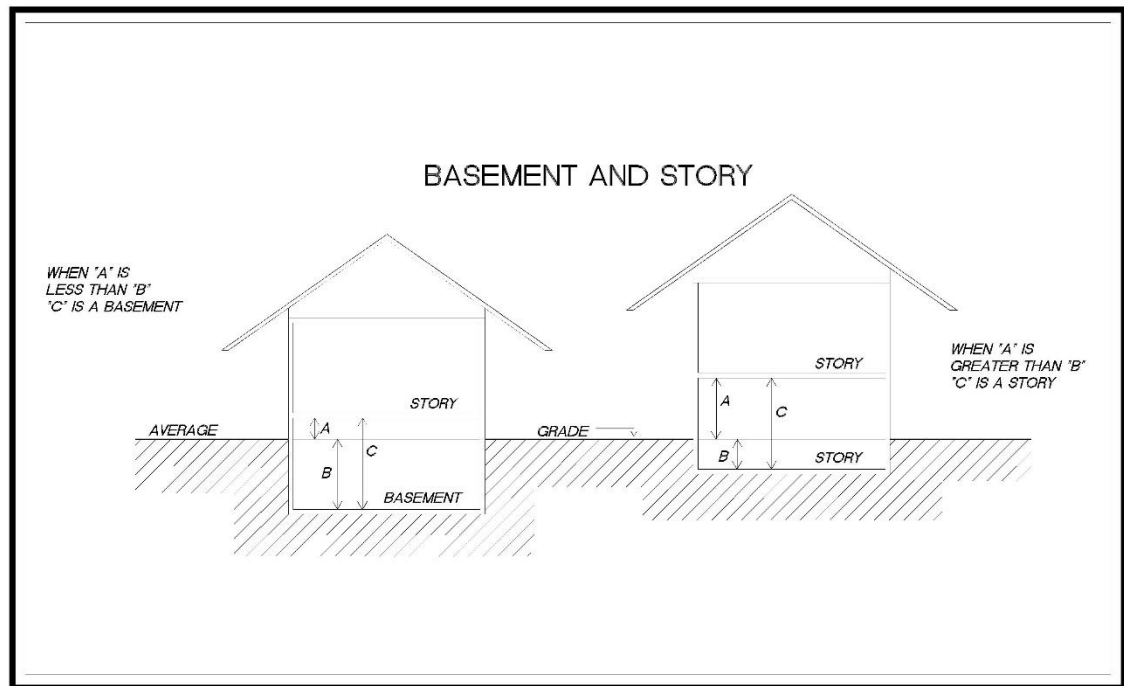
Figure 2-8



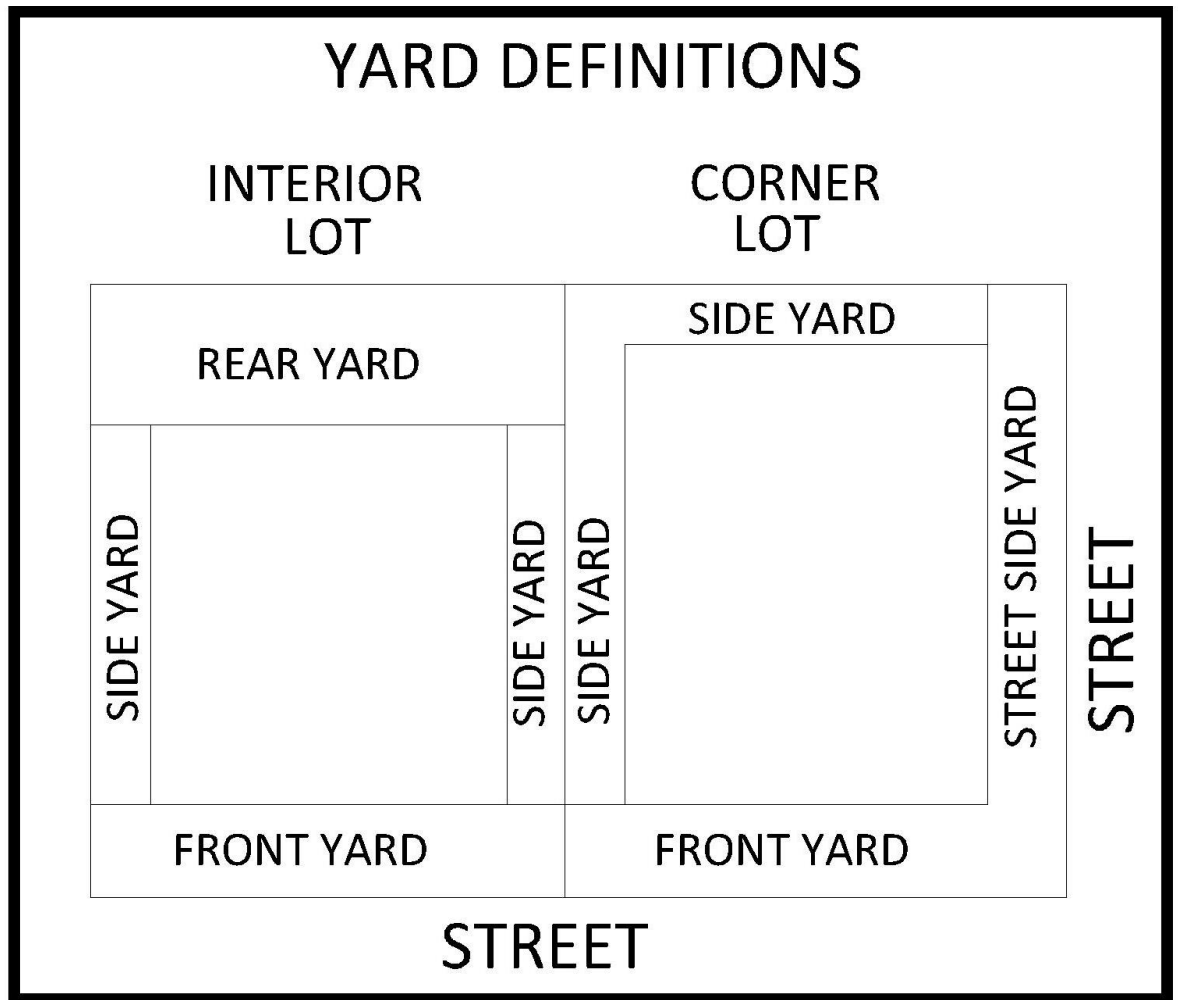
- 10) **Multi-Lot Development Entrance Sign:** Signs identifying the name of subdivision, business park or similar development with multiple parcels.
- 11) **Non-conforming sign:** A sign that does not comply with the size, placement, construction, or other standards or regulations of this chapter but was lawfully established prior to its adoption. Signs for which the Zoning Board of Appeals has granted a variance are exempt and shall not be defined as nonconforming.
- 12) **Off-Premise Sign:** Any sign, including billboards, relating to subject matter not conducted on the premises on which the sign is located.
- 13) **On-Premise Sign:** An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.
- 14) **Permanent sign:** A sign installed on a support structure, not intended to be moved or removed, but to remain for an indefinite period of time.
- 15) **Pole Sign:** A freestanding sign which is supported by a structure, or poles, or braces. The width of the supporting structures must be less than 25 percent of the width of the sign.

- 16) **Projecting Sign:** A sign which is affixed to any building or structure other than a marquee, and any part of which extends beyond the building wall and the horizontal sign surface is not parallel to the building or structure. (See Figure 2-8) Projecting signs shall not project more than five (5) feet from the building, or one-third the sidewalk width, whichever is less.
  - 17) **Roof Sign:** A sign erected above the roof line of a building.
  - 18) **Snipe Sign:** Any sign attached to a utility pole, fence or affixed to a tree except as may otherwise be permitted by this chapter.
  - 19) **Temporary Sign:** Any sign intended to be displayed for a limited time period. Easily removed signs attached to windows are considered temporary signs.
  - 20) **Wall Sign:** A sign painted or attached directly to and parallel to the exterior wall of a building. (See Figure 2-8) A wall sign shall extend no more than 12 inches from the exterior face of a wall to which it is attached, shall not project beyond the wall to which it is attached, and shall not extend above the roof line of the building to which it is attached.
- e. **Special Land Use:** Approval by the Village Planning Commission of a use of land in a district that is not antagonistic to other land uses in the district when such use is specified in this Ordinance for that district upon such approval.
- f. **Story:** That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. (See Figure 2-9)
- 1) A "mezzanine" floor shall be deemed a full story only when it covers more than fifty percent (50%) of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the next above it is twenty-four (24) feet or more.
  - 2) For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured, or if it is used for business purposes.
  - 3) An attic shall be deemed a full story when more than fifty percent (50%) of the floor area has a ceiling height of at least seven feet, six inches (7'6").

Figure 2-9



- g. **Structure:** A construction or building, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground.
  - h. **Use:** The lawful purpose for which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.
8. Terms V-Z
- a. **Variance:** A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provisions would cause undue hardship owing to circumstances unique to the individual property in which the variance is sought.
  - b. **Yard:** A space open to the sky between a building and the lot lines of the parcel of land on which the building is located, unoccupied, or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance. (See Figure 2-12)
    - 1) **Front Yard:** A yard across the full width of the lot extending from the building line to the front lot line.
    - 2) **Rear Yard:** A yard extending across the full width of the lot from the rear line of the building to the rear lot line.
    - 3) **Side Yard:** A yard extending between the side lot line and the nearest side of the building.



- c. **Zoning Administrator:** The official designated by the Lakeview Village Council to administer and enforce the provisions of this Ordinance.
- d. **Zoning District:** A part, zone, or geographic area within the village within which certain zoning or development regulations apply.
- e. **Zoning Permit:** Written authority as issued by the Zoning Administrator on behalf of the village permitting the construction, moving, exterior alteration or use of a building in conformity with the provisions of this Ordinance.

## **Chapter 3 District Regulations**

### **SECTION 3.01 DISTRICTS ENUMERATED.**

For the purpose of this zoning ordinance, the Village of Lakeview shall be divided into the following Zoning Districts:

1. R-1            Low Density Residential
2. R-2            Medium Density Residential
3. R-3            High Density Residential
4. C-1            Downtown Commercial
5. C-2            Corridor Commercial
6. I                Industrial
7. PUD            Planned Unit Development

### **SECTION 3.02 DISTRICT BOUNDARIES**

The boundaries of these districts are hereby established as shown on the zoning map, and which map with all notations, references, and other information shown thereon shall be as much part of this ordinance as if fully described in this Chapter.

### **SECTION 3.03 DISTRICT BOUNDARIES INTERPRETED**

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the Zoning Board of Appeals (ZBA) shall interpret the district boundaries using the following rules:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following village limits shall be construed as following village limits.
4. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
5. Boundaries indicated as parallel to, or extensions of features indicated in subsections (1) through (5) above shall be so construed.
6. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. Where physical or natural features existing on the ground are at variance with those shown on the official zoning map, ZBA shall interpret the boundaries based on their interpretation of the intent of the Village Council in its adoption of the zoning map.



### **SECTION 3.04 ZONING OF ANNEXED AREAS.**

Whenever any area is annexed to the Village of Lakeview, one (1) of the following conditions will apply:

1. In the formal ordinance or resolution adopted by the village council annexing the property the zoning classification shall be designated.
2. If the formal ordinance or resolution adopted by the village council annexing the property does not designate the zoning classification, the property shall be automatically classified as in an R-1 District until a zoning map amendment for said area has been adopted by the village council.

### **SECTION 3.05 ZONING OF VACATED OR FILLED AREAS.**

1. Whenever any street, alley, or other public way, is vacated, the former street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it attaches.
2. Whenever any fill is placed in any lake or stream, or the water level of a lake or stream is lowered, the land thus created shall automatically be classified in the same zoning district as the property to which it is attached or adjacent.

### **SECTION 3.06 SCOPE OF REGULATION**

1. Except as may otherwise be provided in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure occurring, and every enlargement of or addition to an existing use, building, and structure occurring after the effective date of this ordinance shall be subject to all regulations of this ordinance which are applicable in the zoning district in which such use, building, or structure shall be located.
2. Any use of land not specifically permitted is prohibited, except that the Planning Commission shall have the power to classify a use as permitted by right which is not specifically mentioned under its authority to determine similar uses specified in the Table 3-3 Table of Use Requirements in this Ordinance.
3. No setback area or lot existing at the time of adoption of this ordinance shall be reduced in dimensions or area below the minimum requirements. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established.
4. No portion of one lot, once established and/or improved with a building or structure, shall be used in the creation of another lot unless each lot resulting from each such reduction, division, or sale, shall conform with all the requirements established.

### **SECTION 3.07 CATEGORIES WITHIN ZONING DISTRICTS**

In order to ensure all possible benefits and protection for the zoning districts in this Ordinance, the land uses have been classified into three categories:

1. Uses permitted by right. The primary uses and structures specified for which the zoning district has been established.

2. Uses permitted by Special Land Use approval. Uses and structures which have been generally accepted as reasonably compatible with the primary uses and structures within the zoning district but could present potential injurious effects upon the primary uses and structures within the zoning district and, therefore, require special consideration in relation to the welfare of adjacent properties and to the community as a whole. All such proposed uses shall be subject to a public hearing and approval by the planning commission.
3. Accessory uses. Uses permitted as indicated for the various zoning districts and if such uses are clearly incidental to the permitted principal uses

### SECTION 3.08 INTENT STATEMENTS

The purpose of each of the zoning districts in this zoning ordinance are established in Table 3-1 below:

<b>Table 3-1: Intent Statements</b>	
<b>Zoning District</b>	<b>Intent Statement</b>
R-1 Low-Density Residential	The intent of this zone is to preserve low-density single-family neighborhoods.
R-2 Medium-Density Residential	The intent of this zone is to provide a more compact neighborhood that integrates single-family housing with denser units.
R-3 High-Density Residential	The intent of this zone is to expand the options available in multi-family neighborhoods.
C-1 Downtown Commercial	The intent of this zone is to provide a dynamic experience as the hub of retail, services, and entertainment.
C-2 Corridor Commercial	The intent of this zone is to permit convenience-based retail and services that do not compete with the downtown and primarily serve highway bound vehicles.
I Industrial	The intent of this zone is to serve an exclusive area for manufacturing, research, and technology that does not negatively affect its surroundings.
PUD Planned Unit Development	The intent of this zone is to provide flexibility in design to provide unique mix of uses and encourage innovative design to address unique or sensitive sites.

## SECTION 3.09 TABLE OF USES

Table 3-2: Table of Uses							
Village of Lakeview - Table of Uses	Zoning Districts						
	(P= Permitted Use, SLU= Special Land Use, A=Accessory Use, PR=Prohibited Use)						
Uses by Category	R-1	R-2	R-3	C-1	C-2	I-1	PUD
<b>Residential uses</b>							
Accessory housing	S	S	S				S
Adult foster care family home (1-6)	P	P	P				P
Adult foster care small group home (1-6)	P	P	P				P
Adult foster care small group home (7-12)	S	S	P				P
Adult foster care large group home (13-20)			P				P
Apartments on second or third floor of commercial or office use				S	S		S
Bed and breakfast establishments	S	S	S				S
Family day care home (1-6)	S	S	S				S
Foster care family home (1-4)	P	P	P				P
Foster care group home (5-6)	P	P	P				P
Group day care home (7-12)	S	S	S				S
Home occupation – incidental	A	A	A				A
Home occupation - low intensity	P	P	P				P
Home occupation – high intensity	S	S	S				S
Keeping of pets	A	A	A				
Mobile home parks			S				S
Multi-family dwellings			P				P
Nursing homes, senior citizen housing, and similar group housing			P				P
Single-family dwellings	P	P	P				P
Three- and four-family dwellings		S	P				P
Two-family dwellings	S	S	P				P
<b>Commercial uses</b>							
Ambulance service and maintenance facility				S	P		P
Automatic teller machine				A	A		A
Automobile garage					S	P	P
Auto repair shops					P	P	P
Automobile sales and service for new and used automobile					S		S
Automobile service station				S	S		S
Automobile storage garage				S	S	S	S
Auto wash				S	S	P	P
Business service establishment				P	P		P
Bus passenger station				S	P		P
Building contractor establishment with outdoor storage				P	P		P
Building contractor establishment without outdoor storage					S		S
Campground	S						S
Catering establishment				P	P		P
Child care center				P	P		P

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**Table 3-2: Table of Uses**

Village of Lakeview - Table of Uses	Zoning Districts						
	(P= Permitted Use, SLU= Special Land Use, A=Accessory Use, PR=Prohibited Use)						
Uses by Category	R-1	R-2	R-3	C-1	C-2	I-1	PUD
Crematorium				S	S	P	P
Drive-in restaurant					P		P
Drive thru establishments				S	S		
Dry cleaner				S	S		S
Eating and drinking establishment				P	P		P
Farmers market				S	S		S
Financial institution				P	P		P
Fruit stand – enclosed				P	P		P
Furniture store				P	P		P
Home center and lumber yard				S	P		P
Hotels and motels				S	P		P
Hospital and urgent care center				S	P		P
Household appliance store				P	P		P
Indoor recreation				S	S		S
Kennel					S		S
Laboratory, medical, or dental clinic				P	P		P
Laundromat				P	P		P
Live / work units				S	S		S
Lodge hall, private clubs, veterans' clubs				S	P		P
Medical clinic				P	P		P
Marinas and commercial boat launches	S			S	S		S
Mortuaries or funeral homes	S			S	S		S
Nursery, for flowers, or plants				P	P		P
Office				P	P		
Open front store				S	P		
Outdoor assembly and entertainment					P		
Parking lots				P	P	P	P
Personal service establishment				P	P		P
Pet shop				P	P		P
Private school				P	P	P	P
Retail stores				P	P		P
Roadside stand					P		P
Self-storage warehouse					S	S	S
Tattoo parlors and body piercing				P	P		P
Theater (not including drive-in theaters)				P			P
Veterinary clinics, provided all operations are within an enclosed building:				P	P		P
<b>Industrial uses</b>							
Asphalt and concrete plants						S	S
Audio visual development facilities				P	P	P	P
Bottling plants and dairies						P	P
Breweries and distilleries				S	S	P	P
Computer server farms						P	P
Crating and packing service						P	P

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Village of Lakeview - Table of Uses	Zoning Districts (P= Permitted Use, SLU= Special Land Use, A=Accessory Use, PR=Prohibited Use)						
	R-1	R-2	R-3	C-1	C-2	I-1	PUD
<b>Uses by Category</b>							
Drive-in theaters						P	P
Dry cleaning and laundry plant						S	S
Indoor dismantling or recycling of motor vehicles						S	S
Junk or salvage yards						S	S
Machine shop						P	P
Maker and coworking space				S	S	P	P
Medical laboratories and diagnostics center				P	P	P	P
Recycling center						S	S
Research, design, and experimental product development uses and laboratories						P	P
The manufacturing, compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, bone cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn						P	P
The manufacturing, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils						P	P
The manufacture, only by electricity or gas, of pottery and figurines or other ceramic products, using only previously pulverized clay						P	P
The manufacturing and processing of petroleum and other products uses chemical processes						S	S
Petroleum storage						P	P
Printing shops						P	P
Sign painting and servicing shops						P	P
Warehouses and storage						P	P
Wholesale sales						P	P
<b>Institutional uses</b>							
Cemeteries	S						S
Colleges and universities				P	P	S	P
Community centers	S						S
Elementary and middle schools	S						S
Government and non-profit organization buildings	S						S
High schools	S						S
Parks and playgrounds	S	S	S				S
Private noncommercial recreation area	S						S
Religious institutions	S			S	S		S
Utility and public service office buildings and uses	S	S	S	S	S	S	S
<b>Other uses</b>							

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**Table 3-2: Table of Uses**

Village of Lakeview - Table of Uses	Zoning Districts						
	(P= Permitted Use, SLU= Special Land Use, A=Accessory Use, PR=Prohibited Use)						
Uses by Category	R-1	R-2	R-3	C-1	C-2	I-1	PUD
Accessory outdoor dining				S	S		S
Accessory outdoor display				S	S	S	S
Accessory outdoor storage				S	S	P	P
Accessory solar energy system	A	A	A	A	A	A	A
Accessory use or structure	A	A	A	A	A	A	A
Accessory wind energy system	S	S	S	S	S	S	S
Adaptive reuse	S	S	S	S	S	S	S
Airport	S						S
Billboards						S	S
Essential services	P	P	P	P	P	P	P
Marihuana facilities	PR	PR	PR	PR	PR	PR	PR
Satellite dishes	A	A	A	A	A	A	A
Swimming pools	A	A	A	A	A	A	A
Telecommunication antennae	P	P	P	P	P	P	P
Telecommunication tower					S	S	S
Temporary uses or structures	S	S	S	S	S	S	S
Uses similar to use listed in table of uses as determined by the ZBA	P	P	P	P	P	P	P

**SECTION 3.10 TABLE OF USE REQUIREMENTS**

**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
<b>Residential uses</b>			
Accessory housing	A secondary dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.	One (1) space	1) The accessory dwelling unit shall be for the use of a relative of the resident of the principal residence 2) The accessory dwelling unit may not exceed 400 sq. ft. 3) If the accessory dwelling unit is a stand-alone structure, then it shall comply with the setback requirements of the principal structure.
Adult foster care family home (1-6)	A private residence that is licensed by the State of Michigan pursuant to Public Act 218 of 1979 and with an approved capacity of not more than six (6) to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation. The adult foster care family home licensee must be a member of the household and an occupant of the residence.	Two (2) spaces	1) Adult foster care family homes must be allowed in all residential zones per Section 206 of PA 110 of 2006, the Michigan Zoning Enabling Act. 2) Proof of state license required.

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
Adult foster care small group home (1-6)	A structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 218 of 1979 and with an approved capacity to receive not more than six (6) adults to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.	Two (2) spaces for each family dwelling unit	1) Adult foster care small group homes with a capacity of 6 or fewer persons must be allowed in all residential zones per Section 206 of PA 110 of 2006, the Michigan Zoning Enabling Act. 2) Proof of state license required.
Adult foster care small group home (7-12)	A structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 218 of 1979 and with an approved capacity to receive at least seven (7) but not more than twelve (12) adults to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.	Three (3) spaces	Proof of state license required.
Adult foster care large group home (13-20)	A structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 218 of 1979 and with an approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.	Five (5) spaces	Proof of state license required.
Apartments on second or third floor of commercial or office use	One or more apartments on the second floor or higher located above a non-residential use on the ground floor	1 per dwelling unit	Apartments shall meet the minimum floor area standards: 1) Efficiency Apt.: four hundred (400) sq. ft. 2) One-Bedroom: six hundred (600) sq. ft. 3) Two-Bedroom: eight hundred (800) sq. ft. 4) Three or more bedroom: eight hundred (800) sq. ft., plus two hundred (200) sq. ft. for each bedroom over two (2).

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
Bed and breakfast establishments	A private residence that offers sleeping accommodations to lodgers in 14 or fewer rooms for rent in the innkeeper's residence in which the innkeeper resides while renting the rooms to lodgers, and serves breakfast at no extra cost to its lodgers.	Two (2) spaces plus one for each bedroom used for the bed and breakfast	1) The rooms utilized for lodging purposes shall be part of the primary residential use and shall not have been specifically constructed for rental purposes. 2) There shall be no separate cooking facilities used for the bed and breakfast stay. 3) The residence is owner-occupied at all times. 4) No retail or other sales shall be permitted. 5) Food may be served only to those persons renting a room. 6) Adequate lavatory and bathing facilities for lodging room shall be provided as per the requirements of the Montcalm County Health Department or other appropriate regulatory agency.
Family day care home (1-6)	A private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care homes include homes that give care to an unrelated minor child for more than four weeks during a calendar year.	Two (2) spaces	Proof of state license required.
Foster care family home (1-4)	A private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.	Two (2) spaces	Proof of state license required.



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Uses by Category	Definition	Parking	Design Standards
Foster care group home (5-6)	A private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent, legal guardian, or legal custodian.	Two (2) spaces	Proof of state license required.
Group day care home (7-12)	A private home in which more than 6, but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year.	Two (2) spaces plus one (1) space per 4 children of licensed capacity	<ol style="list-style-type: none"> <li>1) Proof of state license required.</li> <li>2) Is located not closer than 500 feet to any of the following:                             <ol style="list-style-type: none"> <li>a) Another licensed group child care home.</li> <li>b) An adult foster care small group home or large group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.</li> <li>c) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under article 6 of the public health code, 1978 PA 368, MCL 333.6101 to 333.6523.</li> <li>d) A community correction center, resident home, halfway house, or other similar facility which houses an inmate population under the jurisdiction of the department of corrections.</li> </ol> </li> <li>3) Has appropriate fencing for the safety of the children in the group child care home as determined by the local unit of government.</li> <li>4) Maintains the property consistent with the visible characteristics of the neighborhood.</li> <li>5) Does not exceed 16 hours of operation during a 24-hour period.</li> </ol>
Home occupation – incidental	The use of a residence for incidental office work activity associated with employment at a business in another location	N/A	An incidental home occupation does not require zoning approval. If the activity rises to the level that it qualifies as a low intensity or high intensity home occupation, then applicable zoning approval would be required.

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Uses by Category	Definition	Parking	Design Standards
Home occupation - low intensity	Any business conducted by one or more residents of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, complies with the provisions of this ordinance, and which there is no obvious visual or operational characteristics that indicate the use is being conducted other than a permitted sign.	One (1) space plus those required for single-family residence	See Section 15.05
Home occupation – high intensity	Any business conducted by one or more residents of a dwelling which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, complies with the provisions of this Ordinance, and which has minimal visual or operational characteristics that indicate the use is being conducted.	Determined by Planning Commission at time of Special Land Use approval	See Section 15.04
Keeping of pets	The care of a pet cat or dog as a noncommercial accessory use of a residence	N/A	Comply with the Village Animal Control Ordinance #07-03-2007.
Mobile home parks	A parcel or tract of land under the control of a person upon which 3 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	As required by Manufactured Housing Commission	Manufactured Home Parks shall comply with all the regulations and requirements of the Mobile Home Commission Act, Public Act 96 of 1987 and the National Mobile Home Construction and Safety Standards Act of 1974.
Multi-family dwellings	A building or group of buildings, each containing five (5) or more dwelling units designed for residential use and conforming in all other respects to the standards set forth in the definition “dwelling unit”.	2 spaces per dwelling unit	
Nursing homes, senior citizen housing, and similar group housing	A home for the care of the aged or infirm, or a place of rest for those suffering bodily disorders and who require continuous nursing care and supervision.	1 space per 5 beds plus one (1) per employee	
Single family dwellings	A detached building containing not more than one (1) dwelling unit designed for residential use by one family or functional family and conforming in all other respects to the standards set forth in the definition “dwelling unit”.	2 spaces per dwelling unit	See Section 15.06

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Uses by Category	Definition	Parking	Design Standards
Three- and four-family dwellings	A building containing three (3) or four (4) separate dwelling units adjacent side by side and/or stacked and designed for residential use and conforming in all other respects to the standards set forth in the definition "dwelling unit".	2 spaces per dwelling unit	
Two-family dwellings	A building containing two (2) separate dwelling units adjacent side by side or stacked and designed for residential use and conforming in all other respects to the standards set forth in the definition "dwelling unit".	2 spaces per dwelling unit.	
<b>Commercial uses</b>			
Ambulance service and maintenance facility	A facility for the storage, maintenance and dispatching of ambulances and similar medical response equipment.	One (1) space per employee plus one (1) space	
Automatic teller machine	An automated structure that provides banking services that is operated by the customer.	Drive up ATM/s in parking lots shall provide 2 stacking spaces	1) When located within a building, no additional zoning approval is required. 2) When located outside a financial institution as part of that institution's drive-thru services, it shall comply with the Special Land Use for the drive-thru. 3) ATMs may also be located in the parking lot of a commercially zoned property provided it: a) Does not occupy required parking spaces. b) Complies with the clear vision, lighting, and other requirements of this ordinance. c) Complies with the side yard setback requirements of this ordinance for commercial buildings when adjacent to a residentially zoned parcel.
Automobile garage	Business involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rustproofing; refinishing or steam cleaning.	2 spaces per stall + 1 per 200 sq. ft. of sales area	

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Uses by Category	Definition	Parking	Design Standards
Auto repair shops	Business involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; but not including collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rustproofing; refinishing or steam cleaning.	2 spaces per stall + 1 per 200 sq. ft. of sales area	
Automobile sales and service for new and used automobile	A business involving the sale, lease or rental of automobiles including car, vans, trucks and similar vehicles and the servicing of these vehicles.	1 per 200 sq. ft. of indoor sales area + 2 spaces per stall for any service area	
Automobile service station	A building or structure designed or used for the retail sale of fuel lubricants, air, water and other operating commodities for motor vehicles, aircraft or boats, and convenience commercial goods and fast food for the customers. It also includes facilities for the storage, minor repair, or servicing of vehicles, but not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, or rustproofing. The term covers such uses as quick oil change facilities, tire repair and replacement and muffler/brake replacement facilities provided no major repairs as described above are undertaken.	2 spaces per stall + 1 per employee	<ol style="list-style-type: none"> <li>1) Gasoline pumps shall be set back a minimum of twenty-five (25) feet from any street or right-of-way line.</li> <li>2) All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed within a building.</li> <li>3) All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by a six (6) foot screening fence and shall comply with requirements for location of accessory buildings.</li> </ol>
Automobile storage garage	A facility for the long- or short-term storage of automobiles including car, vans, trucks, and similar vehicles	N/A	
Auto wash	A building, or portions thereof, the primary purpose of which is that of washing motor vehicles	1 space per employee + 5 times the maximum wash capacity	<ol style="list-style-type: none"> <li>1) All washing activities must be carried on within a building.</li> <li>2) Vacuuming activities may be carried out only in the rear yard and at least fifty (50) feet distant from any adjoining residential use.</li> <li>3) The entrances and exits of the washing facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility.</li> </ol>
Business service establishment	<p>Establishments which are primarily engaged in rendering services on a contract or fee basis to business establishments.</p> <p>Examples include: Office machine repair, computer repair and service, copy and mailing services, bulk mailing services</p>	1 space per 500 sq. ft. of usable floor area	

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Uses by Category	Definition	Parking	Design Standards
Bus passenger station	Any premises for the transient housing or parking of motor driven buses, and the loading and unloading of passenger	1 space per 100 sq. ft. of waiting area	
Building contractor establishment without outdoor storage	A facility housing a general contractor or builder engaged in the construction, repair, or remodeling of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction, and utility construction. The facility does not include outdoor storage of equipment or materials.	One (1) space per 200 sq. ft. of office area	
Building contractor establishment with outdoor storage	A facility housing a general contractor or builder engaged in the construction, repair, or remodeling of buildings, either residences or commercial structures as well as heavy construction contractors engaged in activities such as paving, highway construction, and utility construction. The facility includes outdoor storage of equipment or materials.	One (1) space per 200 sq. ft. of office area	
Campground	Any parcel or tract of land, under the control of any person where sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units	1 space per campsite plus 1 space per employee plus one visitor space per 10 campsites	1) Minimum lot size shall be ten (10) acres. 2) The lot shall provide direct vehicular access to a public street or road. 3) The term "lot" shall mean the entire campground or travel trailer park.
Catering establishment	A meeting facility which may also include on-site kitchen/catering facilities. The banquet/reception hall's primary purpose is a location for activities such as weddings and other such gatherings by appointment.	1 space per 100 sq. ft. of gross floor area	
Child care center	A facility, other than a private residence, receiving preschool or school age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.	1 space per each employee on the largest working shift, plus 1 per 5 children of maximum occupancy	Proof of state license required.
Crematorium	A building used primarily for the cremation of human or animal remains. This does not include cremation services offered as an accessory service as part of a funeral home or veterinary hospital or clinic.	1 per 4 seats in chapel plus 1 per employee	

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Uses by Category	Definition	Parking	Design Standards
Drive-in restaurant	A facility that provides service to the customer while they remain parked in their vehicle. An example is a drive-in restaurant. This definition does not include a drive-in theatre.	1 per employee per maximum shift	1) The main and accessory buildings shall be set back a minimum of forty (40) feet from any adjacent right-of-way line or residential property line. 2) Staking spaces shall comply with the requirements of Section 6.0313
Drive thru establishments	Any restaurant, bank, or business with an auto service window.	N/A	1) The main and accessory buildings shall be set back a minimum of forty (40) feet from any adjacent right-of-way line or residential property line. 2) Staking spaces shall comply with the requirements of Section 6.0313
Dry cleaner	A retail establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry including operation of laundry or dry-cleaning equipment or machinery on the premises.	1 space per 300 sq. ft. of floor area	
Eating and drinking establishment	A structure in which the principal use is the preparation and sale of food and beverages.	1 space for each 100 sq. ft. of gross floor area, including outdoor seating	
Farmers market	A commercial establishment selling produce and other farm products, whether or not produced on the property, at retail to customers, not unlike a grocery store.	1 space for each 300 sq. ft. of gross floor area, including outdoor display area	
Financial institution	An establishment where the principal business is the receipt, disbursement or exchange of funds and currencies.  Examples include banks, savings and loans, and credit unions.	1 space for each 100 sq. ft. of usable floor area	
Fruit stand – enclosed	A structure designed to display produce for sale	1 space for each 100 sq. ft. of gross floor area, including outdoor seating	
Furniture store	Retail establishments that sell goods for furnishing homes	1 space per 800 sq. ft.	
Home center and lumber yard	A retail facility of more than 30,000 square feet gross floor area, selling lumber and other large building materials, where most display and sales occur indoors or any establishment selling such material where a large proportion of the display and storage is outdoors or in open sheds	1 space per 400 sq. ft. of floor area, not including open sheds or outdoor display	

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Uses by Category	Definition	Parking	Design Standards
Hotels and motels	<p>Hotel: A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms and in which rooms there is no provision for cooking</p> <p>Motel: A series of attached, semi-detached or detached rental units providing overnight lodging for transients, open to the traveling public for compensation</p>	1 space per unit+1 per employee of the largest shift	
Hospital and urgent care center	An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, clinics and staff offices or facilities for emergency care only.	One (1) per bed plus one per employee of the largest shift	
Household appliance store	Retail establishments that sell mechanical equipment including dishwashers, refrigerators, and washers for furnishing homes	1 space per 800 square feet	
Indoor recreation	<p>A commercial or non-commercial recreational land use conducted entirely within a building.</p> <p>Examples include bowling alleys, dance halls, roller rinks, video arcades, billiard rooms, skating rinks and archery ranges</p>	<p>Bowling alleys – 5 spaces per lane</p> <p>Other uses – 1 space for each three persons allowed by respective codes.</p>	
Kennel	Any person owning, harboring, or keeping for pleasure of profit four or more dogs shall be deemed to operate a dog kennel.	1 per 600 sq. ft. of area	Comply with the Village Animal Control Ordinance #07-03-2007
Laboratory, medical or dental clinic	Facility for the testing of medical specimens, the development of custom medication the fabrication of medical devices, prosthetics or dental implants	1 space per 200 square feet of net floor area	
Laundromat	A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.	1 space per 2 machines	
Live / work units	A building or space within a building used jointly for commercial and residential purposes by a person living within the building or space.	Two (2) spaces per residential unit	

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Uses by Category	Definition	Parking	Design Standards
Lodge hall, private clubs, veterans' clubs	Buildings and facilities owned or operated by corporation, association, person, or persons, for social, educational, or recreational purposes	1 space per 4 persons allowed by relevant codes	
Medical clinic	An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, other health care professionals, or similar professions	3 spaces per examining room/chair	
Marinas and commercial boat launches	A dock or basin where slips, moorings and often supplies, repairs, and other services are available for craft and where facilities for launching boats are available	1 space per boat slip plus a number for a boat launch determined by the Planning Commission at the time of site plan review	
Mortuaries or funeral homes	A building used for human funeral services. Such building may contain space and facilities for embalming and the performance of other services used in the preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; the storage of funeral vehicles; facilities for cremation and human funeral services	1 space per 50 sq. ft.	
Nursery, for flowers, or plants	A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits or vegetables.	1 space per 200 sq. ft. of retail area plus 1 space per 500 sq. ft. of greenhouse sales area plus 1 space per 5,000 sq. ft. of outdoor sales area	All incidental equipment and supplies, including fertilizer, tools, and containers are kept within a building
Office	The office of a professional person such as a doctor, dentist, engineer, architect, attorney, insurance or real estate agent, and the like, or for other for non-professional services of a clerical nature	1 space per 200 sq. ft.	



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Uses by Category	Definition	Parking	Design Standards
Open front store	An establishment where service is provided to the public primarily through service windows, normally in the front of the building	Based on the type of retail or service use	Open front stores are a style of use such as drive-thrus rather than a use itself. It is pedestrian oriented and is intended to allow customers to access service directly from the sidewalk, particularly in the downtown. Open front stores are also allowed in the B-2 district where uses are more auto oriented. In those cases, care must be taken to separate the waiting area for customers in front of service windows from vehicle parking and access drives through the use of landscaping and/or fencing.
Outdoor assembly and entertainment	A permanent facility for the conducting of concerts and other outdoor gatherings	1 space per 3 people of the maximum occupancy of the facility	1) The parking may be on established lawn rather than paved surface if the applicant provides direction for customers to ensure orderly parking. 2) Plans for adequate toilet facilities and crowd control must be provided
Parking lots	A parcel or structure for the short-term storage of vehicles	N/A	
Personal service establishment	An establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature.  Examples include: beauty and barber shops, shoe repair shops, tailor shops, beauty shops, massage facilities, chiropractic clinics, and exercise and fitness facilities	2 spaces per beauty/barber chair	
Pet shop	A retail establishment for the sale of cats, dogs, and other domestic pets. The use does not in the boarding of pets.		

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Uses by Category	Definition	Parking	Design Standards
Private school	An institution for the teaching of children or adults including primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities under the jurisdiction of the Michigan superintendent of public instruction.	Elementary and Junior High Schools- One (1) space for each employee; plus, one (1) per each classroom or teaching station; plus one for each three (3) seats in the auditorium or public assembly area  Senior High Schools and post- secondary schools - One (1) space for each employee (including teachers and administrators); plus one (1) for each three (3) students; plus the requirements of the auditorium. Additional spaces for ancillary facilities and activities may be required by the Planning Commission.	
Retail stores	An establishment which supplies commodities on the premises.  Examples include business that sell groceries, drugs, liquor, clothing, dry goods, notions, curios, pet, jewelry, sporting goods, or hardware, bakeries, florists, and music shops.	1 space per 200 sq. ft.	Within a completely enclosed building. Outdoor display only as permitted under the provisions of this Ordinance.

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Uses by Category	Definition	Parking	Design Standards
Roadside stand	An accessory and temporary farm structure operated for the purpose of selling local agricultural products, part of which are raised or produced on the same farm premises.	1 space per 200 sq. ft. of interior retail space plus 1 space per 1,000 sq. ft. of outdoor retail space	1) The site shall comply with the MDARD GAAMPs. 2) Suitable containers for rubbish shall be placed on the premises for public use. 3) The temporary building shall be located not less than 25 ft. from the public road right-of-way. Its height shall be no more than one (1) story. 4) Adequate off-street parking shall be provided. 5) A zoning permit shall be required for a temporary roadside building. Said permit shall be good for no more than six (6) months, after which the building shall be removed.
Self-storage warehouse	A building or group of buildings of a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of customers' goods or wares.	Two (2) spaces for the resident manager, one (1) additional space for each additional employee and two (2) additional spaces for customers	1) Building separation between self-storage buildings on the same site shall be a minimum of 24 ft. or equal to the building height, whichever is greater. 2) Internal driveway aisles shall be a minimum of 24 ft. in width. 3) All ingress and egress from this site shall be onto a paved major thoroughfare. 4) The outdoor storage of recreational vehicles, motorized homes, and travel trailers may be permitted. All such areas shall be on an aggregate treated surface, or better. Such storage shall be completely screened from view from all adjacent residential areas.
Tattoo parlors and body piercing	Personal service establishments that provide for the tattooing or piercing of the human body or that provides massage therapy	Two (2) spaces for each chair	
Theater (not including drive-in theaters)	An open, partially enclosed, or fully enclosed facility used or intended to be used primarily for entertainment events, expositions, and other public gatherings.	One (1) space per four (4) seats, plus one (1) space for each two (2) employees	
Veterinary clinics, provided all operations are within an enclosed building:	An establishment for the care and treatment of small animals, including household pets and may include incidental overnight boarding	1 space per doctor plus 1 space per additional employees plus 2 spaces per examination room	

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Uses by Category	Definition	Parking	Design Standards
<b>Industrial uses</b>			
Asphalt and concrete plants	A facility for the manufacture and transport of asphalt or concrete	As determined by the Planning Commission at the time of site plan review	
Audio visual development facilities	A business that provides services in the production of electronic media.	One (1) space per 200 sq. ft. of office and production floor area	
Bottling plants and dairies	Facilities where products are processed, pasteurized, and putting drinks in bottles for sale to the public	One (1) space per employee of the largest shift	
Breweries, distilleries,	Facilities for the production and packaging of alcoholic beverages	One (1) space per employee of the largest shift	
Computer server farms	A facility consisting of a set of many servers interconnected together and housed within the same physical facility	One (1) space per employee of the largest shift.	
Contractor yards	A facility for the open storage of material and equipment used for construction similar activities	As determined by the Planning Commission at the time of site plan review	
Crating and packing service	A facility that provides the service of preparing material for shipping	One (1) space per employee of the largest shift	
Drive-in theaters	An open lot devoted primarily to showing motion pictures to patrons seated in vehicles	As determined by the Planning Commission at the time of site plan review	
Dry cleaning and laundry plant	An industrial facility used for cleaning fabrics, textiles, wearing apparel, or similar items by any sort by immersion and agitation, or by immersions only, in volatile solvents including, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and incidental processes. The facility may serve several retail outlets where clients drop off their material for cleaning.	One (1) space per employee of the largest shift	

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Uses by Category	Definition	Parking	Design Standards
Indoor dismantling or recycling of motor vehicles	A business that receives wrecked motor vehicles, recreational vehicles, and similar items, dismantles them, stores the parts and ships out the remaining vehicle shell or processing off-site. Storage of vehicles waiting dismantling or shipment out is an accessory use to the principal use.	One (1) space per employee of the largest shift	
Junk or salvage yards	The use of premises or building for storage or abandonment, keeping, collecting, bailing, of inoperable automobiles, trucks, tractors and other such vehicles and parts thereof, scrap building materials, scrap contractor's equipment, tanks, cases, barrels, boxes, piping, bottles, drums, glass, rags, machinery, scrap iron, paper and any other kind of scrap or waste material	2 spaces per employee on the largest shift	
Machine shop	Facilities for the processing of metal products through the use of stamping, welding, and similar processes	One (1) space per employee on the largest shift	
Maker and coworking space	A facility that serves as a collaborative workspace for making, learning, exploring, and sharing that uses "maker" tools such as 3D printers, laser cutters, CNC machines, soldering irons, sewing machines, etc.	Determined by Planning Commission at time of site plan approval	
Medical laboratories and diagnostics center	A facility for the testing and analysis of blood, tissues, and other material for medical research or health care purposes	One (1) space per employee of the largest shift	
Recycling center	A building or an area where the primary activity is the separation of materials prior to shipment for remanufacture into new materials. This does not include junk yards.	Determined by Planning Commission at time of site plan approval	
Research, design, and experimental product development uses and laboratories	Research, development, and testing laboratories that do not involve the mass manufacture, fabrication, processing, or sale of products.	One (1) space per employee of the largest shift	

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The manufacturing, compounding, assembly, or treatment of articles from the following previously prepared materials: aluminum, bone cellophane, canvas, cloth, cork, feathers, felt, fibers, fur, glass, hair, horn, leather, paint, paper, plastics, precious or semi-precious metals or stones, shell, rubber, tin, iron, steel, tobacco, wood, and yarn	The mechanical or chemical transformation of materials or substances into new products, as limited herein	One (1) space per employee of the largest shift	
The manufacturing, compounding, processing, packing or treatment of such products as candy, cosmetics, drugs, perfumes, pharmaceuticals, toiletries, and food products, except the rendering or refining of fats and oils	The mechanical or chemical transformation of materials or substances into new products, as limited herein	One (1) space per employee of the largest shift	
The manufacture, only by electricity or gas, of pottery and figurines or other ceramic products, using only previously pulverized clay	The mechanical or chemical transformation of materials or substances into new products, as limited herein	One (1) space per employee of the largest shift	
The manufacturing and processing of petroleum and other products uses chemical processes	The mechanical or chemical transformation of materials or substances into new products, as limited herein	One (1) space per employee of the largest shift	
Petroleum storage	A structure for the bulk storage of petroleum products	One (1) space per employee of the largest shift	All storage facilities must be located at least 500 ft. from any residentially zoned property
Printing shops	An industrial facility dedicated to the mass production of printed material	One (1) space per employee of the largest shift	
Sign painting and servicing shops	A facility for the manufacture of signs and for their repair	One (1) space per employee of the largest shift	

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
Warehouses and storage	A use engaged in storage of manufactured products, supplies, and equipment	One (1) space per employee	
Wholesale sales	A use engaged in storage and wholesale distribution of manufactured products, supplies, and equipment	One (1) space per employee	
<b>Institutional Uses</b>			
Cemeteries	Land used or dedicated to the burial of the dead, including crematoriums, mausoleums, necessary sales, and maintenance facilities.  Mortuaries shall be included when operated within the boundary of such cemetery	1 space per 4 seats of chapel or assembly area	The lanes in the cemetery should be wide enough to allow parallel parking on the shoulders with one way traffic
Colleges and universities	An institution other than a trade school that provides full-time or part-time education beyond high school.	1 space per 4 persons of maximum capacity	
Community centers	A building to be used as a place of meeting, recreation, or social activity and not operated for profit.	1 space per 4 persons of maximum capacity	
Elementary and middle schools	An institution for the teaching of students between the kindergarten and high school levels	One (1) space per employee in addition to auditorium	Public and charter schools are exempt from local zoning
Government and non-profit organization buildings	Buildings and sites under the control of a local, state, or federal government or agency, or a non-profit organization not otherwise listed in this table  Examples include: museums, libraries, and post offices	Determined by Planning Commission at time of site plan approval	

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
High schools	An institution for the teaching of students between the 9 <sup>th</sup> and 12 <sup>th</sup> grade levels	One (1) space for each employee (including teachers and administrators); plus one (1) for each three (3) students; plus the requirements of the auditorium. Additional spaces for ancillary facilities and activities may be required by the Planning Commission	Public and charter schools are exempt from local zoning
Parks and playgrounds	A natural or landscaped area, buildings, or structures, provided by a unit of government, to meet the active or passive recreational needs of people.	As determined by the Planning Commission during review of the site plan	
Private noncommercial recreation area	A building and/or open space used for active or passive recreational purposes by a nonprofit organization	As determined by the Planning Commission as part of Special Land Use approval	
Religious institutions	A facility wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.	One (1) space for each four (4) seats or six (6) feet of pews.	
Utility and public service office buildings and uses	A building or structure used or intended to be used as an office by any public utility or quasi-public utility.	As determined by the Planning Commission as part of Special Land Use or site plan approval	

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
<b>Other Uses</b>			
Accessory outdoor dining	An area outside a restaurant, bar, or similar facility where seating is provided and where patrons can be served	One (1) space per four (4) seats	1) Facilities serving alcoholic beverages shall comply with restrictions imposed by the Michigan Liquor Control Commission. 2) Facilities shall not be located in required parking spaces. 3) Facilities located in public sidewalks shall have the approval of the Lakeview Village Council. 4) All tables, chairs, and other furniture shall be adequately weighted or anchored to prevent blowing during periods of high winds or shall be stored indoors.
Accessory outdoor display	Display and retail sales as a use accessory to the principal use of the property on a permanent business	N/A	1) Year-round outdoor display may be permitted by the Planning Commission as part of site plan review. 2) Seasonal outdoor displays or those related to outdoor sales events may be approved by the Zoning Administrator provided they are located in a parking lot in compliance with the zoning ordinance, do not occupy required parking spaces or block parking access aisles, are separated from the parking lot by a barrier such as temporary fence, and the products on display do not create problems due to windblown trash, dirt or similar nuisances

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
Accessory outdoor storage	A place of business with the storage of products outside of a building	N/A	1) The outdoor storage use shall be enclosed by an approved masonry wall or obscuring fence, as approved by the Planning Commission. The extent of such a wall or fence shall be determined by the Planning Commission on the basis of usage. Such wall or fence shall not be less than 4'6" in height and may, depending on land usage, be required to be 8' in height. The Planning Commission may require landscaping in addition to or in place of the fence that complies with the landscaping provisions of this Ordinance. 2) Open storage areas shall be hard-surfaced with gravel or other suitable approved material and drained to meet village engineering requirements. 3) If open storage is to park wheeled vehicles, then it shall be paved to parking lot standards or provided with a surface acceptable to the Planning Commission based on use.
Accessory solar energy system	Facilities for the conversion of solar radiation into energy for on-site use	N/A	See Section 15.01

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
Accessory use or structure	<p>Accessory Use: A use naturally and normally incidental and subordinate to the main use of the land or building</p> <p>Accessory Structure: A supplemental building or other structure on the same lot as the main building occupied by or devoted exclusively to an accessory use, but not for dwelling, lodging, or sleeping purposes. Where an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.</p>	<p>Parking may be required if the proposed accessory use is expected to generate parking demand in addition to that normally expected for the principal use.</p> <p>Parking may be waived or modified by the Planning Commission when the accessory use is not expected to increase parking demand above that already provided for the principal use.</p>	<p>In any district, except as noted elsewhere, an accessory building may be erected detached from the permitted use building, or it may be erected as an integral part of the permitted use building.</p> <p>When erected as an integral part of the permitted use building, it shall comply in all respects with the requirements of this Ordinance applicable to the permitted use or building.</p> <p>Detached accessory buildings and garages shall not occupy not be located in the actual front yard or the required street side or occupy more than thirty (30) percent of any required rear yard space. Said accessory building, when located in the rear yard, shall not be located nearer than five (5) feet to any side or rear lot line nor nearer than ten (10) feet to the principal building. Any accessory building greater than four hundred (400) square feet in area shall be at least twenty (20) feet from the side lot line.</p> <p>The distance between detached accessory buildings or garages and the principal building or buildings shall not be less than ten (10) feet. Accessory buildings or garages shall be considered as attached to the principal building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade, or similar architectural device.</p> <p>No accessory building shall include residential or living quarters for human beings.</p> <p>See Figure 3-1 at the end of this table</p>
Accessory wind energy system	A system using a wind powered generator to provide power to an associated principal use on the same parcel	N/A	See Section 15.02
Adaptive reuse	Permission by the Planning Commission to permit the redevelopment of an existing site for a use that otherwise is not permitted in the applicable zoning district when the proposed redevelopment complies with the requirements of this provision	As determined by the Planning Commission during review of the Special Land Use	See Section 15.03
Airport	Any location, either on land or water, that is used for the landing or take-off of aircraft, and includes the buildings and facilities, if any, on that location.	N/A	Airport layout and operation are under the authority of the Michigan Aeronautics Commission

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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
Billboards	A sign separate from a premises erected for the purpose of advertising a product, event, person, or subject not related to the premises on which the sign is located. Billboard does not include an off-premises directional sign.	N/A	Billboards shall comply with the requirements of the Highway Advertising Act.
Essential services	The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment.	N/A	These uses are allowed by right and do not require site plan approval provided they are located with the road right-of-way.
Marihuana facilities	Facilities authorized under the Medical Marihuana Facilities Act or the Michigan Regulation and Taxation of Marihuana Act	N/A	The uses are prohibited in all zoning districts in the Village of Lakeview
Satellite dish	A signal receiving device the purpose of which is to receive radio, communications, television, data transmission or other signals from a satellite or satellites in earth orbit.	N/A	1) Any ground mounted satellite dish such structure shall be located in a rear yard. Exceptions may be made in certain commercial or industrial locations if approved by the planning commission upon review of the site plan. 2) Any ground mounted satellite dish shall comply with the setback requirement so accessory buildings 3) Any building mounted satellite dish shall be mounted directly upon the roof of a primary or accessory structure, 4) The dish portion of such an antenna shall not exceed three feet in diameter in the R-1 or R-2 zoning districts, nor more than 12 feet in any other district 5) No portion of the satellite dish shall extend more than four feet above the highest point of a roof in the R-1 or R-2 zoning districts, nor more than 13 feet in any other district.

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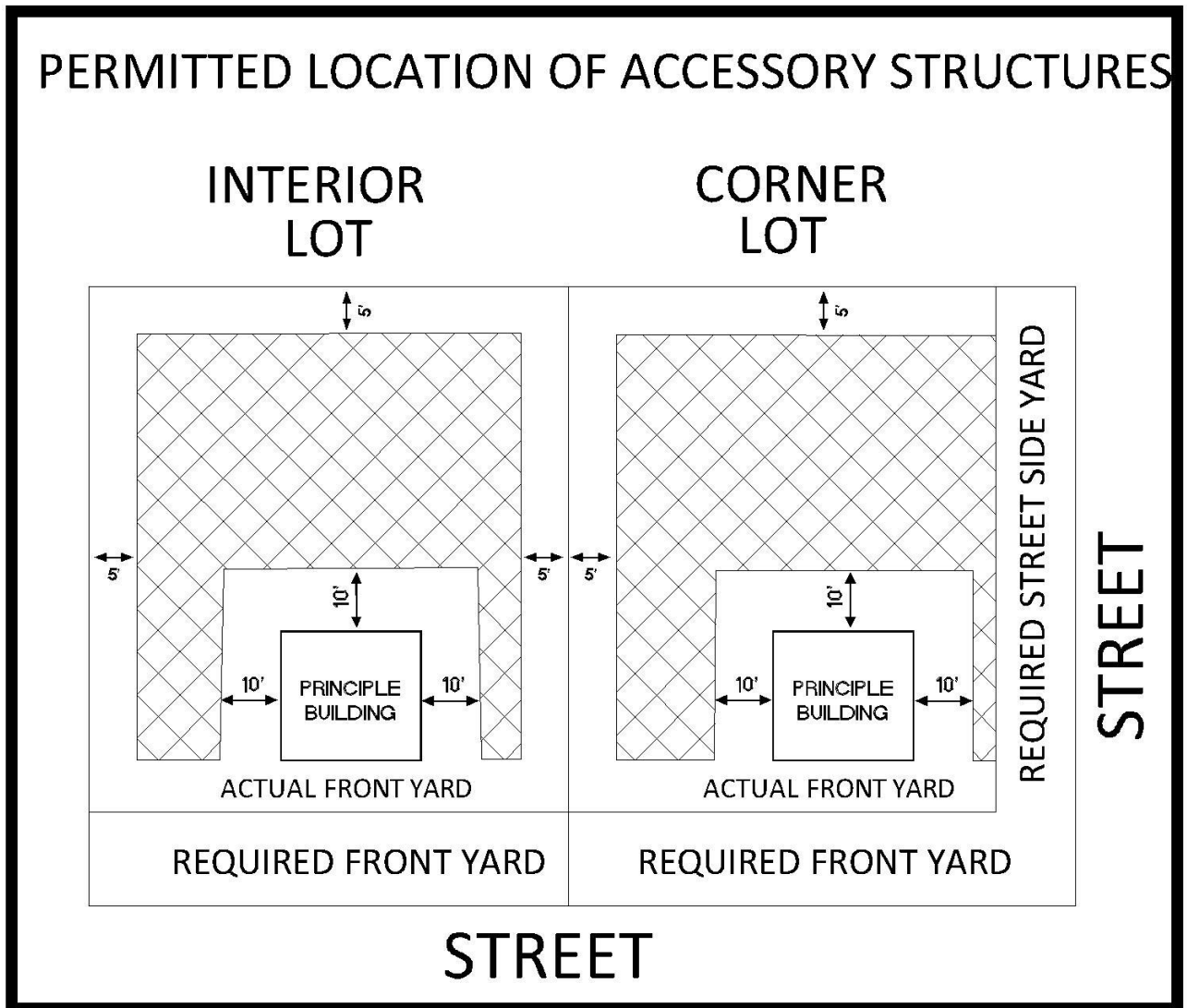
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**Table 3-3: Table of Use Requirements**

Uses by Category	Definition	Parking	Design Standards
Swimming pools	Any structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing.	N/A	<ol style="list-style-type: none"> <li>1) Swimming pools are permitted in the rear and side yards of all residential districts:</li> <li>2) The pool shall be equipped with filtration, circulation and other systems adequate to maintain the water in a clean and healthful condition in accordance with the health requirements of the county.</li> <li>3) A swimming pool shall be provided with an enclosure as required by the State Building Code</li> <li>4) All swimming pools shall comply with the setback requirements for an accessory building.</li> </ol>
Telecommunication antennae	Means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding telecommunication towers	N/A	See Section 15.07
Telecommunication tower	A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building	2 spaces	See Section 15.08
Temporary uses or structures	<p>The use of a non-residential structure or parcel for a period that has an identified ending date.</p> <p>Examples include special events such as a carnival or circus, activities related to development of a site including the storage of construction material and use of a temporary office,</p>	As determined by the zoning administrator based on the requirements for similar uses in this ordinance	<ol style="list-style-type: none"> <li>1. Proposed temporary event or use shall be located on a lot with a permitted principle building or on a vacant lot when the minimum required setbacks for the district are met.</li> <li>2. When temporary event is located on a parcel with an existing building, it shall be a maximum ten (10) feet from the building.</li> <li>3. All equipment, materials, goods, poles, wires, and other items associated with the event shall be removed from the premises within five (5) days of the event.</li> <li>4. The applicant shall demonstrate that reasonable liability insurance is carried.</li> <li>5. Outside agency permits and approvals, if necessary.</li> <li>6. The permit shall cover the period necessary for the operation of the temporary</li> </ol>

Table 3-3: Table of Use Requirements			
Uses by Category	Definition	Parking	Design Standards
Uses similar to use listed in table of uses as determined by the ZBA	A use not listed in the Table of Uses but determined by the Planning Commission to be similar to uses allowed by right in one or more zoning districts	As determined by the Planning Commission	See Section 15.09

Figure 3-1



### SECTION 3.11 DIMENSIONAL REQUIREMENTS.

The dimensional requirements for each zoning district in this zoning ordinance are established in Table 3-4 below:

Table 3-4: District Dimensional Requirements									
Zoning District	Lot Dimensions		Principal Building Setbacks				Building Height (d)	Other Building Requirements	
	Minimum Lot Area (Sq. Ft.)	Minimum Lot Width (Ft.)	Front (Ft.)	Side (Ft.)	Street Side (Ft.)	Rear (Ft.)	Maximum Height (Ft.)	Minimum Floor Area (Sq. Ft.)	Maximum Lot Coverage by Buildings (Percentage)
R-1 Low-Density Residential	7,920	66	25	10	15	25	28 (a)	860	40%
R-2 Medium-Density Residential	7,920 15,000 (e)	66 120 (e)	25	10 25 (e)	15	25	28 (a)	(b)	40%
R-3 High-Density Residential	7,920 15,000 (e) 3,000 / dwelling unit (f)	66 120 (e)	25	10 25 (e)	15	25	36	(b)	35%
C-1 Downtown Commercial	N/A	N/A	5	-0- 10 (c)	5	N/A	36	N/A	N/A
C-2 Corridor Commercial	5,000	50	5	-0- 10 (c)	5	25	36	N/A	N/A
I Industrial	30,000	125	25	25	15	25	48	N/A	N/A
PUD Planned Unit Development	The dimensional requirements for each PUD rezoning approved by the village council shall be established in the ordinance approving the rezoning								

- (a) The 28' maximum height applies to residential buildings only. The maximum height of all other buildings shall be 36'.
- (b) The minimum floor space per dwelling for a single-family and duplex dwelling shall be 860 sq. ft. Each multi-family dwelling shall have a minimum useable floor area as follows:
  - i. One bedroom unit, six hundred fifty (650) square feet per unit.
  - ii. Two-bedroom unit, seven hundred square (700) feet per unit.
  - iii. Three-bedroom unit, nine hundred (900) square feet per unit.
  - iv. Additional bedrooms shall be an additional one hundred (100) square feet of usable floor area for each additional bedroom
- (c) The minimum side yard shall be zero when adjacent to a C-1 or C-2 zoning district. When adjacent to any other district, it shall be the height of the exterior wall of the principal building closest to the side lot line.
- (d) Buildings and other structures must comply with the maximum height limitations of the Lakeview Airport Zoning Ordinance #63
- (e) Required for duplex dwellings
- (f) Lots with 3 or more units required 15,000 sq. ft plus 3,000 sq. ft for each dwelling into over 3

## **SECTION 3.12 PLANNED UNIT DEVELOPMENT (PUD)**

### **1. Purpose**

The Planned Unit Development zoning district is designed to provide a framework within which a developer, upon his/her/its initiation, can relate the type, design, and layout of residential and/or commercial uses to a particular site and particular demand for housing and/or other land uses in a manner consistent with the preservation of property values and environmentally sensitive areas within the village. The section also provides an added degree of flexibility in the building design and land use arrangement so that a mixture of uses and provision of common open space can be provided. The zoning district is intended to accommodate developments with mixed or varied uses, on sites with unusual topography or unique settings within the community, or on land which shows difficulty or costly development problems or sites that contain natural features such as wetlands or woodlots that are important for the Village to retain in order to protect its character. The following regulations are the minimum requirements for the promotion and protection of the public health, safety, and welfare. Some uses permitted in this district are required to comply with specific design standards.

### **2. Eligibility Requirements**

In order to be eligible for consideration of rezoning to PUD, a parcel must comply with the following:

- a. The parcel must be at least 1 acre in area.
- b. The parcel must have access to an major street or highway.
- c. The parcel must have access to municipal water and sewer.

### **3. Uses Permitted**

All permitted principal uses by right or by special land use in any of the zoning districts in this Ordinance may be permitted in the PUD district based on the standards outlined in Section 3.124 below, subject to the discretion of the Village Council. Uses permitted by special land use in another zoning district may be authorized as a use by right by the Village Council in granting PUD approval.

### **4. Standards for Approval**

Based upon the following standards, the Planning Commission may recommend denial, approval, or approval with conditions, and the Village Council may deny, approve, or approve with conditions the proposed planned unit development.

- a. The proposed mix of uses and density of residential uses shall be found to be consistent with the Village Master Plan.
- b. Off-street parking shall be sufficient to meet the minimum required by the ordinances of the Village. However, if it is deemed necessary in order to achieve the purposes of this section, the Planning Commission may relax parking requirements during site plan review.
- c. All streets within the planned unit development shall meet the minimum requirements of the Village's Land Division Ordinance and Construction Specifications, unless modified by the Planning Commission.
- d. Landscaping shall be provided so as to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.



- e. Judicious effort shall be used to ensure the preservation of the integrity of the land and the preservation of natural, historical, and architectural features.
- f. Storm water shall not flow off the site at a rate greater than the rate of flow prior to development and storm water shall not be directly discharged into a lake, river, or stream.
- g. The setbacks, building height, open space, maximum density, and other dimensional requirements for a proposed use in the concept plan shall be based on the dimensional requirements for that use listed in the applicable zoning district in this Ordinance. Where a proposed use or range of uses is permitted in more than one zoning district, the PUD concept plan as approved will identify which zoning district dimensional requirements will apply. However, if it is deemed necessary in order to achieve the purposes of this section, the Village Council may modify the dimensional requirements for a given use or range of uses. Non-contiguous property may be used in calculating open space and the open space may be located on non-contiguous property.
- h. The following standards concerning traffic and accessory conditions shall be met:
  - 1) Safe, convenient, uncongested, and well defined vehicular and pedestrian circulation within and to the zoning district shall be provided.
  - 2) Drives and streets shall not be laid out to encourage outside traffic to traverse the development nor to create unnecessary fragmentation of the development into small blocks.
  - 3) No material impediment to the visibility of automotive traffic, cyclists or pedestrians shall be created or maintained.

## 5. Approval Procedure

- a. The PUD zoning approval shall follow procedural requirements of Chapter 14 of this Ordinance for amending the zoning ordinance. An applicant for PUD zoning approval shall submit a rezoning application, a proposed concept plan as outlined in Section 3.11.6 below, and any proposed language for the PUD zoning district. The Planning Commission shall hold a public hearing. The Planning Commission shall review the conceptual PUD development plan based on the standards described in Section 3.11.4 to determine its suitability.
- b. The Planning Commission shall then submit the proposed amendatory ordinance to the Village Council together with its recommendation and a summary of comments received at the public hearing.
- c. The Village Council, prior to the reading of the amendatory ordinance, shall hold a public hearing meeting the notice requirements in Section 12.11. Following that public hearing, it may amend or place additional conditions on the zoning ordinance amendment. The Village Council may, at its discretion, send a revised PUD back to the Planning Commission for their recommendation regarding the changes.
- d. PUD site plan approval procedure may commence only after the acceptance by the Village Council of the conceptual PUD development plan and the rezoning of the property as required.
- e. PUD site plan approval process shall follow the procedures for site plan approval outlined in Chapter 11.

## 6. Conceptual PUD Plan Requirements

The conceptual PUD development plan that is required to be reviewed and approved as part of the PUD rezoning process outlined above shall comply with the following requirements

- a. The applicant for approval of a PUD conceptual plan shall submit sufficient copies of the following technical or graphic materials together with such fees as may be required.
- b. The PUD conceptual plan shall indicate the entire contiguous holding of the petitioner or owner who wishes to develop the entire parcel or any part thereof, and shall include the area and use of land adjacent to the parcel to be developed. The plan shall exhibit any unusual characteristics of topography, utility service, land usage, or land ownership. The plan shall also exhibit all existing and proposed structures, existing and proposed streets, open spaces, and other features as required to determine compliance with approval of the conceptual plan.
- c. The conceptual plan shall show all proposed uses and allotted spaces, gross site area, street and vehicular access areas, number of each variety of habitable space, total number of dwelling units, and total open space. The plan shall:
  - 1) Define the location of the areas to be devoted to particular uses.
  - 2) State the acreage to be devoted to the particular uses.
  - 3) Set forth the proposed density of the dwelling units by use type and of the entire project.
  - 4) Show the location of parks, open recreation areas, other open space and all public and community uses.
  - 5) The applicant shall present material as to the development's objectives and purposes to be served; conformity to plans and policies of the village; market needs; impact on public schools, utilities, and circulation facilities; impact on natural resources; and a staging plan showing the general time schedule of the expected completion dates of the various elements of the plan.
  - 6) Any additional graphics or written materials reasonably requested by Planning Commission or Village Council to assist the village in visualizing and understanding the proposal shall be submitted.
  - 7) Upon submission of all required materials and fees, the Planning Commission shall follow the procedures for review of a zoning amendment.
  - 8) Approval of the conceptual PUD plan shall confer upon the owner the right to proceed through the subsequent site plan approval phase for a period not to exceed three (3) years from date of approval. If so requested by the petitioner, an extension of a two (2) year period may be granted by the Planning Commission.

## 7. Site Plan Approval

Following approval of the conceptual plan by the Village Council, the applicant may submit site plans for phases of the approved conceptual PUD development plan. The site plans shall conform to the approved conceptual plan. The site plans shall be reviewed by the Planning Commission following the procedures outlined in Chapter 11. After its review, Planning

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Commission shall make a recommendation to Village Council for its approval, denial, or approval with conditions.

8. Deviations for Approved PUD Site Plan

Minor changes to a previously approved PUD site plan may be approved without the necessity of Planning Commission or Village Council action if the Zoning Administrator certifies in writing to the Planning Commission and Village Council that the proposed revision does not alter the basic design or any specified conditions of the plan as agreed upon by the Planning Commission and the Village Council. If either the Planning Commission or Village Commission disagrees with the determination of the Zoning Administrator, the change will require approval following the procedures outlined above for the original approval. Any other change will require approval following the procedures outlined above for the original approval.

9. Design Standards

Design of the proposed improvements within a PUD shall comply with the design requirements established by the village under this ordinance as well as those established under the Village Land Division Ordinance (if applicable) and other ordinances or guidelines adopted by the village.

## **Chapter 4 General Requirements**

### **SECTION 4.01 PURPOSE**

The purpose of this Chapter is to establish standards that are applicable to uses across several zoning districts and therefore are not appropriate to be addressed under the District Regulations chapter.

### **SECTION 4.02 PENDING APPLICATIONS**

Nothing in this Ordinance shall be deemed to require any change in the plans, construction or design use of any building for which an unexpired building permit was issued prior to the adoption of this Ordinance or an amendment to it and upon which building actual construction has been diligently carried on, and is completed within one (1) year from the date of passage of this Ordinance or a relevant amendment to it. If construction is based on an approved site plan, a developer may build in accordance with an approved site plan in compliance with the deadlines established in Section 11.10.

### **SECTION 4.03 REQUIRED YARD CANNOT BE REDUCED OR USED BY ANOTHER BUILDING**

The yard area for each principal building resulting from compliance with the minimum lot area, setbacks and open space requirements of this Ordinance shall not be used to satisfy like requirements supporting any other building adjacent or in proximity thereto. The required yard areas for each building shall be exclusive.

### **SECTION 4.04 GENERAL EXCEPTIONS**

The following are exceptions permitted to the district regulations that would otherwise apply to parcels with various zoning districts.

#### **1. Dimensional Exceptions**

- a. Side Yards: When a legal non-conforming lot does not meet the minimum requirements for lot width in this ordinance, the side yard setback requirements for that lot shall be reduced by a percentage equal the percentage the lot meets the minimum lot width requirement. For example, a lot 80 feet wide in a district requiring a minimum width of 100 and a side yard setback of 10 feet would have a side yard setback of 8 feet. In no instance shall a side yard setback be reduced to less than 5 feet under the terms of this exception.
- b. Lot Coverage: When a legal non-conforming lot does not meet the minimum requirements for lot area in this ordinance, the lot coverage requirements for that lot shall be increased by the percentage difference inverse of the difference between the lot's size and the minimum lot size requirement. For example, a lot 8,000 square feet in area in a district requiring a minimum lot area of 10,000 square feet and a maximum lot coverage 30 percent, would have lot coverage increased to 36 percent ( $8,000/10,000 = .8$ ; Inverse is  $.2$ ;  $30\% \times 1.2 = 36\%$ ). In no instance shall lot coverage exceed 50 percent under the terms of this exception.
- c. Height Limits: The height limitations of this ordinance shall not apply for farm buildings, chimneys, church spires, flagpoles, public monuments or wireless communication support structure and other communication towers; provided, however, that the Planning

Commission may specify a height limit for any such structure when such structure requires authorization as a special exception use. All structures must comply with the maximum height provisions of the Village of Lakeview Airport Zoning Ordinance #63.

d. Porches and Terraces:

- 1) An open, unenclosed, and uncovered porch, paved terrace, or wood deck may project into a required front or rear yard for the distance not exceeding 10 feet, but this shall not be interpreted to include or permit a fixed roof.
- 2) Any walk, terrace, or other surface servicing a like function, and not in excess of 12 inches above the grade upon which placed, shall, for the purpose of this ordinance, not be considered to be a structure, and shall be permitted in any required yard.

e. Projections into Yards: Architectural features such as cornices, eaves, gutters, fire escapes, fire towers, chimneys, platforms, and balconies, not including vertical projections, may extend or project into a required side yard not more than 2 inches for each 1 foot of width of such side yard; and may extend or project into a required front yard or rear yard not more than 3 feet.

f. Lots Adjoining Alleys: In calculating the area of a lot that adjoins an alley or lane, for the purpose of applying lot area requirements of this ordinance, one-half the width of such alley abutting the lot shall be considered as part of such lot.

2. Uses

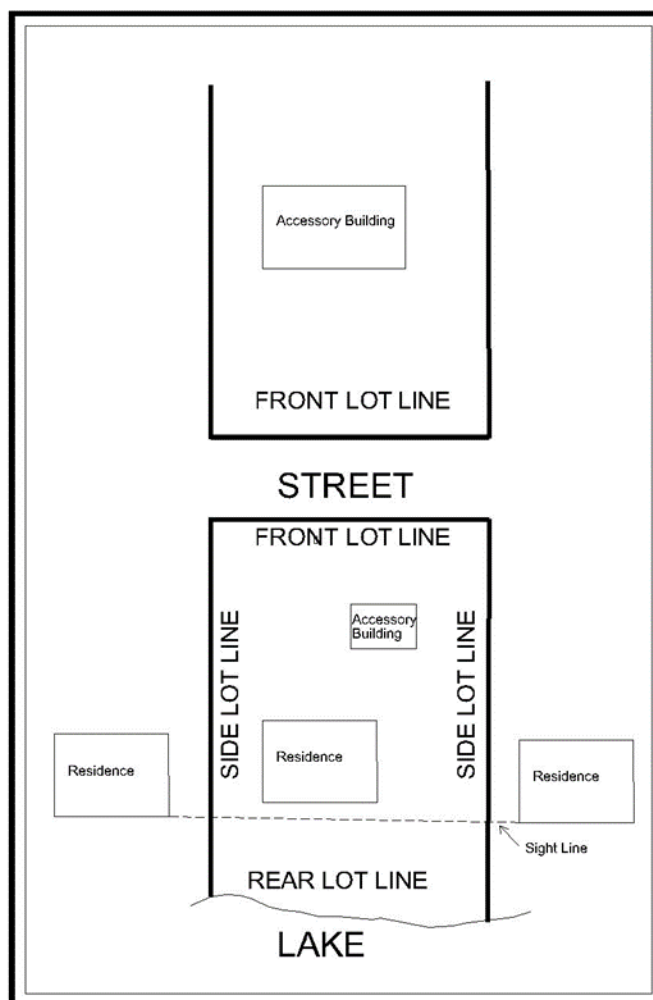
a. Essential Services: Essential services serving the Village of Lakeview shall be permitted as authorized and regulated by law and other ordinances of the municipality and shall not require zoning approval. Overhead or underground lines and necessary poles and towers to be erected to service primarily those areas beyond the Village of Lakeview are permitted as a special land use as identified in the district regulations of this Ordinance.

b. Voting Place: The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

## SECTION 4.05 LOTS WITH WATER FRONTAGE

Lots with water frontage shall comply to the following standards.

1. The front yards of such lots shall be that portion adjacent to the street right-of-way.
2. Lots with water frontage may have detached accessory buildings in their front yard as long as they were at least 10' from the front lot line.
3. Lots with water frontage shall not place detached accessory buildings in their rear yard (between the house and the lake) that encroach on the lots sight line. (See Figure 4-1)
4. Owners of lots adjacent to the lake that also own parcels across the street from their principal use may construct an accessory building on that "off-lake lot" even though there is no principal building on it, provided the owner records a deed restriction that prohibits the sale of the off-lake lot separate from the lot with the principal use. (See Figure 4-1)



#### SECTION 4.06 ONE SINGLE-FAMILY RESIDENCE PER LOT

In single-family zoning districts, only one principal building shall be placed on a zoning lot.

#### SECTION 4.07 CORNER CLEARANCE

In all districts, no fence, wall, shrubbery, sign, or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of 25 feet from their point of intersection or within 10 feet of the point intersection of a street right-of-way line and the edge of a driveway. (See Figure 4-1 and Figure 4-2)

Figure 4-1

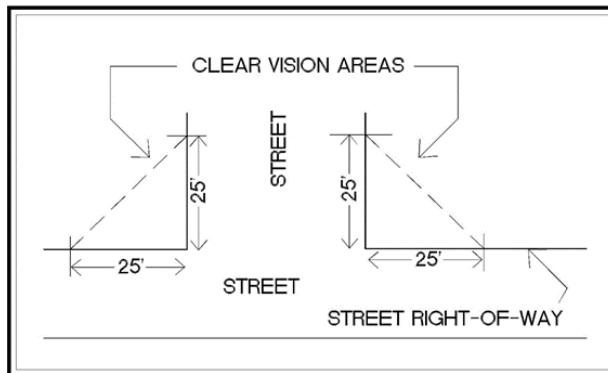
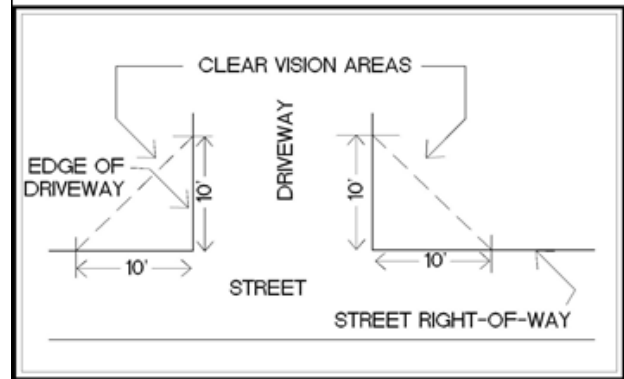


Figure 4-2



#### SECTION 4.08 REQUIRED FRONTAGE ON PUBLIC STREETS

No lot shall be created and no building or use shall be permitted on a lot, unless said lot fronts upon a public street or highway. The frontage shall equal the minimum lot width requirement except for lots on cul-de-sacs or curvilinear streets, in which case the frontage shall equal 80 percent of the lot width requirement and 100 percent of the lot width requirement is met at the required front yard setback line or building line for its zoning district.

#### SECTION 4.09 REQUIRED WATER AND SEWER FACILITIES

After the effective date of this Ordinance, no structure for human occupancy shall be erected, altered, or moved upon any lot or premises and used in whole or in part for dwelling, business, industrial, or recreational purposes unless such uses are connected to the Village Water System per Ordinance 2019-10 (Water Ordinance) and the Village Sewer System per Ordinance 2020-1 (Sewer Connection, Use and Rate Ordinance).

#### SECTION 4.10 BUILDINGS TO BE MOVED

1. Any building or structure which has been wholly or partially erected on any premises, located either within or outside of this Village, shall not be moved to and placed upon any other premises in this Village until a zoning permit for such relocation shall have been secured under Chapter 12 of this Ordinance. Any such building or structure shall fully conform to all the provisions of this Ordinance in the same manner as a new building or structure.
2. Before a permit may be issued for moving a building or structure, the Building Inspector shall inspect the same and shall determine if it is in a safe condition for moving, and whether it may be reconditioned to comply with the current Building Code and other Village requirements for the use and occupancy for which it is to be used. Provided these conditions can be complied with, a permit shall be issued for the moving of the building or structure.

#### SECTION 4.11 EXCAVATION OR HOLE

The construction, maintenance, or existence within the Village of any unprotected, unbarricaded, open or dangerous excavations, holes, pits, or wells, which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited; provided, however, this section shall not prevent any excavation under a permit issued, pursuant

to this Ordinance, where such excavations are properly protected and warning signs posted in such a manner as may be approved by the Building Inspector; and provided further, that this section shall not apply to natural bodies of water or to ditches, streams, reservoirs, or other major bodies of water created or existing by authority of the State of Michigan, the county, the Village, or other governmental agency.

#### **SECTION 4.12 RECREATIONAL VEHICLES**

Any owner or lessee of a recreational vehicle as defined in this Ordinance, may park or store such vehicle on a lot in any Zoning District subject to the following:

1. Such recreational vehicle shall be maintained in a clean, well-kept state so as not to detract from the appearance of the surrounding area.
2. If such recreational vehicle is equipped with liquefied gas containers, such containers shall meet the standards of either the Interstate Commerce Commission or the Federal Department of Transportation or the American Society of Mechanical Engineers, as such standards exist on the date of adoption of this Ordinance's provisions.
3. At no time shall such parked recreational vehicle be occupied or used for living, sleeping or housekeeping purposes, except as provided in sub-paragraph 4 of this Section.
4. It shall be lawful for only non-paying guests at a residence in R-1 single family residential district to occupy one recreational vehicle, parked subject to the provisions of this Ordinance, for sleeping purposes only, for a period not exceeding 168 consecutive hours. The total number of days during which a recreational vehicle may be occupied under this sub-section shall not exceed 30 in any calendar years.
5. No person shall store or park more than five (5) recreational vehicles on their property outside of an enclosed structure. All recreational vehicles shall be parked in the actual side or rear yard only.
6. Notwithstanding the provisions above, a unit may be parked anywhere on the premises during active loading or unloading, and use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.

#### **SECTION 4.13 NON-REQUIRED FENCES AND WALLS**

The installation, erection, and/or maintenance of a fence or wall not required under the landscaping or screening provisions of this Ordinance are prohibited except in strict compliance with these requirements. Such work will require issuance of a zoning permit under the provisions of Section 12.03.

1. Location
  - a. Non required fences or walls may be located along the property line. The Village shall not be responsible for the determination of the location of any fence to be erected on a lot line.
  - b. In the case of adjoining properties, only one fence between the two properties may be erected.
2. Height and Design
  - a. Fences or walls on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard shall not exceed 6 feet in height, measured from



the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the principal structure or the required minimum front yard, whichever is greater. Non-required fences or walls in commercial and industrial districts shall not exceed 8 feet in height in front or side yards. Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated within an area developed with recorded lots, shall not exceed 8 feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total area.

- b. Ornamental fences not exceeding 3 1/2 feet in height are permitted within front yards. Ornamental fences include, post and rail, split rail, picket, and wrought iron.

### 3. Materials and Construction

- a. Fences, including fence posts, shall be constructed with cedar, redwood, pressure treated material, wrought iron, or vinyl. Chain link is permitted in rear and interior side yards only. Walls shall be constructed of brick or decorative stone.
- b. Fences shall not contain barbed or razor wire, electric current, or charge of electricity.
- c. All fences shall be constructed in such a manner that all structural members, including braces, posts, poles, and other projections shall be on the interior side of the fence. If any panels or posts have a finished and unfinished face, the finished face shall be on the exterior side of the fence.

## SECTION 4.14 SCREENING OUTDOOR STORAGE

- 1. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property. Storage of inoperable vehicles and other material shall comply with the requirements of the Inoperable Vehicle Ordinance # 91-1 and the Blight Ordinance # 2019-6
- 2. Waste Receptacles
  - a. Waste receptacles, including dumpsters and compactors, shall be required in all multiple family and nonresidential developments unless indoor facilities are provided as determined by the Planning Commission. These requirements do not apply to single-family residences.
  - b. All waste receptacles must be located within an enclosure meeting the following standards:
    - 1) Waste receptacles shall have an enclosing lid or cover and be enclosed on three (3) sides with a gate on the fourth side. The enclosure shall be constructed of brick or decorative masonry block material consistent with the principal building with a maximum height of 6 feet or at least 1 foot higher than the waste receptacle and spaced at least 3 feet from the waste receptacle. Chain link fencing with vinyl or wood strips is not acceptable screening material.
    - 2) Waste receptacle enclosures shall be located in the rear yard or non-required side yard, at least 10 feet from any non-residential property line, combustible walls, or combustible roof eaves and in no case be less than 20 feet from any residential district.
    - 3) Waste receptacle enclosures shall be easily accessed by refuse vehicles without potential to damage automobiles parked in designated parking spaces.

- 4) The waste receptacle enclosure base shall be at least 9 feet by 6 feet, constructed of 6 inches of reinforced concrete pavement. The base shall extend 6 feet beyond the waste receptacle pad or gate to support the front axle of a refuse vehicle.
- 5) No refuse or trash shall be permitted to be stored higher than the waste receptacle enclosure.

#### **SECTION 4.15 LIGHTING**

Lighting in all use districts shall conform to the following requirements as to type, location, and intensity.

1. All outdoor lighting used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential property.
2. All outdoor lighting shall be directed toward and confined to the ground areas of lawns or parking lots, except as noted in 3 below.
3. Lighting used for the external illumination of buildings, so as to feature the building, shall be placed and shielded so as not to interfere with the vision of persons traveling along the adjacent highway or the adjacent property.
4. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. There shall be no flashing, oscillating, moving, or intermittent type of lighting or illumination. In addition, there shall be no exposed bare bulb illumination of any kind exposed to public view.
5. No lighting shall exceed a maximum height of 20 feet except that the Planning Commission may permit a maximum height of 30 feet within commercial, industrial, and office zoning districts and for institutional uses in residential districts when the poles are no closer than 150 feet to a residential district or use.
6. All lighting should be appropriate to the site and its surrounding in terms of style, scale, and intensity of illumination.
7. At any property line abutting a residential use, the maximum intensity shall be 0.1 foot-candles.
8. Exterior lighting shall be fully shielded and directed downward to prevent off-site glare.
9. Legal nonconforming lighting may be permitted to continue, but any changes to the structures must comply with current requirements. For example, if a light pole is modified or replaced, it would need to comply with the current ordinance maximum height requirements.

#### **SECTION 4.16 FAÇADE / DESIGN STANDARDS**

Exterior improvements to buildings in the C-1 zoning district shall comply with the following:

1. The front of the building shall be no more than 5 feet from the lot line.
2. First floors to have a translucent storefront, spanning from pier to pier, consisting of doors, windows, and transoms; clear or lightly tinted glazing; 20-foot to 30-foot-wide bays.
3. Existing recessed entrance doors shall not be modified so that they are flush with the exterior wall. Existing flush entrance doors that are replaced shall be replaced with recessed entrance doors where historically appropriate.

4. The exterior materials and colors used shall be historically appropriate. If they appear to be inconsistent with the color and materials used by surrounding buildings, then the recommendation of an architect selected by the village shall be requested.
5. Cornice bands shall be located over storefronts.
6. Stories above first floor to have "punched" window openings.
7. Facades are to be typically masonry.
8. Roof line should be varied when possible.
9. The use of awnings is encouraged.
10. Signage to be located on awning or sign board over storefront.

#### **SECTION 4.17 TRANSFORMER AND MECHANICAL EQUIPMENT SCREENING**

1. Mechanical equipment and utilities, including but not limited to blowers, ventilating fans, heating, ventilation, and air conditioning units (HVAC), water and gas meters, elevator housing, and tanks accessory to uses other than single family and duplex residences shall meet the following standards:
  - a. Such equipment and utilities shall not be located in any front yard and shall be placed not closer than 3 feet to any lot line in the C-1 Downtown Business District, and not closer than 12 feet to any lot line in all other districts.
  - b. All such equipment shall be screened by a solid wall, fence, landscaping, and/or architectural feature that is compatible in appearance with the principal building.
2. All roof-mounted mechanical units must be screened so they are not visible from ground level, even if not specifically addressed as part of site plan review.

#### **SECTION 4.18 PROTECTION OF NATURAL FEATURES**

Natural features including lakes, streams, and wetlands that are regulated by state or federal laws or rules shall be required as a condition of zoning approval to demonstrate compliance with those laws or rules.

#### **SECTION 4.19 PERFORMANCE STANDARDS**

No non-residential use shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within the Village.

1. Smoke
  - a. It shall be unlawful for any person to cause or permit to be discharged into the atmosphere from any single source of emission, smoke of a density equal to or darker than No. 2 of the Ringelmann chart except:
    - 1) Smoke of a density equal to but not darker than No. 2 on the Ringelmann chart may be emitted for not more than three minutes in any 30-minute period.
    - 2) Smoke of a density equal to but not darker than No. 3 of the Ringelmann chart may be emitted for not more than three minutes in any 60-minute period, but such

emissions shall not be permitted on more than three occasions during any 24-hour period.

- b. Method of Measurement: For the purpose of grading the density of smoke, the Ringelmann chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this ordinance, shall be the standard. However, the umbrascope readings of smoke densities may be used when correlated with the Ringelmann chart.

## 2. Dust, Dirt, and Fly Ash

- a. No person shall operate or cause to be operated, maintained or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using such process or furnace or combustion device, recognized and approved equipment means, methods, devices or contrivance to reduce the quantity of gas-borne or airborne solids or fumes emitted into the open air, which is operated in conjunction with such process, furnace or combustion device so that the quantity of gas-borne or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.
- b. Method of Measurement: For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent at full load. The foregoing requirement shall be measured by the ASME Test Code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The building inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust, dirt, and fly ash have been made.

3. Glare and Radioactive Materials: Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes, and including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.
4. Fire and Explosive Hazards: The storage and handling of flammable liquids, liquefied petroleum gases, and explosives shall comply with the state rules and regulations, as established by state law.
5. Noise: Objectionable sounds, including those of an intermittent nature, shall be controlled so as not to become a nuisance to adjacent uses nor shall they violate the Village's Peace Disturbances Ordinance (Ordinance 2019-09).
6. Odors: Creation of offensive odors shall be prohibited.
7. Hazardous Substances: All businesses or industries that store, use or generate hazardous substances as defined in this Ordinance, in quantities greater than 25 gallons or 220 pounds per month whichever is less, shall meet all state and federal requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of said hazardous

substances. No discharge to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.

#### **SECTION 4.20 STRUCTURE COMPLETION**

All structures or additions to structures shall be completed on the outside in conformance with the building code and with finish materials, such as wood, brick, or brick veneer, shingle, concrete, or similar performance tested material within one (1) year after construction is started unless an extension for not more than one (1) additional year is granted by the zoning administrator.

#### **SECTION 4.21 GOVERNMENT IMPROVEMENTS**

The provisions of this Ordinance shall be applicable to and enforceable against the Village itself and all other governmental agencies and units, federal, state, or local as permitted by law.

#### **SECTION 4.22 RAZING OF BUILDINGS**

No building shall be razed until a permit has been obtained from the Zoning Administrator who shall be authorized to require a performance bond in any amount not to exceed one thousand dollars (\$1,000) for each one thousand (1,000) square feet or fraction thereof of floor area of the building to be razed. Said bond shall be conditioned on the applicant completing the razing within a period not to exceed six (6) months and complying with such regulations as to health and safety as the Zoning Administrator may, from time to time, prescribe, including filling of excavations and proper termination of utility connections.

#### **SECTION 4.23 AIRPORT ZONING**

Any proposed new construction or revisions to buildings or other structures shall comply with the height and use restrictions of the Ordinance #63 The Lakeview Airport Zoning Ordinance.

## **Chapter 5 Sign Regulations**

### **SECTION 5.01 PURPOSE AND INTENT**

This Chapter is intended to regulate the size, number, location, and manner of display of signs in the Village of Lakeview consistent with the following purposes:

1. To protect and further the health, safety, and welfare of residents, property owners, and visitors.
2. To prevent traffic hazards and pedestrian accidents caused by signs which obstruct vision, distract, or confuse drivers, or are improperly secured or constructed.
3. To conserve and enhance community character.
4. To promote uniformity in the size, number, or placement of signs within zoning districts.
5. To promote the economic viability of commercial areas by minimizing visual clutter and allowing for placement of signs to safely direct motorists to their destination.
6. To balance the public's right to be informed and its desire to avoid visual pollution and hazardous conditions with the communication rights of businesses and other non-business uses.
7. To recognize that special circumstances or events may create a need for temporary signage for a limited and reasonable period of time.
8. The purpose of this Chapter does not include the regulation of the content, or any information included on the sign.

### **SECTION 5.02 DEFINITIONS**

Definitions for terms used in this Chapter can be found in Section 2.027.d of this Ordinance.

### **SECTION 5.03 GENERAL PROVISIONS**

1. Substitution Clause. Signs which contain non-commercial speech are permitted anywhere that advertising or business signs are permitted subject to the same regulations applicable to such signs. The owner of any sign which is otherwise allowed by this Chapter may substitute non-commercial language in lieu of any other commercial or non-commercial language. This substitution may be made without any additional approval or permitting. The purpose of this provision is to prevent an inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial message over any other non-commercial message.
2. Building Code. Signs shall comply with all applicable building and electrical codes and shall supersede these provisions in the case of a conflict.
3. Corner Clearance. All signs shall comply with the corner clearance requirements of Section 4.07.
4. Illumination. Signs may be internally illuminated or, if externally illuminated, the source of the light shall be enclosed and directed to prevent the source of light from shining directly onto traffic or any residential district or property. For externally lit signs, the lighting fixture shall be

mounted on the top only and the light fixture shielded so that light is directed downward so that no direct rays interfere with the vision of persons on adjacent streets or properties.

5. No wall sign shall extend beyond the edge of the wall to which it is attached, and shall not extend above the roof line of the building.
6. All signs shall be designed to ensure a dead load and wind pressure in any direction of not less than 30 pounds per square foot of area. All signs shall be securely anchored or otherwise made immobile.
7. Abandoned signs shall be removed or replaced with a blank face within 90 days after written notification from the village to the sign owner, owner of the property where the sign is located or any other party having control over the sign. In determining sign abandonment, the Zoning Administrator shall consider:
  - a. Discontinuance of utility service;
  - b. Removal of building fixtures needed for the use;
  - c. Property falling into disrepair;
  - d. Elimination of postal service;
  - e. Non-payment of property taxes.

#### **SECTION 5.04 PROHIBITED SIGNS**

A sign not expressly permitted by this Chapter is prohibited. Specifically, the following types of signs are expressly prohibited:

1. Any sign, including window signs, which have flashing, moving, oscillating, scrolling or blinking lights except as may otherwise be permitted herein.
2. Roof signs.
3. Rotating signs.
4. Searchlights, laser lights, strobe lights, and lights of a similar nature.
5. A sign using the words "stop," "danger," or other words, phrases, symbols, or characters in such a manner as to interfere with, mislead, or confuse a vehicle driver. Although this is a content-based distinction, these signs must be prohibited to prevent public confusion, risks to safety, and traffic collisions.
6. Snipe Signs. No light pole, utility pole, publicly-owned landscaping, fire hydrant, or other supporting member shall be used for the placement of any sign unless specifically designed and approved for such use.
7. No commercial vehicle or trailer which in the opinion of the Zoning Administrator have the intended function of acting as a sign, shall be parked in any area abutting the street.
8. No signs shall contain any moving or animated parts or have the appearance of having any moving or animated parts.

### **SECTION 5.05 ZONING PERMIT REQUIRED**

1. A zoning permit shall be required for the erection and construction of all permanent signs except those exempted by Section 5.06.
2. Zoning permits are also required for all temporary signs exceeding 20 square feet unless specifically exempted. Permits for temporary signs shall specifically state a date or a time frame by which the sign must be removed.
3. A zoning permit is not required for ordinary maintenance of signs such as painting, cleaning, light replacement, and alteration of the sign message.
4. An application for a zoning permit for a sign shall be submitted in compliance with the provisions of Section 12.03. In addition to the information normally required for a zoning permit, the request shall include:
  - a. A drawing of the sign showing its size, height, method of lighting if any.
  - b. For a proposed wall sign, an elevation drawing of the wall it will be located on, including the wall dimensions
  - c. Copies of the any required building or electrical permit applications.

### **SECTION 5.06 SIGNS NOT REQUIRING A ZONING PERMIT**

The following signs do not require a zoning permit but are subject to the requirements of this Ordinance with regards to size, location, maintenance, and other characteristics of the signs.

1. Government Signs
2. Window Signs
3. Temporary signs less than 20 square feet in area
4. Signs less than 3 square feet in area
5. On-site directional signs
6. Flags of any nation, state, village, government, government authorized agency, or educational institution

### **SECTION 5.07 SIGN MEASUREMENT**

1. The area of a sign is the entire area within a circle, triangle, or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which the sign is placed.
2. Where a sign has two or more faces, the combined area of all faces shall be included in determining the area of the sign, except that where two faces are placed back-to-back and are at no point more than 2 feet from one another, the area of the sign shall be taken as the area of one face. In the case of a sphere, the total area of the sphere is divided by two for the purposes of determining sign area.



3. The height of a sign shall be measured as the vertical distance from the highest point of the sign to the grade of the adjacent street or the average grade of the ground immediately beneath the sign, whichever is less.

Figure 5-1

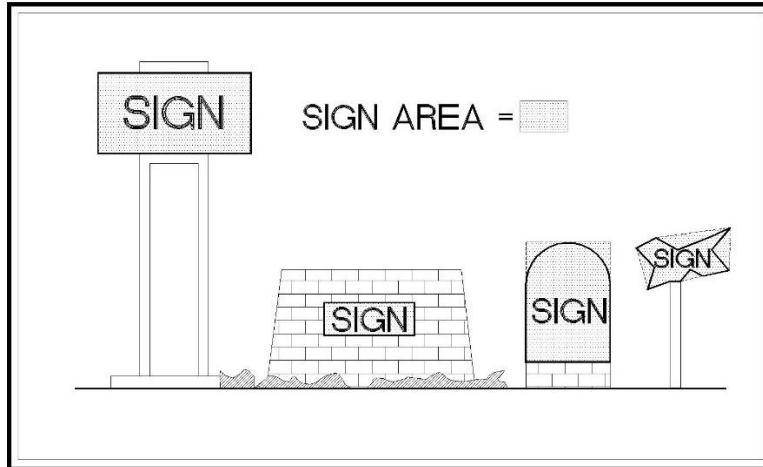
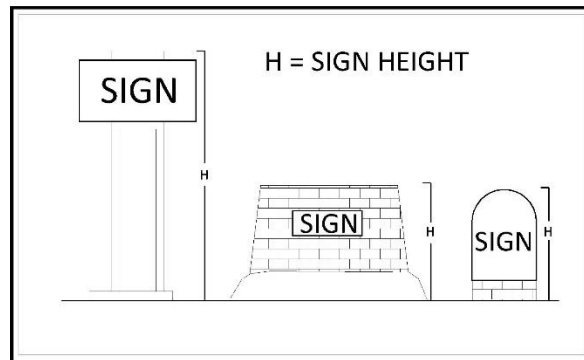


Figure 5-2



## SECTION 5.08 ELECTRONIC / DIGITAL SIGNS

Electronic /digital signs shall comply with the following regulations:

1. Size. The electronic / digital sign shall not consist of more than 75 percent of the allowable sign area, except signs with a maximum allowable size of 32 square feet or less in area, in which case up to 100 percent of the sign may be electronic / digital sign.
2. An electronic / digital sign shall not exceed a maximum illumination of 6,600 nits (candelas per square meter) during daylight hours and a maximum illumination of 325 nits between dusk and dawn as measured at the signs face. Prior to issuance of a zoning permit for the sign, the applicant shall provide a certification that the illumination settings for the sign comply with the maximum illumination requirements.
3. An electronic reader board shall be equipped with a brightness control sensor that allows for the brightness to be adjusted either manually or automatically.

4. In order to reduce glare, an electronic / digital sign shall not have a white background.
5. An electronic / digital sign used as a window sign is permitted, provided it complies with the requirements electronic reader boards as set forth in this Chapter.
6. Electronic / digital sign legally in existence upon the effective date of this Chapter shall be required to comply with the illumination requirements of this Chapter insofar as practicable.
7. The messages and images shown on an electronic / digital sign may not change more frequently than once every 10 seconds.

#### **SECTION 5.09 MAINTENANCE OF SIGNS**

1. Signs shall be maintained free of peeling paint or paper, fading, staining, rust, or other conditions which impair legibility.
2. All signs, sign supports, frames, braces, wiring, guys, and anchors shall be maintained in such a manner that they do not create a hazard for pedestrians and vehicles.

#### **SECTION 5.10 NONCONFORMING SIGNS**

1. Every legal permanent sign that does not conform to the requirements of this Chapter as of the date of the adoption of this Ordinance is hereby deemed to be nonconforming.
2. Non-conforming signs may be maintained and repaired so as to continue the useful life of the sign but may not be altered, expanded, enlarged, or extended.
3. A non-conforming sign may be diminished in size or dimension, or the copy of the sign amended or changed without jeopardizing the privilege of non-conformity.
4. A sign accessory to a non-conforming use may be erected in the village in accordance with the sign regulations for the district in which the property is located.
5. Non-conforming signs shall not:
  - a. Be replaced or changed to another non-conforming sign.
  - b. Be repaired if such repair involves any of the following.
    - 1) Necessitates the replacement of both the sign frame and sign panels.
    - 2) Replacement of the signs primary support pole(s) or other support structure.
    - 3) Be enhanced with any new feature including the addition of illumination.
  - c. Be re-established after damage or destruction, if the replacement cost thereof exceeds 60 percent of the replacement cost of the nonconforming sign prior to its damage or destruction. The fair market value shall be as determined by the Zoning Administrator.

#### **SECTION 5.11 REGULATIONS FOR TEMPORARY SIGNS**

1. A temporary sign may be installed concurrent with a temporary event or occurrence and removed upon the end of the event. Examples of temporary events shall include sale or rental of a property, an election season, construction or renovation of property, or an activity authorized under this ordinance as a temporary use. Temporary signs may be off-premise signs.

2. Permits are required for temporary signs that exceed 20 square feet in size. The applicant shall designate on the application form the days on which the sign will be displayed. Display of the sign on any day other than those days designated on the permit shall be a violation of this Section.
3. A temporary sign permit may be issued as part of and in conjunction with a building permit. The sign permit issuance shall be noted on the building permit.
4. The size and number of temporary signs allowed shall be as specified within each zoning district provided in Table 5-1 in Section 5.12.
5. Signs shall be anchored in a safe and secure manner. The anchoring of signs by tying or attaching weighted objects (such as cinder blocks or tires) is prohibited.
6. The sign shall be located a minimum of 5 feet from the edge of any street right-of-way or public or private sidewalk except for sandwich board signs as regulated herein.
7. A sign shall not be displayed if it is torn, bent, faded, not upright, unreadable, or otherwise unsightly.
8. Temporary signs held by a person shall not be displayed in the road right of way and shall not hamper the visibility of a driver on or off the site.
9. Temporary signs shall only be internally illuminated.
10. An electronic / digital display sign may serve as a temporary sign and shall comply with the requirements of Table 5-1 in Section 5.12.

## SECTION 5.12 SIGN REQUIREMENTS BY ZONING DISTRICT

Table 5-1: Sign Requirements by Zoning District (e)				
Type of Sign	R-1 and R-2	R-3	C-1	C-2, and IND
<b>Ground Sign</b>	<ul style="list-style-type: none"> <li>One (1) sign per parcel</li> <li>Max area 35 sq. ft.</li> <li>Max height 6'</li> <li>10' setback from all lot lines</li> <li>May be illuminated</li> <li>(f)</li> </ul>	<ul style="list-style-type: none"> <li>One (1) sign per parcel</li> <li>Max area 35 sq. ft.</li> <li>Max height 6'</li> <li>10' setback from all lot lines</li> <li>May be illuminated</li> <li>(a)</li> </ul>	<ul style="list-style-type: none"> <li>One (1) sign per parcel (a)</li> <li>Max area 35 sq. ft., for two (2) or more businesses per parcel add 17.5 sq ft. per business</li> <li>Max height 6'</li> <li>5' setback from all lot lines</li> <li>May be illuminated</li> </ul>	<ul style="list-style-type: none"> <li>One (1) sign per parcel (a)</li> <li>Max area 35 sq. ft., for two (2) or more businesses per parcel add 17.5 sq ft. per business</li> <li>Max height 6'</li> <li>5' setback from all lot lines</li> <li>May be illuminated</li> </ul>
<b>Pole Sign</b>				<ul style="list-style-type: none"> <li>Pole sign may be substituted for ground sign under same standards except the max height is 20'</li> </ul>
<b>Wall Sign</b>	<ul style="list-style-type: none"> <li>One (1) sign per street frontage</li> <li>Max area per sign 35 sq. ft.</li> <li>May be illuminated</li> <li>(f)</li> </ul>	<ul style="list-style-type: none"> <li>One (1) sign per street frontage</li> <li>Max area per sign 35 sq. ft.</li> <li>May be illuminated</li> <li>(a)</li> </ul>	<ul style="list-style-type: none"> <li>No limit on # of signs on walls fronting street</li> <li>Max area 20% of wall area</li> <li>May be illuminated</li> </ul>	<ul style="list-style-type: none"> <li>No limit on # of signs on walls fronting street</li> <li>Max area 20% of wall area</li> <li>May be illuminated</li> </ul>

**Table 5-1: Sign Requirements by Zoning District (e)**

Type of Sign	R-1 and R-2	R-3	C-1	C-2, and IND
<b>Temporary Signs</b>	<ul style="list-style-type: none"> <li>No limit on number of signs</li> <li>Max area of all temp signs 16 sq. ft.</li> <li>Comply with Section 5.11</li> </ul>	<ul style="list-style-type: none"> <li>No limit on # of signs</li> <li>Max area of all temp signs 16 sq. ft.</li> <li>Comply with Section 5.11</li> </ul>	<ul style="list-style-type: none"> <li>No limit on # of signs</li> <li>Max area of all temp signs 50 sq. ft., no single sign greater than 32 sq. ft.</li> <li>Comply with Section 5.11</li> </ul>	<ul style="list-style-type: none"> <li>No limit on # of signs</li> <li>Max area of all temp signs 50 sq. ft., no single sign greater than 32 sq. ft.</li> <li>Comply with Section 5.11</li> </ul>
<b>Multi-Lot Development Entrance Sign</b>	<ul style="list-style-type: none"> <li>One (1) sign per entrance</li> <li>Max area 35 sq. ft.</li> <li>Max height 6'</li> <li>10' setback from ROW lines</li> </ul>	<ul style="list-style-type: none"> <li>One (1) sign per entrance</li> <li>Max area 35 sq. ft.</li> <li>Max height 6'</li> <li>10' setback from ROW lines</li> </ul>	<ul style="list-style-type: none"> <li>One (1) sign per entrance</li> <li>Max area 35 sq. ft.</li> <li>Max height 6'</li> <li>10' setback from ROW lines</li> </ul>	<ul style="list-style-type: none"> <li>One (1) sign per entrance</li> <li>Max area 35 sq. ft.</li> <li>Max height 6'</li> <li>10' setback from ROW lines</li> </ul>
<b>Electronic / Digital Sign</b>			<ul style="list-style-type: none"> <li>Comply with Section 5.08</li> </ul>	Comply with Section 5.08
<b>Projecting / Awning / Canopy Signs</b>			<ul style="list-style-type: none"> <li>Counts as max area for wall sign.</li> <li>Projecting signs may not exceed 10 sq. ft. in area or 3' in width (b)</li> </ul>	<ul style="list-style-type: none"> <li>Counts as max area for wall sign.</li> <li>Projecting signs may not exceed 10 sq. ft. in area or 3' in width (c)</li> </ul>
<b>Sandwich Board Signs</b>			<ul style="list-style-type: none"> <li>One (1) per customer entrance</li> <li>Max height 60"</li> <li>Max width 36'</li> <li>Illumination not permitted (d)</li> </ul>	<ul style="list-style-type: none"> <li>One (1) per customer entrance</li> <li>Max height 60"</li> <li>Max width 36'</li> <li>Illumination not permitted (d)</li> </ul>
<b>Window Sign</b>			<ul style="list-style-type: none"> <li>No limit on number of signs</li> <li>Max area is 25% of window area</li> </ul>	<ul style="list-style-type: none"> <li>No limit on number of signs</li> <li>Max area is 25% of window area</li> </ul>

Footnotes

- a. For parcels with more than one principal building, a ground sign or wall sign is permitted for each building. Such sign shall not exceed 24 square feet in size and may be illuminated. A ground sign shall not exceed 6 feet in height.
- b. Projecting or canopy signs in the C-1 District shall be set back at least 2 feet from any street curb line, shall not extend more than 6 feet over the public right-of-way, and shall leave a minimum clearance of 8 feet above the ground.
- c. Projecting, awning, or canopy signs, other than those in the C-1 District, shall have a minimum ground clearance of 10 feet, shall be set back at least 6 feet from any adjacent public right-of-way, nor project over an alley or private access lane. A projecting sign shall not extend for more than 2 feet from the building to which it is attached.
- d. Sandwich Board Signs
  - 1) The sign may be placed within the public right-of-way on a public sidewalk but not within any public street vehicle travel lane.

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- 2) The sign shall be located outside of the business it serves but shall be located no more than 10 feet from the customer entrance to the business, be a minimum of 2 feet from the edge of the curb and be located so that at least a 5-foot-wide unobstructed walkway is maintained.
  - 3) The sign may be displayed only during operating business hours.
  - 4) All signs must be constructed of weatherproof, durable material, and kept in good repair.
  - 5) Sandwich board signs within the public right-of-way may be moved/removed by the village for municipal purposes (i.e., code enforcement, snow removal, traffic issues, maintenance, etc.).
  - 6) All sandwich board signs must be marked in such a way as to identify the owner of the sign or the party responsible for placement of the sign. Such information must be readily identifiable upon reasonable inspection.
- e. Sign requirements in the PUD zoning district will be based on the standards approved in the PUD concept plan. If the concept plan is silent on signage requirements, then the standards in the zoning district consistent with the applicable use will be used (for example, a multi-family residential use would use the standards for the R-3 zoning district).
- f. These regulations only apply to non-residential uses.

## **Chapter 6 Parking/Loading/Access**

### **SECTION 6.01 PARKING PURPOSE AND SCOPE**

The purpose of this chapter is to prescribe regulations for off-street parking of motor vehicles, recreational vehicles, trucks, and trailers in residential and non-residential zoning districts, to ensure by the provisions of these regulations that adequate parking and access is provided in a safe and convenient manner, and to afford reasonable protection to adjacent land uses from light, noise, air pollution, and other effects of parking areas

### **SECTION 6.02 GENERAL REQUIREMENTS**

Automobile off-street parking spaces meeting the requirements of this ordinance at the time of erection or enlargement of any main building or structure or change in use that impacts parking requirements.

1. **Parking Space Defined.** Off-street parking spaces are a parking strip, parking bay, parking stall, garage or combination of these. On single family or two-family lots, the parking may be stacked. Lawn and yard areas, other than designated parking areas, shall not be utilized for off-street parking.
2. **Parking areas** shall be in the side or rear yard except single family or two-family lots, the parking may be in the front yard.
3. **Off-site Spaces.** Off-street parking for other than residential use shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Access of the spaces by the principal use shall be documented by either ownership of the off-site property or through a parking easement granted to the on-site property.
4. **Changes in Parking Requirements.** If the required number of parking spaces change due to increases in building size, number of employees, increase in seating, a change in use or other characteristics of parking requirements, the additional parking shall be provided at the time of the change.
5. **Reduction of Existing Parking.** Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than required for that use.
6. **(h) Collective Parking.** The required off-street parking spaces for two (2) or more buildings or uses may be provided collectively by a group of off-street parking spaces subject to the following:
  - a. The total number of spaces provided collectively shall not be less than the sum of spaces required for each separate use. However, the Planning Commission may reduce the total number of spaces if they determine that the operating hours of the buildings or uses do not overlap.
  - b. The collective off-street parking may be located on a separate parcel from any of the uses, provided it complies with the requirements of subsection 3. above.
7. **Number of Parking Spaces Required.** The basis for calculating required parking spaces for uses is located in the Table of Use Requirements. In performing those calculations:

- a. Any calculation resulting in a fraction less than  $\frac{1}{2}$  is rounded down. Any calculation resulting in a fraction of  $\frac{1}{2}$  or greater is rounded up
  - b. In calculating seating, twenty-four (24) lineal inches of bench or bleacher equals one (1) seat.
  - c. For those uses not specifically mentioned in the Table of Use Requirements, the requirements for off-street parking spaces shall be based on similar uses in the table. In the case of site plans, this determination is the responsibility of the Planning Commission. In the case of zoning permits or similar approvals the determination is the responsibility of the Zoning Administrator.
  - d. Off-street parking for uses in the C-1 zoning district may be waived if adequate on-street or public off-street parking is available. In the case of site plans, this determination is the responsibility of the Planning Commission. In the case of zoning permits or similar approvals the determination is the responsibility of the Zoning Administrator.
8. Use of Parking Spaces. No commercial repair work, servicing or selling of any kind, shall be conducted in any required parking area unless specifically allowed under the provisions of this ordinance and in compliance with Ordinance 92-1 Village of Lakeview Inoperable Vehicle Ordinance.
9. Commercial Vehicles in Residential Districts. Overnight parking of commercial vehicles in excess of 24,000 pounds and requiring commercial plates, including all semi-truck tractors and trailers, is prohibited within any residential district.
10. Inoperable Vehicles. The storage of inoperable vehicles shall comply with the requirements of the Inoperable Vehicle Ordinance # 91-1.

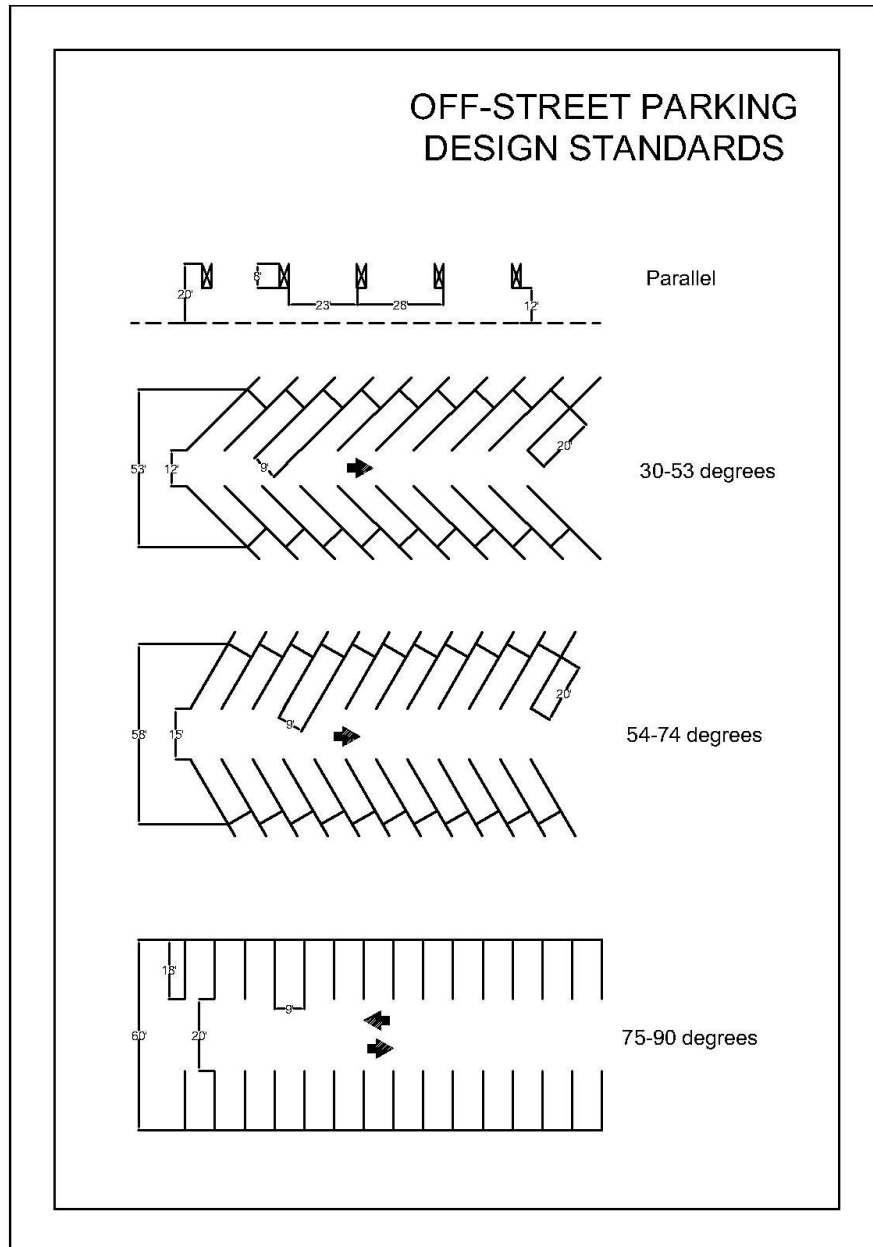
### **SECTION 6.03 PARKING DESIGN REQUIREMENTS**

Construction or expansion of parking lots other than for single-family and two-family residences shall be approved by site plan approval in those cases required under Chapter 11 and by issuance of a zoning permit in all other cases. The review shall verify compliance with the standards in this chapter, including the design and construction requirements below. Resurfacing or restriping of existing parking lots shall be reviewed and approved by the zoning administrator through issuance of a zoning permit.

1. Application for a zoning permit for parking lot approval shall include the following information in addition to that normally required for a zoning permit
  - a. A layout of the parking spaces with dimensions of spaces and access aisles.
  - b. A calculation showing the number of spaces required under the ordinance and the number of spaces being provided.
  - c. Information on the type of surface, including a pavement cross-section if the ordinance or village infrastructure standards has a requirement for a minimum cross-section.
  - d. Where the lot is being re-graded or new spaces added, information on storm water flow. Depending on the scope of the change, storm water calculations including required detention / retention may be required.
  - e. Where new spaces are being added, information on compliance with any applicable standards such as landscaping, lighting, or driveways.

2. Minimum Parking Space and Access Aisle Size. Plans for the layout of off-street parking facilities shall be in accord with the following minimum dimensional requirements as shown in Figure 6-1.
3. Parking lots shall be a minimum of ten (10) feet from the front lot line.

Figure 6-1



4. All off-street parking spaces shall be provided adequate access by means of maneuvering lanes. Backing onto a street or onto or across a public walk shall be prohibited.



5. There shall be a curb or bumper rail provided wherever an off-street parking space is adjacent to a public sidewalk or right-of-way so designed to prevent any portion of the vehicle from extending beyond the limits of the required parking area.
6. Any lighting used to illuminate any off-street parking area shall comply with the requirements of Section 4.15 of this ordinance and be so installed and maintained as to confine light within the parking area and direct light away from adjoining premises.
7. Off-street parking area including access drives shall have a hard surface (concrete or bituminous) in compliance with engineering standards adopted by the village and shall be sloped and drained to dispose of all surface water.
8. Off-street parking lots shall also conform to the parking lot landscaping standards as set forth in Chapter 8 of this ordinance.
9. All parking must comply with barrier free requirements of the Michigan Building Code.
10. Driveways. Adequate ingress and egress to the parking lot by means of clearly limited and defined paved drives shall be provided for all vehicles. All parking areas shall be provided with an entrance and exit from the abutting public thoroughfare. Such entrance and exit may be combined as one, which shall in no event be more than thirty (30) feet in width. The number of driveways permitted for each site shall be determined by the Planning Commission as part of site plan review. Driveway shall be setback a minimum ten (10) feet from a residentially zoned parcel.
11. Parking Space Striping. All parking lot stalls shall be striped and maintained.
12. Cross Access. Parcels in the C-2 zoning district may be required to provide cross access to parcels on either side as a condition of site plan review. Cross access would include an easement at least twenty (20) feet wide setback from the front lot right-of-way line
13. Drive-thru Facilities. Whenever drive-thru facilities are allowed there shall be provided a minimum of six (6) off-street waiting spaces for each service window or service bay, unless regulated elsewhere in this Ordinance. A waiting space shall be twenty-three (23) feet long by ten (10) feet wide. The design will provide for a 10' pass-thru aisle adjacent to the waiting space area, if a parking space access aisle is not provided
14. Design of parking lots shall include identification of areas to be used for snow storage when lots are plowed in the winter.
15. Legal nonconforming parking areas may be permitted to continue, but any changes to the parking lot must comply with current requirements. For example, if a property owner is restriping the spaces, the new spaces would need to comply with the current ordinance requirements for minimum size. In any case where the parking area is being increased by at least 50 percent based on area or number of spaces, the parking area shall be brought into 100 percent compliance with the landscape standards required for buffering. .

#### **SECTION 6.04 OFF-STREET LOADING AND UNLOADING**

The number, size and location of off-street loading and unloading area shall be provided whenever it is determined by the Planning Commission that the nature of the building or use is such that loading areas would be necessary.

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1. All loading or unloading areas shall be a minimum of ten (10) feet wide and fifty (50) feet long and provide a minimum height clearance of fourteen (14) feet.
2. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot maneuvering lane or aisle.
3. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities, except as specifically authorized by this Ordinance.
4. Unless otherwise specified, loading and unloading areas shall be provided only in rear yards. Side yard loading may be permitted by the Planning Commission when it is determined that such space and loading facilities would not interfere with parking and circulation, either vehicular or pedestrian, or with abutting areas and when adjacent to a residential district shall comply with the buffering requirements of Chapter 8.
5. All loading and unloading areas shall comply with engineering standards adopted by the village and the same requirements as parking spaces for drainage, and lighting.
6. The number of loading and unloading spaces shall comply with the requirements in Table 6-1 below unless the Planning Commission determines that a lower number is adequate based on the loading and unloading requirements of the proposed use.

Table 6-1: Loading / Unloading Space Requirements	
Gross Floor Area	Number of Loading Spaces
5,000 – 19,999 sq. ft.	1
20,000 – 49,999 sq. ft.	2
50,000 sq. ft. and over	3 + 1 space for each 50,000 sq. ft. over the original 50,000 sq. ft.

## **Chapter 7 Nonconforming**

### **SECTION 7.01 PURPOSE**

It is recognized that there exists within zoning districts certain lots, structures, uses and other improvements which were lawful before this Ordinance was passed or amended, which would be prohibited, regulated, or restricted under the terms of this Ordinance. It is the purpose of this Chapter to permit nonconforming lots, structures, uses and other improvements to continue until they are removed, but not to encourage their continued use or survival.

### **SECTION 7.02 NONCONFORMING LOTS**

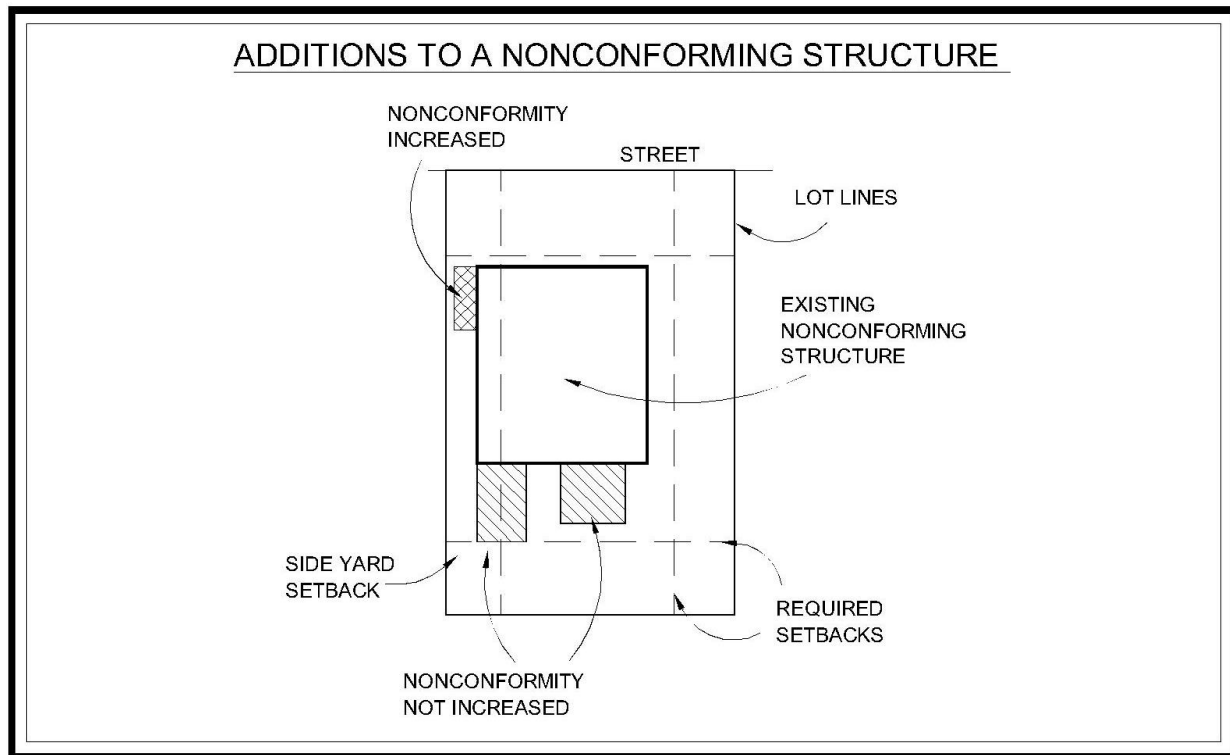
1. Any legal lot of record at the time of the adoption of this Ordinance, which is made nonconforming with regards to lot width or area due to the adoption of this Ordinance or later amendments to the Ordinance, or which was made a legal nonconforming lot due to adoption of a previous zoning ordinance, may be built on and used, provided that any structures meet the setback requirements of this Ordinance.
2. No legal nonconforming lot may be modified in any way that increases its nonconformity.
3. If two or more lots are adjacent and under common ownership, they must be treated as one lot if to treat them separately would create one or more nonconforming lots

### **SECTION 7.03 NONCONFORMING STRUCTURE**

A structure that is legally nonconforming due to noncompliance with requirements for lot coverage, height, yards, or other characteristics of the structure or its location on the lot may continue so long as it remains otherwise lawful, subject to the following provisions:

1. Expansion / Alteration. No nonconforming structure may be expanded, in a manner that increases its nonconformity. Increasing its nonconformity means increasing the extent to which it does not comply with an existing dimensional requirement, but does not mean expanding the bulk of the building within its existing nonconformity. See Figure 7-1.
2. Destruction of Structure. Should a nonconforming structure be destroyed by any means, or is intentionally demolished to an extent of more than sixty-five (65%) percent of its replacement value as determined by the Zoning Administrator, the structure may only be rebuilt in compliance with the requirements of this Ordinance.
3. Moving Structure. If a nonconforming structure is moved to another location on a lot or moved to another lot, it must then comply with the requirements of this Ordinance.

Figure 7-1



#### SECTION 7.04 NONCONFORMING USE OF LAND OR LAND AND STRUCTURE IN COMBINATION

A lot that is legally nonconforming because the use of the land or both land and structure is not permitted in the zoning district the lot is located in may continue so long as it remains otherwise lawful, subject to the following provisions:

1. Expansion or alteration. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Destruction of Structure. Should a structure housing a nonconforming use be destroyed by any means, or is intentionally demolished to an extent of more than sixty-five (65%) percent of its replacement value as determined by the Zoning Administrator, the structure may only be rebuilt in compliance with the requirements of this Ordinance.
3. Moving Structure. If a nonconforming structure is moved to another location on a lot or moved to another lot, it must then comply with the requirements of this Ordinance.
4. Extending use. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any additional land outside such building.

5. Change in use. A nonconforming use of a structure, or structure and land in combination, may change to a less nonconforming use. A less nonconforming use is one that is more similar to the uses allowed in the district the parcel is located as determined by the ZBA following a public hearing by the ZBA. A determination that a proposed use is less nonconforming shall be based on such characteristics as potential off-site impacts, traffic generation and aesthetic compatibility. A nonconforming use that changes to a conforming use may not revert back to a nonconforming use.
6. Abandonment. A nonconforming use that the ZBA has determined is abandoned following the standards in Section 7.06 shall not be reestablished and any new use must comply with this chapter.

### **SECTION 7.05 NONCONFORMING IMPROVEMENTS**

Some nonconformities among improvements that are not structures or include a mix of structures and non-structures, such as parking and loading spaces, landscaping, signs and lighting are addressed in the Chapters dealing with those improvements

### **SECTION 7.06 STANDARDS FOR DETERMINING ABANDONMENT**

If the Zoning Administrator identifies a legal nonconforming use that they believe has been abandoned, they shall submit the property to the ZBA for a determination of abandonment. The ZBA shall hold a public hearing, following notice as outlined in Section 12.11. The ZBA shall determine whether or not intent to abandon the nonconforming use was demonstrated based on a preponderance of the following factors:

1. Reports such as from the building inspection or health department indicating the property is or has not been suitable for occupation.
2. Disconnection of utilities.
3. Evidence that the use was relocated to a new site.
4. Evidence of a "going out of business" sale.
5. Signs advertising the business has been removed.
6. The use has been discontinued for one year, except where government action such as road construction has prevented access to the premises, or where a clear intent to discontinue has not been demonstrated.
7. Removal of the equipment or fixtures necessary for the operation of the nonconforming use.
8. Request by the property owner for changes in their property tax designation inconsistent with the nonconforming use.
9. Other actions by the property owner or lessee that demonstrates an intent to abandon the nonconforming use

### **SECTION 7.07 REPAIRS AND MAINTENANCE**

1. Work on any nonconforming structure or any building devoted in whole or in part to any nonconforming use, may be performed in any period of one year on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing to an extent not exceeding twenty percent 20% of the estimated value of the building, provided that the cubic

content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.

2. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### **SECTION 7.08 STATUS OF USES REQUIRING SPECIAL LAND USE APPROVAL**

A use established legally without SLU approval which now requires SLU approval due to a text change or rezoning is a nonconforming use until it receives SLU approval.

#### **SECTION 7.09 CHANGE IN TENANCY OR OWNERSHIP**

A change in tenancy or ownership does not change the nonconforming status of a use, structure, lot or other improvement.

#### **SECTION 7.10 CLASS A AND B NONCONFORMITIES**

Although it is the intent of this ordinance to discourage the continuation of nonconforming uses and structures, it is recognized that allowing the continuation of certain nonconformities may be appropriate. To address these circumstances, the zoning ordinance establishes procedures for the Planning Commission to designate specific nonconforming uses or structures as "Class A". Such uses or structures will have less stringent standards for expansion or resumption.

##### **1. Class A Nonconforming Uses or Structures**

###### **a. Effect of Class A Designation**

- 1) Class A nonconforming uses may be reestablished if the structure housing it is damaged or destroyed.
- 2) Class A nonconforming uses may be reestablished when otherwise meeting the criteria in Section 7.06 Standards for Determining Abandonment. The Class A nonconforming use may not be reestablished if it is replaced with a conforming use.
- 3) Class A nonconforming uses, structures housing nonconforming uses and nonconforming structures may be expanded or improved, after review and approval by the Planning Commission.
- 4) Class A nonconforming structures may be rebuilt if the structure is damaged or destroyed.
- 5) Rights granted nonconforming uses and structures listed above are contingent on compliance with any standards imposed by the Planning Commission as part of the Class A designation, including compliance with any approved site plan.

###### **b. Class A Designation Process**

- 1) An applicant for Class A designation shall submit a request in writing to the Zoning Administrator
- 2) Notice of a public hearing shall be provided as outlined in Section 12.11 of this Ordinance.
- 3) The Planning Commission shall hold a public hearing on the Class A designation.

- 4) The Planning Commission shall approve, approve with conditions or deny the request for Class A designation.
  - 5) The Planning Commission may impose conditions on an approval. The condition may include compliance with a site plan of the property.
  - c. Standards for Approval of Class A Designation. In order to approve a use for Class A designation the use or structure must have been lawful at its inception. In addition, the following criteria shall be used by the Planning Commission in evaluating a use to determine if continuation of the use or structure would be appropriate:
    - 1) Continuance of the use or structure does not significantly depress property values of nearby properties.
    - 2) Continuance of the use or structure would not be contrary to the public health, safety or welfare or the spirit of the ordinance.
    - 3) No useful purpose would be served by strict application of the provisions of this ordinance with which the use or structure does not conform.
    - 4) The property cannot be reasonable used as currently zoned.
  - d. Revocation of Class A Designation
    - 1) Revocation of a Class A designation may be initiated by the Zoning Administrator.
    - 2) Revocation of Class A designation shall comply with the procedures outlined in Section 10.10 of this ordinance.
    - 3) Class A designation may only be revoked if the nonconforming use or structure violated a condition of approval.
2. Class B Nonconforming Uses or Structures

All nonconforming uses or structures, not designated Class A, shall be Class B, nonconforming uses or structures. Class B nonconforming uses and structures shall comply with all the provisions of this ordinance relative to nonconforming uses and structures.

## **Chapter 8 Landscaping**

### **SECTION 8.01 PURPOSE**

The purpose of this section is to promote the public health, safety, and welfare by establishing minimum standards for the amount, design, installation, and maintenance of landscaping. Landscaping is considered by the village to be an important element of land development which is a critical factor in maintaining an attractive community character and conserving the value of land and buildings in the village. In addition to the enhancement of property values, landscaping serves a public purpose by:

1. Acting as a buffer between adjacent land uses.
2. Creating privacy between neighboring lots.
3. Reducing noise pollution, air pollution, and glare.
4. Reducing flooding by increased floodwater retention.

### **SECTION 8.02 APPLICABILITY**

The standards contained in this Section shall be applicable to all development which requires site plan approval. Landscaping information provided shall meet the requirements of Section 11.03.14. Expansion or renovation of existing uses that require site plan approval shall comply with the provisions of Section 8.06. The planning commission shall have the authority to decrease or otherwise modify the landscaping requirements of this Section based on factors such as limited room on the site, the location of proposed structures in relation to property lines, and other features providing screening such as changes in elevation or existing vegetation.

### **SECTION 8.03 INSTANCES REQUIRING LANDSCAPING**

1. Buffer zones. When a use requiring site plan approval is proposed that is adjacent to a use or zoning district that is less intensive, the Planning Commission may require landscaping along their common property line to mitigate the off-site impacts of the proposed use such as light and noise. Alternative buffers the Planning Commission may consider include:
  - a. A fence, wall or berm
  - b. A Type "A" vegetative buffer that includes one (1) canopy tree, two (2) evergreen trees, and four (4) large shrubs per each twenty (25) linear feet along the property line.
  - c. A Type "B" vegetative buffer that includes one (1) evergreen tree and four (4) large shrubs per each twenty-five (25) linear feet along the property line.
2. Parking lots. Off-street parking lots of 20 spaces or more are required to be landscaped in compliance with the following:
  - a. Number of Trees. One (1) tree per 7 spaces is required. Fractions over  $\frac{1}{2}$  are rounded up in calculating the number of trees.
  - b. Tree Location. All of the required parking lot trees shall be placed within the parking lot envelope, described as the area including the parking lot surface and extending 15 feet from the edge of the parking lot. Evergreen trees may be used for part of the landscaping on the outer edge of the parking area, provided they will not pose a traffic hazard. Only



deciduous canopy trees are permitted within the interior of the parking area. All parking lot tree calculations and interior parking lot tree requirements shall be rounded up.

- c. Tree Base. Each tree shall be surrounded by an area of grass or living ground cover at least 150 square feet in size to provide for adequate resources of air and water. Tree plantings shall also be protected from automobiles with curbing or another suitable device.
  - d. Design of Parking Lot Islands. All parking lot islands shall be curbed. Islands shall be at least 150 feet in area. Each island shall be at least 10 feet wide, with a depth 2 feet shorter than the depth of the adjacent parking space.
3. Right-of-Way Greenbelts. When a use requiring site plan approval is proposed, a greenbelt shall be planted adjacent to the right-of-way of any public street. The greenbelt plantings shall be planted within the required setback. The planning commission may allow such planting to be placed anywhere within the front yard if there is no front yard parking. The green belt shall meet the following standards:
- a. Density of Trees. The green belt shall include one (1) deciduous canopy or coniferous tree per 30 linear feet of the frontage including any openings for driveways, sidewalks, or easements.
  - b. Use of Evergreens. The planning commission may approve substitution of evergreen trees for up to 50 percent of the required green belt trees upon determining evergreens would be consistent with the existing character of the area.
  - c. Vision Triangle. Landscaping shall comply with the vision triangle limitations in Section 4.07.

#### **SECTION 8.04 EXISTING TREE PRESERVATION INCENTIVES**

The standards outlined below are intended to encourage the preservation of quality and mature trees on the subject parcel by providing credits, at planning commission approval, toward the required trees for greenbelts, buffer zones and within parking lots.

1. All trees over 8 inches caliper shall be identified on the site plan with notations of trees to be preserved and trees to be removed.
2. Trees proposed to be preserved shall be noted with a unique symbol on the site plan and be protected during construction through the use of construction fencing at or beyond the dripline of the tree or trees to be preserved.
3. Trees to be preserved shall be considered for credit only if they are located on the developed portion of the site and are considered signature trees by the planning commission. The planning commission pursuant to site plan approval may allow credit for such plant material preservation if it will maintain and encourage the intent of the ordinance. To be considered a signature tree the preserved trees shall be of a high quality and shall not be on the list of prohibited trees.
4. Credit consideration for preserved trees shall be:

<b>Table 8-1: Credit Consideration for Preserved Trees</b>	
Preserved Tree Caliper*(inches)	Number of Trees to be Credited
12 inches and over	3
8 inches to 11.99 inches	2
*Caliper is the diameter of a tree trunk and shall be measured at a height 6 inches above the existing grade up to and including 4-inch caliper size and 12 inches above the existing grade for larger sizes.	

5. To protect and encourage the continued health and vitality of the preserved trees, the ground within the dripline of the trees shall be maintained in the existing natural state. Storage of soils, construction equipment, or other materials during or after construction within the tree dripline is prohibited.
6. If preserved trees die within three (3) years after construction, the property owner shall replace with the number of trees that would have been required had the tree preservation credit not been provided. Said trees shall be replaced within 30 days of written notice from the village or within an extended time period as specified in said notice.
7. The minimum number of required trees shall not be reduced by less than 50 percent through the use of approved tree credits, unless the planning commission during site plan review determines that existing vegetation intended to be preserved would provide landscaping, buffering, or screening comparable to that required under this chapter.
8. For a period of three (3) years following a site plan approval, special permission by the planning commission will be required for the removal of trees proposed to be preserved on the site plan. The planning commission may condition their removal on their being replaced with the number of trees that would have been.

## **SECTION 8.05 MINIMUM STANDARDS FOR INSTALLATION AND MAINTENANCE**

1. Installation. Landscaping shall be installed in a sound workman-like manner and conform to the American Standard for Nursery Stock ANSI Z60.1. If building or paving construction is completed during a planting season, then no certificate of occupancy will be issued unless the landscaping meets the requirements herein provided. If building or paving construction is completed in an off planting season, the certificate of occupancy will be issued only after the owner provides a performance bond to ensure installation of required landscaping in the next planting season.
2. Material removal. Tree stakes, guy wires, and tree wrap are to be removed by the applicant after one year.
3. Maintenance. Greenbelt areas and plant materials required by this ordinance shall be kept free from refuse and debris. Plant materials shall be maintained in a healthy growing condition, neat, and orderly in appearance in perpetuity from the time of planting. If any plant material required by this ordinance dies or becomes diseased, they shall be replaced by the applicant/owner within 30 days of written notice from the village or within an extended time period as specified in said notice.

4. Plant Material Spacing and Size

- a. Plant material shall not be located within four (4) feet of the property line.
- b. Where plant materials are placed in two (2) or more rows, plantings shall be staggered in rows.
- c. Minimum plant sizes and spacing at time of installation shall be in accordance with Table 8-2.

<b>Table 8-2: Minimum Plant Size and Spacing</b>		
<b>Type of Plant Material</b>	<b>Minimum Plant Sizes</b>	<b>Spacing Requirements</b>
<b>Large Deciduous Trees</b>	2 in. caliper	30 ft. on-center
<b>Small Deciduous/Ornamental Trees</b>	1½ in. caliper 6 ft. height (clump form)	15 ft. on-center
<b>Evergreen Trees</b>	7 ft. height	20 ft. on-center informally 12 ft. on-center in rows
<b>Narrow Evergreen Trees</b>	5 ft. height	10 ft. on-center informally 5 ft. on-center in rows
<b>Large Shrubs</b>	30 in. height	6 ft. on-center informally 4 ft. on-center in rows
<b>Small Shrubs</b>	30 in. spread 2 ½ ft. height	4 ft. on-center

5. Recommended Plant Materials - Plant materials recommended as part of landscape plans are included in Table 8-3

<b>Table 8-3: Recommended Plant Materials</b>	
<b>Trees</b>	
<b>Evergreen Trees</b>	Fir; Spruce; Pine; Hemlock; Douglas Fir
<b>Narrow Evergreen Trees</b>	Red Cedar; Arborvitae; Juniper
<b>Large Deciduous Trees</b>	Oak; Hard Maple; Beech; Linden; Ginkgo (male only); Honeylocust (seedless and thornless varieties); Birch
<b>Small Deciduous/ Ornamental Trees</b>	Flowering Dogwood; Hawthorn; Redbud; Magnolia; Hornbeam; Russian Olive; Flowering Crabapple (disease-resistant varieties)
<b>Large Shrubs</b>	
<b>Deciduous</b>	Honeysuckle; Lilac; Border Privet; Sumac; Buckthorn; Pyracantha; Flowering Quince; Barberry; Forsythia; Cotoneaster (Peking, Spreading); Sargent Crabapple; Dogwood (Red Osier, Grey)

<b>Evergreen</b>	Irish Yew; Hicks Yew; Mugo Pine; Pfitzer Juniper; Savin Juniper
<b>Small Shrubs</b>	
<b>Deciduous</b>	Compact Burning Bush; Regal Privet; Fragrant Sumac; Japanese Quince; Cotoneaster (Cranberry, Rockspray); Potentilla
<b>Evergreen</b>	Spreading Yews (Dense, Brown's, Ward, etc.); Low Spreading Junipers (Andora, Hughes, Tamarack, etc.); Dwarf Mugo Pine; Big Leaf Wintercreeper

6. Prohibited Plant Materials – The following materials listed in Table 8-4 are prohibited to be used as part of required landscaping under this chapter because they split easily; their wood is brittle and breaks easily; their roots clog drains and sewers; and they are unusually susceptible to disease or insect pests.

<b>Table 8-4: Trees Not Permitted</b>	
Ash	Mulberry
Box Elder	Poplar
Catalpa	Soft Maple (Red & Silver)
Elms (except disease-resistant American Liberty Elm)	Tree of Heaven
Honey or Black Locust	Willow
Horse Chestnut (nut bearing)	

## SECTION 8.06 COMPLIANCE FOR PRE-EXISTING SITES.

In any case where site plan review is required and the existing building and/or parking area is being increased by at least 50 percent over the originally approved site plan or the use is being changed to a more intense use, as determined by the planning commission, the planning commission may require the site to be brought into 100 percent compliance with the landscape standards required for buffering.

## **Chapter 9 Condominiums**

### **SECTION 9.01 INTENT**

The intent of this chapter is to regulate the division and development of land under the Condominium Act (PA 59 of 1978) so that the development is comparable in quality of design to property divided and developed by other methods.

### **SECTION 9.02 REVIEW REQUIREMENTS**

In order to ensure compliance with this ordinance, all condominium developments including developments consisting solely of single family or duplex residences, which may otherwise not be required to prepare a site plan, shall be required to submit a site plan pursuant to Chapter 11 Site Plan Review. In addition to the information required in Section 11.03, all applicants for condominium site plan review shall submit the following information.

1. A copy of the proposed condominium master deed.
2. A copy of the proposed condominium subdivision plan (this may replace the site plan normally required for site plan review in the case of site condominiums).
3. A copy of the proposed condominium by-laws.

### **SECTION 9.03 ZONING ORDINANCE STANDARDS**

#### **1. Lot Size**

In conventional condominium development, the condominium unit is enclosed air space, such as condominium apartments. In a conventional condominium the entire site must meet the minimum lot size requirements for the zoning district in which the parcel is located. For site condominium developments, the condominium unit is a piece of land that is sold as a building site just as lots in a subdivision are sold. Each condominium unit and its associated limited common area in a site condominium are considered equivalent to a "lot" and must meet the minimum lot size requirements for the zoning district in which the parcel is located.

#### **2. Setbacks**

In conventional condominium development, the buildings must be setback from the site's boundaries as required in the zoning district the parcel is located in. For site condominium developments, the setbacks shall be from the outer edge of the "lot" consisting of condominium units and their associated limited common area, and shall be consistent with the setbacks for principal structures in the zoning district in which they are located. (See Figure 9-1 and Figure 9-2)

Figure 9-1

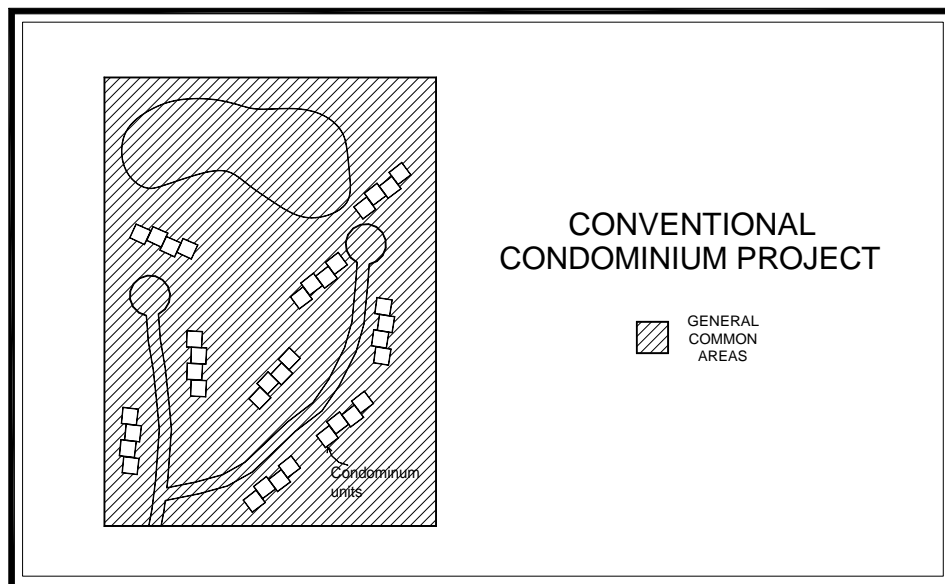
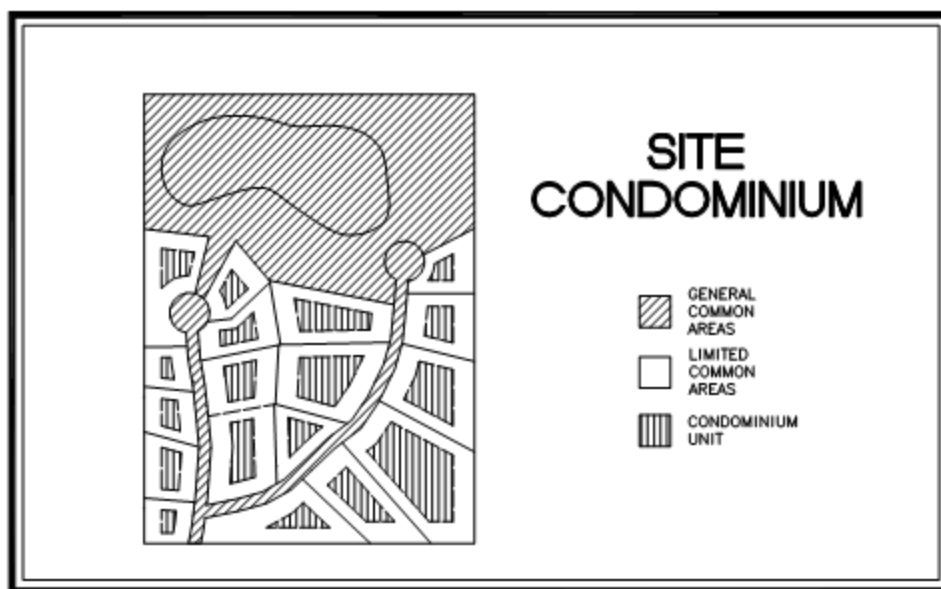


Figure 9-2



## SECTION 9.04 CONDOMINIUM DESIGN REQUIREMENTS

Conventional and site condominium developments shall comply with all applicable design standards in the Village of Lakeview zoning ordinance. Street standards shall be consistent with

Misc. Provisions  
General Requirements  
Nonconforming  
Special Land Uses  
Zoning Board of Appeals

Definitions  
Sign Regulations  
Landscaping  
Site Plan Review  
Amendments

District Regulations  
Parking/Loading/Access  
Condominiums  
Administration  
Design Standards

the standards adopted by the Village of Lakeview. In addition, site condominiums shall comply with the design standards contained in the Village of Lakeview Subdivision Control Ordinance.

## **SECTION 9.05 SECTION 1404 SURVEY REQUIREMENTS**

Conventional condominiums shall comply with the monumenting requirements contained in the Condominium Act, PA 59 of 1978. Site condominiums shall comply with the following requirements:

1. Monuments shall be located in the ground and made according to the following requirements, but it is not intended or required that monuments be placed within the traveled portion of a street to mark angles in the boundary of the condominium subdivision if the angle's points can be readily reestablished by reference to monuments along the sidelines of the streets.
2. All monuments used shall be made of solid iron or steel at least ½ inch in diameter and 36 inches long and completely encased in concrete at least four inches in diameter.
3. Monuments shall be located in the ground at all angles in the boundaries of the site condominium; at the intersection lines of streets and at the intersection of the lines of streets with the boundaries of the site condominium and at the intersection of alleys with the boundaries of the site condominium; at the points of curvature, points of reverse curvature and angle points in the side lines of streets and alleys; and at all angles of an intermediate traverse line.
4. If the required location of a monument is in an inaccessible place, or where the locating of a monument would be clearly impractical, it is sufficient to place a reference monument nearby and the precise location thereof be clearly indicated on the Condominium Subdivision plan and referenced to the true point.
5. If a point required to be monumented is on a bedrock outcropping, a steel rod, at least ½ inch in diameter shall be drilled and grouted into solid rock to a depth of at least eight inches.
6. All required monuments shall be placed flush with the ground where practicable.
7. The corner of each area consisting of a unit and the associated limited common area reserved for that unit, and treated as a "lot" under this ordinance shall be monumented in the field by iron or steel bars or iron pipes at least 18 inches long and ½ inch diameter, or by other approved markers.
8. The Village Council may waive the placing of any of the required monuments and markers for a reasonable time, not to exceed one year, on condition that the developer deposits with the village, cash or a certified check, or irrevocable bank letter of credit running to the village, whichever the proprietor selects, in an amount not less than \$100.00 per monument and not less than \$400.00 in total, except that lot corner markers shall be at the rate of not less than \$25.00 per markers. Such cash, certified check or irrevocable bank letter of credit shall be returned to the proprietor upon receipt of a certificate by a surveyor that the monuments and markers have been placed as required within the time specified. If the developer defaults, the village shall promptly require a surveyor to locate the monuments and markers in the ground as certified on the plat, at a cost not to exceed the amount of the security deposited and shall pay the surveyor.

## **Chapter 10 Special Land Uses**

### **SECTION 10.01 PURPOSE**

Rather than permitting all of the varied land use activities within the limited zoning districts, it is the intent of this ordinance to provide a set of procedures and standards for specific uses of land or structures that will allow, on one hand, practical latitude for the developer, but that will at the same time maintain sound provisions for the protection of the health, safety, and general welfare of the inhabitants of the Village of Lakeview. In order to provide controllable and reasonable flexibility, this chapter permits detailed review of certain specified types of land use activities which, because of their particular and unique characteristics, require special consideration in relation to the welfare of adjacent properties and to the community as a whole in the zoning district they are located. Land and structure uses possessing these characteristics may be authorized within certain zoning districts by the issuance of a special land use permit. By such a procedure, the Village of Lakeview Planning Commission has the opportunity to impose conditions and safeguards upon each use which are deemed necessary for the protection of the public welfare.

### **SECTION 10.02 PROCEDURES**

The following steps shall be taken by the applicant, zoning officials and review body when considering a proposed special land use:

#### **1. Application**

All applications for special land use permits shall be filed with the village clerk at least 21 days prior to the Planning Commission meeting at which it is to be heard and shall include the required 9 copies of the site plan, fee and any other pertinent information upon which the applicant intends to rely for a special land use permit. For applications where the use is occupying an existing building and there are no proposed changes to the site, the applicant may submit a plot plan meeting the requirements of Section 12.03.2 of this ordinance.

#### **2. Submission for Review**

The clerk shall, after preliminary review of the application and site plan for completeness by the zoning administrator, forward the complete application to the Planning Commission and any village staff and outside agencies as the zoning administrator shall determine appropriate per Section 11.04.2 of this ordinance.

#### **3. Public Hearing**

Prior to the Village Planning Commission review of the special land use and site plan application it shall hold a public hearing with notice meeting the requirements of Section 12.11 of this ordinance.

#### **4. Planning Commission Decision**

- a. After the hearing, the Planning Commission shall consider approval of the special land use permit based on the criteria below. If the special land use permit is approved, the Planning Commission shall then consider for approval the site plan based on the criteria in Section 11.05. In considering the special land use permit the Planning Commission may:



- 1) Approve the special land use permit application. The zoning administrator shall then be directed to issue the special land use permit.

-or-

- 2) Approve the special land use permit application and site plan subject to conditions, which are imposed in order to ensure the special land use complies with standards stated in this ordinance. The zoning administrator shall be directed to issue the special land use permit.

-or-

- 3) Disapprove the application.

- b. All decisions shall be accompanied with a concluding statement citing the reasons for decision and any conditions imposed.

### **SECTION 10.03 CRITERIA FOR APPROVAL**

In addition to compliance with the specific district regulations and general regulations as outlined in this zoning ordinance, the following criteria shall be met in order for Planning Commission approval of a special use:

1. The special land use will not generate greater off-site impacts such as traffic, noise or odor than uses allowed by right in the same district, unless conditions can be imposed to mitigate those impacts and protect the surrounding property.
2. Approval of the special land use on the specific parcel proposed is consistent with the intent and purposes of the zoning district in which it is located. There are no unusual or unique characteristics of the site or the surrounding area that would make the proposed use inconsistent with the intent of the district.
3. The special land use will not exceed the capacities of public services and facilities such as water, sewer, fire or police services unless conditions may be imposed to mitigate those impacts.
4. The special land use will be consistent with the health, safety and welfare of the village.

### **SECTION 10.04 APPEAL**

The decision of the Planning Commission may be appealed to the ZBA in compliance with the provisions of Section 13.08 of this ordinance.

### **SECTION 10.05 CONDITIONS**

The Planning Commission may impose conditions on the special land use permit approval, within the limits outlined in Section 12.12 of this ordinance.

### **SECTION 10.06 PERFORMANCE GUARANTEE**

The Planning Commission may require performance guarantees to ensure necessary improvements are completed as outlined in Section 12.10 of this ordinance.

### **SECTION 10.07 TIME LIMITS**

1. An approved special land use permit that does not require construction approved by a site plan must be commenced within (1) year from the date of approval of the special land use permit or the approval shall expire. A use that also involves construction must comply with the deadline for a site plan outlined in Section 11.10 of this ordinance.
2. For a special land use permit that does not require construction approved as part of a site plan the Planning Commission may grant one (1) extension for one (1) additional year. For a use that also involves construction approved as part of a site plan, extensions shall comply with the provisions for a site plan outlined in Section 11.10 of this ordinance.

### **SECTION 10.08 AMENDMENTS**

If an applicant proposes to amend an existing special land use permit by modifying the uses allowed or the conditions imposed on the original approval, the proposed amendment shall require the same public review and approval process as the original approval. Amendments to the site plan approved as part of the special land use permit may be amended through the procedures in Chapter 11 unless the amendment, in the opinion of the Planning Commission increases the scope or potential for off-site impacts, in which case the proposed change will be treated as a special land use permit amendment.

### **SECTION 10.09 EFFECT OF DENIAL**

No application for a special land use which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of one (1) year from the date of denial unless new information is submitted that results in a significant alteration of the original submittal.

### **SECTION 10.10 REVOCATION / ABANDONMENT**

1. A Special Land Use Permit may be revoked by the Planning Commission for failure to comply with the conditions imposed in the approval of the permit, or failure to comply with the general or specific standards for approval in effect at the time the special land use permit was approved. If the Planning Commission determines that a parcel with a special land use permit is in violation under this section, it shall give the applicant an opportunity to correct the violation. However, repeated violations, shall also be the basis for revocation, even if the applicant subsequently addresses the violation each time. Prior to revocation of the special land use permit the Planning Commission shall hold a public hearing, providing notice as required by Section 12.11 of this ordinance. The decision of the Planning Commission shall have the same rights of appeal as the original special land use permit.
2. If a use authorized by special land use is discontinued for 12 consecutive months, the Planning Commission may declare the use abandoned following notice to the property owner and a public hearing as required by the original approval of the special land use. The determination that the special land use activity has been abandoned shall be based on relevant factors including but not limited to:
  - a. The establishment of a different use on the property.
  - b. Removal of any signs pertaining to the special land use.
  - c. Removal, replacement or demolition of the building containing the special land use.

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- d. Personal observation that the use has been vacated and other similar factors which would provide evidence of the cessation of the special land use.
- e. Discontinuance of utility service.
- f. Property falling into disrepair.
- g. Non-payment of property taxes.

## **Chapter 11 Site Plan Review**

### **SECTION 11.01 PURPOSE**

The purpose of this chapter is to specify the documents and/or drawings required for site plan review so as to ensure that a proposed land use or development activity is in compliance with this ordinance, other local ordinances, and state and federal statutes and regulations. Furthermore, its purpose is to ensure that development taking place within the village is properly designed, safe, efficient, environmentally sound, and designed in such manner as to protect adjacent properties from substantial adverse impacts

### **SECTION 11.02 WHEN SITE PLANS ARE REQUIRED**

A written application and site plan shall be submitted to the village clerk under any of the circumstances listed below. Any other change in use, construction or other land development shall require review by the zoning administrator under the zoning permit provisions outlined in Section 12.03 of this ordinance.

1. As part of an application for a special land use permit.
2. Any change in use which requires construction of four (4) or more additional parking spaces.
3. As part of an application for approval of a condominium development.
4. Any other construction or moving of structures except:
  - a. Single family and duplex residences on individual parcels and their accessory structures
  - b. Accessory structures under one thousand (1,000) square feet
  - c. Expansions of structures under five hundred (500) square feet to existing structures.

### **SECTION 11.03 SITE PLAN REQUIREMENTS**

Site plans required under this chapter shall include the following:

1. General Information
  - a. The name and address of applicant.
  - b. Name and address of the preparer.
  - c. The legal description of the subject parcel of land.
  - d. The zoning classification of the subject parcel.
  - e. A general description of the proposed development.
  - f. Date, name, and address of the preparer.
  - g. Plan date and revision dates.
  - h. The plans will be to a recognized scale.
  - i. North arrow.
  - j. Location map; and

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- k. Plans shall be sealed by a Michigan licensed professional within their respective discipline per the professional laws of that discipline lot and property lines with square footage of each lot.
2. Dimensional Information – to verify compliance with the dimensional requirements in Table 3-4
  - a. The area of the subject parcel of land stated in acres or, if less than an acre, in square feet.
  - b. The location and dimensions of all existing man-made features and their relation to each other and the parcel boundaries.
  - c. Percentage of land covered by buildings and that reserved for open space.
  - d. Dwelling unit density where pertinent; and
  - e. Front, rear, and side elevations of a typical proposed structure showing building height.
3. Use Specific Design Standards – to verify compliance with specific design standards
  - a. In a note on the plans, the applicant will identify any use specific design standards for the use listed in Table 3-2 and the plans compliance with those requirements.
4. Parking and Loading – to verify compliance with off-street parking and loading requirement of Chapter 6
  - a. Parking space and loading space calculations demonstrating that the site complies with the minimum parking space and loading space requirements in Table 3-2.
  - b. Floor plan showing useable floor area if parking space requirements are based on floor area.
  - c. Location and dimension of existing and proposed parking spaces, loading spaces, and maneuvering aisles; and
  - d. Existing and proposed pavement material.
5. Access and Circulation – to verify appropriate layout and spacing of driveways
  - a. Location of each driveway as well as the setback from side lot lines, size, and radius of driveways. Also, all driveways within 100 feet of the site.
  - b. Location and width of sidewalks.
  - c. Existing and proposed streets including rights-of-way that are on the subject site, adjacent to the site or within 100 feet of the site.
6. Drainage – to verify adequacy of on-site storm drainage and impact on stormwater drainage systems.
  - a. Existing or proposed storm sewers, open drains, and detention/retention structures.
  - b. Storm calculations for the site and drainage structures based on the 25-year storm
  - c. Existing and proposed grades at 2- to 5-foot intervals and proposed drainage patterns.
7. Public Utilities – to verify adequacy of on-site utilities
  - a. Existing and proposed water lines and wells

- b. Existing and proposed sanitary sewer lines or septic fields.
- 8. Natural Features – to determine impact on natural features
  - a. Streams, marshes, and lakes.
  - b. Limits of any wetland, including attachment of a wetland determination by a recognized consultant (wetland limits must be confirmed by the Michigan Department of Environment, Great Lakes, and Energy prior to final approval).
  - c. Woodlots.
  - d. Environmental impact of the project.
- 9. Adjacent Property Information – to identify additional setbacks and landscaping requirements based on adjacent land uses and zoning and determine potential impacts on adjacent land use.
  - a. Existing land use and zoning of all adjacent property and its relationship to subject parcel.
  - b. Buildings within 100 feet of the boundary of the site; and
  - c. Notes on any potential off-site impacts regulated by Section 4.16 Performance Standards and how they are proposed to be mitigated.
- 10. Outdoor Storage and Display – to identify any outdoor storage or display proposed in the future and to verify compliance with requirements for them
  - a. Identify area proposed to be used for outdoor storage and display.
- 11. Signs – to verify compliance with sign regulations
  - a. Identify the location, dimensions, and lighting of all proposed signs.
- 12. Exterior Lighting – to verify compliance with lighting requirements
  - a. Identify the location, height, and style of lighting.
  - b. Provide a photometric plan in foot-candles of the proposed site lighting.
- 13. Groundwater Protection – to verify site plan standards for groundwater protection in Section 11.05.6
  - a. List the type and quantity of hazardous materials stored on site in quantities reportable under Title 40 Part 355 Appendix A of the Federal Code of Regulations. A copy is available as part of the site plan application.
  - b. Identify the location of storage and loading/unloading sites for hazardous materials on the site.
  - c. Identify secondary containment provisions for any hazardous material stored or used on the site.
- 14. Landscaping and Screening - to verify compliance with landscaping requirements in Chapter 8
  - a. Existing and proposed fences, landscaping, buffer strips, and screening.
  - b. Proposed plant location, spacing, size, and species (common and botanical name).

- c. Existing and proposed contours on-site and 100 feet beyond the site at intervals not to exceed 2 feet.
  - d. Straight cross section including slope, height, and width of berms and type of ground cover, or height and type of construction of wall or fence, including footings.
  - e. Significant construction details to resolve specific site conditions, such as tree wells to preserve existing trees or culverts to maintain existing natural drainage patterns.
  - f. Planting and staking details in either text or drawing form to ensure proper installation and establishment of proposed materials; and
  - g. Identification of existing trees and species proposed to be saved. These trees can, at the discretion of the Planning Commission, be used toward meeting the requirements prescribed herein. Clearly reference on the plan the total number of trees proposed to be preserved and methods thereof.
15. Emergency Vehicle Access and Safety – To assess compliance with site plan standards regarding emergency access and fire safety
- a. Show designation of fire lanes; and
  - b. Identify location of fire hydrants on or within 100 feet of the site.
16. Compliance with Other Laws and Rules
- a. Provide a note identifying any county, state, or federal law or regulation the site is required to comply with and the status of that compliance.
17. Additional Information
- a. Any additional material information necessary to consider the impact of the project upon adjacent properties and the general public or to verify compliance with the requirements of this ordinance as may determine necessary by the Planning Commission.
  - b. The Planning Commission may waive, either by general rule or on a case-by-case basis, any of the above informational requirements they determine unnecessary to evaluate a site plan's compliance with the standards for approval under this zoning ordinance; and
  - c. A narrative describing
    - 1) The overall objectives of the proposed development.
    - 2) Number of acres allocated to each proposed use and gross area in building, structures, parking, public and/or private streets and drives, and open space.

#### **SECTION 11.04 SITE PLAN REVIEW PROCEDURE**

##### **1. Application**

Nine (9) copies of the completed application form and a site plan meeting the informational requirements of Section 11.03 of this ordinance along with the required fee shall be submitted by the applicant to the zoning administrator at least fifteen (15) days prior to the date of the Planning Commission meeting at which it will be considered. The zoning administrator may require additional copies of the site plan if they are needed to permit review by additional staff or outside agencies. If the applicant is not the owner of the property, then the application must

be signed by the property owner as well as the applicant or other suitable proof given that the property owner approves the application.

## 2. Staff Review

- a. Following the receipt of the application and site plan, the zoning administrator shall review the site plan to determine if the required information is included and the request complies with the zoning ordinance requirements. If the plan does not meet the informational requirements, the proposal shall not be placed on the Planning Commission's agenda, unless the applicant indicates their intent to request the Planning Commission waive the requirement for the missing information. If the plan does not meet the ordinance requirements the proposal shall not be placed on the Planning Commission's agenda unless the applicant indicates their intent to request the necessary variances from the Zoning Board of Appeals (ZBA).
- b. The zoning administrator shall submit the proposed site plan to those members of village staff and outside agencies they determine appropriate based on the characteristics of the proposal. These may include:
  - 1) Village Fire Chief
  - 2) Village Police Chief
  - 3) Village DPW Director
  - 4) Village Planner
  - 5) Village Engineer
  - 6) Village Attorney
  - 7) Michigan Department of Transportation (MDOT)
  - 8) Michigan Department of Environment, Great Lakes, and Energy (EGLE)
- c. Copies of the application and site plan shall be sent to the members of the Planning Commission at least fifteen (15) days prior to the meeting at which it is to be considered.

## 3. Planning Commission Review

- a. The Planning Commission shall have the authority to approve, approve with specified changes and/or conditions, or disapprove the applicant's request, using the criteria for site plan review included in this ordinance as a basis for its decision.
- b. Any conditions or changes stipulated by the Planning Commission shall be recorded in the minutes of the meeting and a copy of each said conditions or changes given to the applicant and zoning administrator.
- c. Two (2) copies of the approved site plan shall be certified by the signatures of the Chairman of the Planning Commission, zoning administrator and the developer or agent, with one (1) copy retained in the zoning administrator's office and one (1) copy retained by the applicant.

## SECTION 11.05 SITE PLAN REVIEW STANDARDS

In evaluating a site plan for approval, the Planning Commission shall consider the following standards:

Misc. Provisions  
General Requirements  
Nonconforming  
Special Land Uses  
Zoning Board of Appeals

Definitions  
Sign Regulations  
Landscaping  
Site Plan Review  
Amendments

District Regulations  
Parking/Loading/Access  
Condominiums  
Administration  
Design Standards



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1. Compliance with ordinance requirements – The site plan shall comply with applicable zoning ordinance requirements including
  - a. Dimensional requirements
  - b. Use specific design standards
  - c. Parking and loading requirements
  - d. Outdoor storage and display standards
  - e. Signs
  - f. Exterior lighting
  - g. Setback and buffering requirements associated with adjacent property
  - h. Landscaping requirements
2. Access and Circulation
  - a. Safe, convenient, uncontested, and well-defined vehicular and pedestrian circulation shall be provided for ingress/egress points and within the site. As provided in Ordinance # 98-3, The Village of Sidewalk Ordinance, the Village expressly reserves the right to require, as a condition of zoning, that the property owner files a performance guarantee, in a form approved by the Village, for the construction of sidewalk.
  - b. The pedestrian circulation system shall be as insulated as completely as reasonably possible from the vehicular circulation system.
  - c. The Planning Commission may require a traffic impact study for uses that are anticipated to generate more than one thousand trips per day or more than one hundred trips during the peak hour.
  - d. All driveways shall meet the design and construction standards of the village.
  - e. In order to insure public safety and promote efficient traffic flow and turning movements, the applicant may be required to limit street access points or construct a secondary access road.
3. Utilities
  - a. Proposed drainage will not adversely affect adjoining properties or the capacity of the public or natural storm drainage system.
  - b. The use of detention/retention ponds may be required.
  - c. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system.
  - d. Adequate services and utilities, including water, sewage disposal and sanitary sewer shall be available or provided, and shall be designed with sufficient capacity and durability to properly serve the development.

4. Natural Features

- a. As many natural features of the landscape shall be retained as possible where they furnish a barrier or buffer between the project and adjoining properties used for dissimilar purposes and, where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of storm waters.
- b. Changes affecting wetlands shall comply with state wetland regulations.

5. Impact on Adjacent Property

- a. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this ordinance. These include avoiding drastic changes in grade that might limit future access to adjacent property.
- b. Consideration shall be given to building, driveway and parking lot location and its impact on surrounding properties.

6. Groundwater Protection Standards

- a. Sites involving the storage or use of hazardous materials shall provide protection from leaks and spills through the use of secondary containment and restrictions on the location of catch basins and floor drains.

7. Emergency Vehicle Access and Safety

- a. All provision of fire lanes and fire hydrants shall be reviewed and approved by the local Fire Chief.

8. Compliance with Other Laws and Rules

- a. The site plan shall comply with all applicable village, county, state and federal laws and regulations. These include the maximum height provisions of the Lakeview Airport Zoning Ordinance #63.

**SECTION 11.06 REVOCATION**

1. If the zoning administrator shall find that the conditions and stipulations of an approved site plan are not being adhered to, the Planning Commission shall give notice to the applicant of its intent to revoke the prior approval given to the site plan. Intent to revoke shall be made known to the applicant by a registered letter sent to the applicant and signed by the zoning administrator. Said letter shall be sent to the applicant at least fourteen (14) days prior to the stated date of revocation and shall contain the reasons for revoking the site plan approval.
2. If the applicant notifies the Planning Commission within fourteen (14) days of the receipt of the letter of his/her intent to rectify the violation, the Planning Commission, through official act, may defer the revocation.

**SECTION 11.07 APPEAL**

The decision of the Planning Commission may be appealed in compliance with the provisions of Section 13.08 of this ordinance.

### **SECTION 11.08 SITE PLAN AMENDMENTS**

An approved site plan may be submitted for minor amendment to the zoning administrator for review and approval. If, in the judgment of either the zoning administrator or the Planning Commission Chair, the site plan amendment is major, the provisions of this chapter for site plan review by the Planning Commission shall be followed. Minor changes are those that do not result in:

1. A significant change in the use, intensity or character of the development.
2. A significant increase in lot coverage.
3. A reduction in required off-street parking or loading areas or drainage retention or detention capacity.
4. Reduction in pavement widths or utility pipe size.
5. Significant changes in road or lot layout.

### **SECTION 11.09 CONDITIONS**

The Planning Commission may impose conditions on the special land use permit approval, within the limits outlined in Section 12.12 of this ordinance.

### **SECTION 11.10 TIME LIMITS**

1. Deadline to commence construction

An application for a building permit for a project approved by site plan approval shall be filed with the zoning administrator within one (1) year from the date of approval of the site plan. If a building permit is not issued within one (1) year, site plan approval shall expire.

2. Deadline for completion

A project approved by site plan approval shall be completed within the time limit of the building permit, including any extension granted by the building inspector. If an occupancy permit is not granted prior to the expiration of the building permit, site plan approval shall expire. The Planning Commission may grant approval for up to five (5) years per phase in the case of multi-phased development.

3. Extensions

The Planning Commission may grant one (1) extension of an additional one year to the deadline established in subsection 1 above if the applicant submits a request for an extension prior to expiration of the approval and can demonstrate that suitable progress has been made on the project.

## **Chapter 12 Administration and Enforcement**

### **SECTION 12.01 PURPOSE**

The purpose of this chapter is to establish the roles of those involved in the administration of this ordinance, establish procedures and standards for procedures including notices and performance guarantees, and outline the procedures and powers for enforcement of this ordinance.

### **SECTION 12.02 ZONING ADMINISTRATOR**

The provisions of this ordinance shall be administered and enforced by a zoning administrator, as designated by the Village Council, or by such deputies of his department as the zoning administrator may delegate with Village Council approval to enforce the provisions of this ordinance.

1. Responsibilities of the zoning administrator include:
  - a. Examine, record, and file applications and other documents.
  - b. Conduct inspections related to zoning permits and site plans.
  - c. Issue zoning permits.
  - d. Receive, investigate, and process all complaints.
  - e. Maintain a list of non-conforming lots, uses, and structures they identify in the course of their other responsibilities.
  - f. Make recommendations regarding fee schedule.
  - g. Provide staff support to Planning Commission, Zoning Board of Appeals (ZBA), and Village Council on zoning matters.
  - h. Provide reports as required by the Village Council.
  - i. Issue site plan and Special Land Use (SLU) approvals when authorized by the zoning ordinance.
  - j. Make recommendations regarding zoning ordinance amendments.
  - k. Interpret this ordinance as necessary to administer it. If the ordinance is unclear, the Zoning Administrator may request interpretations from the ZBA.
  - l. Other powers granted under the provisions of this ordinance.
2. Village Council Responsibilities:
  - a. Appoint Planning Commission and ZBA members.
  - b. Appoint zoning administrator
  - c. Initiate zoning ordinance amendments
  - d. Adopt ordinances and ordinance amendments.
  - e. Set fees.
3. Planning Commission Responsibilities:

- a. Hold public hearings and make recommendations on zoning amendments, including rezonings
  - b. Review and decide on proposed site plans.
  - c. Hold public hearings and decide requests for SLUs.
  - d. Initiate amendments to the zoning ordinance.
4. Zoning Board of Appeals (ZBA) Responsibilities: The powers of the ZBA are outlined in Chapter 13.
5. Village Clerk Responsibilities:
  - a. Receive requests from any utility, railroad, or airport that wishes notice of zoning amendments per Sec. 306(2) of PA 110 of 2006.
  - b. Receive requests from property owners to address proposed zoning ordinance amendments per Sec. 401(4) of PA 110 of 2006.
  - c. Maintain file of zoning ordinance and all amendments per Sec. 401(7) of PA 110 of 2006.
  - d. Handle any performance guarantees deposited with the village per Sec. 505(1) of PA 110 of 2006.
  - e. Maintain records of ZBA meetings per Sec. 602(2) of PA 110 of 2006.
  - f. Accept all applications.
  - g. Post and mail all notices.

### **SECTION 12.03 ZONING PERMITS**

The following shall apply in the issuance of any zoning permit:

1. When Zoning Permits Are Required. A zoning permit issued by the zoning administrator verifying compliance with the terms of this ordinance shall be required prior to:
  - a. Change in use. A change in use occurs when the proposed use is a use covered by a different row in the Table of Uses (Table 3-2) than the current use.
  - b. Construction of a structure.
  - c. Expansion or other changes to the outer dimensions of a structure.
  - d. Movement of a structure onto a parcel or movement from one location to another on a parcel.
  - e. Erection of a fence
  - f. Clearing or excavating land
  - g. Interior remodeling of a structure that is nonconforming or contains a nonconforming use.
  - h. Demolition of part or all of a structure.
  - i. For uses requiring site plan or special land use approval, submission of a separate zoning permit application is not necessary
  - j. Erection or change to a sign per Section 5.05 of this ordinance.

2. Application Requirements. A zoning application shall consist of the required fee, a completed application form, and a plot plan at least 8½ by 11 inches, drawn to scale, showing:
  - a. The location, shape, area, and dimension of the lot.
  - b. The location, dimension, height, and bulk of the existing and/or proposed structures to be erected, altered, or moved on the lot.
  - c. The intended uses.
  - d. The proposed number of sleeping rooms, dwelling units, occupants, employees, customers, and other users.
  - e. The yard, open space, driveways, and parking space dimensions and surfaces.
  - f. Flow and discharge of drainage.
  - g. Any easements on the property.
  - h. Any other information deemed necessary by the zoning administrator to determine and provide for the enforcement of this ordinance.
3. Review Period. The zoning administrator shall review and make a determination on a zoning permit within 15 calendar days of receipt of a complete application. An applicant may submit an application for approval to the Zoning Board of Appeals for any permit that exceeds this period.
4. Standards for approval. The zoning administrator shall approve a zoning permit if the request complies with the requirement of this zoning ordinance and other village ordinances. This includes compliance with the provision of sidewalks as required per the Sidewalk Ordinance 98-3. If an applicant disagrees with the zoning administrator's determination on the provision of sidewalks, the issue will be referred to the Village Council.
5. Voiding of Permit. Any permit granted under this Section shall expire after one (1) year from the date of its approval unless the development proposed has passed its first building inspection. Any permit granted under this Section shall expire after two years, unless the improvements outlined in the permit are completed.
6. Inspection. The development or usage proposed by any zoning permit shall be subject to two (2) zoning inspections; one inspection after the site has been staked but before construction begins and the other after construction is complete but before occupancy occurs. It shall be the duty of the permit holder to notify the zoning administrator regarding times of proper requests for inspection. Failure of the permit holder to make proper requests for inspection shall automatically cancel the permit, requiring the issuance of a new permit before construction may proceed or occupancy may be permitted.
7. Zoning Permit Effect on Building Permits. No building permit shall be issued prior to issuance of the zoning permit.

#### **SECTION 12.04 CERTIFICATE OF ZONING COMPLIANCE**

A property owner or individual with an interest in a parcel such as a mortgage company or title company may request a certificate identifying the extent to which a parcel is compliance with zoning regulations. The zoning administrator shall issue such a certificate based on existing zoning records following payment of a fee established by the village council, if any.

### **SECTION 12.05 FEES**

A fee schedule for applications required under this ordinance shall be set by resolution of the Village Council to defray the expense of publishing the required notices of public hearings, review of the request, expenses of the public hearing, and other costs associated with the request. In addition to set fees, the Council may adopt a schedule of escrow fees and/or assess to the applicant costs incurred by the village for the review of the request.

### **SECTION 12.06 ENFORCEMENT**

1. Responsibility. The zoning administrator shall enforce the provisions of this ordinance.
2. Inspection of Violation. The zoning administrator shall inspect each alleged violation he or she observes or is made aware of, and shall order, in writing by first class mail, correction of all conditions found to be in violation of this chapter and a deadline for correction to be completed.
3. Correction Period. All violations shall be corrected within a period of thirty (30) days after the order to correct is issued or in such longer period of time, not to exceed six (6) months, as the zoning administrator shall determine necessary and appropriate.
4. Action By Village Attorney. A violation not corrected within this period shall be reported to the village attorney, who shall initiate procedures to eliminate such violation. Once a violation has been referred to the village attorney, any legal action which the attorney deems necessary to restore compliance with all terms and conditions of this chapter is hereby authorized.

### **SECTION 12.07 MUNICIPAL CIVIL INFRACTION**

A person who violates any provision of this ordinance is responsible for a municipal civil infraction, subject to payment of a civil fine as established by the Village Council under #00-06 the Municipal Civil Infraction Ordinance.

### **SECTION 12.08 PUBLIC NUISANCE PER SE**

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this ordinance and in violation of any of the provisions of this ordinance, is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

### **SECTION 12.09 RIGHTS AND REMEDIES ARE CUMULATIVE**

The rights and remedies provided in this chapter are cumulative and in addition to any other remedies provided by law.

### **SECTION 12.10 PERFORMANCE GUARANTEES**

In the interest of ensuring compliance with the zoning ordinance provisions, protecting the natural resources and the health, safety, and welfare of the residents of the village and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the Planning Commission or zoning administrator (depending on who approved the site plan) may require the applicant to deposit a performance guarantee as set forth herein. Performance guarantees shall be required in instances where a building permit or occupancy permit is requested prior to completion of all necessary improvements on an approved site plan. The purpose of the

performance guarantee is to ensure completion of improvements connected with the proposed use as required by this ordinance, including but not limited to roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.

1. Performance guarantee as used herein shall mean a cash deposit, certified check, irrevocable bank letter of credit, corporate surety, or performance bond in the amount equal to one hundred and fifteen (115) percent of the estimated cost of the improvements to be made as determined by the applicant and verified by the zoning administrator.
2. Where the Planning Commission requires a performance guarantee, said performance guarantee shall be deposited with the village treasurer prior to the issuance of a zoning permit. The village shall deposit the performance guarantee, if in the form of a cash deposit, certified check, or performance bond in an interest-bearing account.
3. An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of the issuance of the building permit.
4. In the event the performance guarantee deposited is a cash deposit or certified check, the village shall rebate to the applicant fifty (50) percent of the deposited funds when sixty (60) percent of the required improvements are completed as confirmed by the zoning administrator, and the remaining fifty (50) percent of the deposit funds when one hundred (100) percent of the required improvements are completed as confirmed by the zoning administrator.
5. Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the zoning administrator, the treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
6. In the event the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the village, the village shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the village to complete the improvements for which it was posted, the applicant shall be required to pay the village the amount by which the costs of completing the improvements exceed the amount of the performance guarantee. Should the village use the performance guarantee or a portion thereof to complete the required improvements, any amount remaining after said completion shall be applied first to the village's administrative costs in completing the improvement with any balance remaining being refunded to the applicant. If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the village to ensure completion of an improvement associated with the proposed project prior to the village's approval, the applicant shall not be required to deposit with the village a performance guarantee for that specific improvement. At the time the performance guarantee is deposited with the village and prior to the issuance of a building permit, the applicant shall enter into an agreement incorporating the provisions hereof with the village regarding the performance guarantee.

## **SECTION 12.11 PUBLIC HEARING NOTICES**

Whenever a notice is required for a public hearing such as a rezoning, SLU, or variance, the following notice requirements shall be complied with.

Misc. Provisions  
General Requirements  
Nonconforming  
Special Land Uses  
Zoning Board of Appeals

Definitions  
Sign Regulations  
Landscaping  
Site Plan Review  
Amendments

District Regulations  
Parking/Loading/Access  
Condominiums  
Administration  
Design Standards



1. A minimum of fifteen (15) days' notice shall be provided in a newspaper of general circulation in the village.
2. A minimum of fifteen (15) days' mailed notice will be provided to each public utility company and to each railroad company owning or operating any public utility or railroad within zoning districts affected that registers its name and mailing address with the village for the purpose of receiving the notice. An affidavit of mailing shall be maintained.
3. A minimum of fifteen (15) days' mailed notice will be provided to the applicant.
4. In the case of a hearing related to a specific parcel or parcels such as a SLU, rezoning, or variance, a minimum of fifteen (15) days' mailed notice will be provided to:
  - a. The owner or owners of the property or properties in question, as well as all the owners and occupants of property within three hundred feet (300') of the parcel as identified in the most recent tax roll of the village.
  - b. The manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure, in the case where a single structure contains more than four (4) dwelling units or other distinct spatial areas owned or leased by different persons.
  - c. Owners and residents of property within three hundred feet (300') of the parcel located outside the Village.
  - d. Cato Township Planning Commission if the subject parcel is within ½ mile of the township boundary with the village.
5. The notices shall include the following information.
  - a. The nature of the request to be heard.
  - b. Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
  - c. When and where the request will be considered.
  - d. The date, time, and location of the hearing.
  - e. When and where written comments will be received concerning the request.
  - f. When and where a copy of the application can be reviewed.

## **SECTION 12.12 CONDITIONS**

The Planning Commission and ZBA may impose such conditions or limitations in granting approval of discretionary decisions, as may be permitted by State Law and this Ordinance, which it considers necessary to fulfill the spirit and purpose of this Ordinance. The conditions may include conditions necessary to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions shall meet the following criteria:

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1. There is a reasonable connection between the condition imposed and the impact it is mitigating; and
2. There is a rough proportionality between the scope of the proposed condition in relationship to the impact to be mitigated.

## **Chapter 13 Zoning Board of Appeals**

### **SECTION 13.01 AUTHORITY**

As authorized by the Michigan Zoning Enabling Act, PA 110 of 2006, as amended, there is hereby established a Zoning Board of Appeal (ZBA) for the Village of Lakeview.

### **SECTION 13.02 BOARD MEMBERSHIP**

The ZBA membership shall be as follows:

1. The ZBA shall consist of five (5) members appointed by the Village Council. One (1) member shall be a member of the Village Council. One (1) member shall be a member of the Planning Commission. The remaining members and any alternate members shall be electors who are not employees or contractors of the Village.
2. Two (2) alternate members may also be appointed to the ZBA. An alternate member may be called to serve on the ZBA if a regular member is absent or if a regular member has abstained for reasons of conflict of interest. An alternate member who participates in a public hearing shall continue to serve for that case until a final decision is made.

### **SECTION 13.03 TERMS OF OFFICE**

Each member and alternate member shall be appointed for staggered terms of three (3) years, except that the term of office of the members who are also members of the Village Council or Planning Commission shall end if their membership on the Village Council or Planning Commission ends. All terms of office shall expire on December 31<sup>st</sup> of the year in which the term ends. A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. Vacancies for unexpired terms shall be filled for the remainder of the term.

### **SECTION 13.04 RULES OF PROCEDURES**

The ZBA, shall adopt rules of procedure, copies of which shall be made available to the public at the village office. These rules of procedures shall include provisions that define conflict of interest and outline how it is determined if a member has a conflict of interest, and the process for a member to exclude themselves from consideration and deciding on a case when they have a conflict of interest.

### **SECTION 13.05 JURISDICTION**

The ZBA, in conformity with the provisions of this ordinance and of Michigan Zoning Enabling Act, PA 110 of 2006, as amended, shall act upon all questions as they arise in the administration of this zoning ordinance including:

1. Interpretation of the zoning map.
2. Interpretation of the zoning text.
3. Appeals of any decision of an official or body charged with the administration of the zoning ordinance including decisions by the Planning Commission on Special Land Use (SLU) requests.
4. Issuance of a variance to deviate from the requirements of this zoning ordinance.

### **SECTION 13.06 INTERPRETATION OF THE ZONING MAP**

The ZBA shall consider any questions concerning the location of zoning district boundaries or other issues related to the map. In exercising this authority, the ZBA shall use the following standards:

1. The ZBA shall use the rules for interpretation of zoning district boundaries found in Section 3.03 of this ordinance.
2. The ZBA's review is to determine what the property is zoned, not what they believe it should be zoned and shall not take actions that constitute a rezoning of property.

### **SECTION 13.07 INTERPRETATION OF THE ZONING TEXT**

The ZBA shall consider any questions concerning the zoning ordinance provisions. The Planning Commission has the initial authority regarding the classification of uses, but such decisions can be appealed to the ZBA. In exercising this authority, the ZBA shall use the following standards.

1. The ZBA shall use the rules for interpretation of terms found in Section 2.01 of this ordinance.
2. The ZBA's review is to determine the intention of the Planning Commission and Village Council in drafting and adopting the ordinance language and not what they believe it should say. The ZBA shall not take actions that constitute a change in the meaning of the text.

### **SECTION 13.08 APPEAL OF ADMINISTRATIVE DECISIONS**

An appeal from any ruling of the zoning administrator or other administrative officer or body administering any portion of this ordinance may be requested by any person or any governmental department affected or aggrieved, including decisions by the Planning Commission regarding Special Land Uses. The appeal must be filed by submitting an application for appeal and the required fee not more than 21 days after the date of the decision being appealed. An appeal taken to the Board shall stay all proceedings in furtherance of the action appealed, unless the zoning administrator certifies to the Board of Appeals after notice of appeal that a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the ZBA or by the Circuit Court on application, after notice to the zoning administrator. In exercising this authority, the ZBA has the powers of the person or body whose decision is being appealed. The ZBA may reverse in part an administrative decision based on one of the following criteria:

1. The action or decision was arbitrary or capricious, or
2. The action or decision was based on an erroneous finding of a material fact, or
3. The action or decision constituted an abuse of discretion, or
4. The action or decision was based on erroneous interpretation of the zoning ordinance or zoning law.

### **SECTION 13.09 GRANTING OF VARIANCES**

Except as otherwise specifically provided by this ordinance, the ZBA may grant a variance from such provisions of this ordinance as building setback requirements, height and bulk requirements, parking requirements, landscaping requirements, and sign regulations. The ZBA may not grant

use variances. An issuance of a variance shall occur only if the Board finds from reasonable evidence that all of the following facts and conditions exist.

1. The strict enforcement of the non-use provisions of this Ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
2. Granting the variance would do substantial justice to the applicant as well as to other property owners in the district, and a lesser relaxation would not give substantial relief and be more consistent with justice to others.
3. The plight of the owner is due to circumstances unique to the property.
4. The problem that the variance is fixing was created by the owner or their predecessor in title.
5. The requested variance will not be contrary to the spirit and intent of this Zoning Ordinance, public safety, or substantial justice.

### **SECTION 13.10 PROCEDURE**

The following procedure shall be followed for an ordinance interpretation, appeal of an administrative decision, or variance request.

1. An application for a variance, interpretation, or appeal authorized by this ordinance may be taken by any person or governmental department having any legal interest in the property concerned.
2. The ZBA shall not consider any application or appeal without the payment by the applicant to the Village Clerk of a fee, if any, as determined by resolution of the Village Council. Such application or appeal shall be filed with the zoning administrator who shall transmit the same, together with all plans, specifications, and other papers pertaining to the application or appeal, to the ZBA. If the Village of Lakeview Zoning Administrator is the applicant on behalf of the village, there is no fee charged.
3. When an application or appeal has been filed in proper form and with the required data, the Zoning Administrator shall fix a reasonable time for the hearing by the ZBA, not less than 21 days after the filing of the appeal. Any interested party may appear at such hearings in person or by agent or by attorney. For requests such as a variance or appeal involving a specific parcel of land, the Village Clerk shall mail notice of the hearing to the applicant and to all residents or owners of real property within 300 feet of the premises in question, per the provisions of Section 12.11 of this ordinance. For all hearings, a notice shall be published in a newspaper of general circulation per the provisions of Section 12.11 of this ordinance.
4. The Board shall decide all applications and appeals within a reasonable time. A copy of the Board's decision shall be transmitted to the applicant and to the zoning administrator. Such decision shall be binding upon the zoning administrator and be observed by them, and they shall incorporate the terms and conditions of the same in the permit to the applicant whenever a permit is authorized by the Board.
5. Vote to approve. The concurring vote of a majority of the members of the ZBA shall be necessary to reverse an administrative decision, to grant a variance, or otherwise decide in favor of the applicant on a matter they are authorized to decide upon.
6. Minutes. The ZBA shall keep minutes of its proceedings which shall record all of the following:

Misc. Provisions  
General Requirements  
Nonconforming  
Special Land Uses  
Zoning Board of Appeals

Definitions  
Sign Regulations  
Landscaping  
Site Plan Review  
Amendments

District Regulations  
Parking/Loading/Access  
Condominiums  
Administration  
Design Standards

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- a. Any action or decision of the ZBA and the vote of each member.
  - b. The absence or failure of a member to vote.
  - c. Any other official action.
7. Conditions. In granting approval of an application, the ZBA may impose conditions in compliance with the provisions of Section 12.12 of this ordinance.
8. Performance Guarantee. In granting approval of an application, the ZBA may require performance guarantees to ensure that specified improvements are completed in compliance with the provisions of Section 12.10 of this ordinance.
9. Records. All records shall be filed promptly in the office of the village clerk and shall be a public record.
10. Rehearing. The ZBA may conduct a rehearing on a case when ordered by a court, there is evidence that the ZBA made the decision based on false or fraudulent information, or there is evidence that a serious error was made in applying the zoning ordinance to the request including a serious procedural error. A rehearing shall be:
  - a. Preceded by a notice as required by the original hearing with the added requirement that a notice that this is a rehearing of the previous decision.
  - b. Be conducted at the next regular or special meeting that notice requirements permit.
  - c. Be concluded by a person who voted on the original request who makes a motion to repeal the original decision and replace it with a new decision or sustain the original decision.
  - d. Except in the case of a rehearing ordered by a court, the rehearing must be initiated by a person with standing in the original decision (the applicant, property owner, or a person required to receive notice of the original hearing) within 30 days of the date of the public hearing, or by the Zoning Administrator in the case of a finding of a serious procedural error.
11. Appeal of ZBA Decision. Any person aggrieved by the decision of the ZBA in granting or denying a request may appeal the decision to Circuit Court.
12. Resubmission. An applicant may not resubmit an application for one (1) year following a decision unless a change in circumstances or new facts relevant to the decision are presented.
13. Expiration. Approval of a variance expires one (1) year after its approval unless the applicant has undertaken construction or use of the property in reliance of the variance.

## **Chapter 14 Amendments**

### **SECTION 14.01 PURPOSE**

1. A proposal for an amendment to the zoning ordinance text may be initiated by the Village Council, Planning Commission or property owner, upon filing with the Village Clerk a resolution duly adopted identifying the proposed amendment.

### **SECTION 14.02 CHANGES AND AMENDMENTS**

1. A proposal for an amendment to the zoning ordinance text may be initiated by the Village Council or Planning Commission upon filing with the Village Clerk a copy of a motion authorizing the amendment and the text of the proposed amendment. A text amendment may also be initiated by a property owner, provided the amendment affects their property and they file the request on a form and any fee approved by the Village Council and copy of the proposed amendment with the Village Clerk. An amendment is considered to affect an applicant's property if it impacts the zoning district their property is located in, or it deals with a general provision or other regulations that impact the applicant's property.
2. Any proposal for an amendment to the zoning map (i.e., to rezone a parcel) may be initiated by the Village Council or Planning Commission, upon filing with the Village Clerk a copy of a motion identifying the proposed parcels and new zoning classification, or by the owner of that parcel or a person with written permission of the owner by filing the following with the Village Clerk:
  - a. An application for rezoning.
  - b. A map at a scale of not less than 1"=50' showing the subject parcel in relation to adjoining parcels of land.
  - c. The fee established by the Village Council for such zoning change.
  - d. If the applicant is submitting a conditional rezoning request as authorized under Section 405 of the Michigan Zoning Enabling Act, the application will include the conditions proposed.

### **SECTION 14.03 AMENDMENT REVIEW PROCESS**

1. The Village Clerk shall give notice of the time and place of the Planning Commission public hearing as outlined in Section 12.11 Public Hearing Notices
2. At the public hearing where the proposed zoning ordinance amendment is considered, the Planning Commission shall provide the public and the applicant with a reasonable opportunity to comment on the proposal.
3. Following the public hearing, the Planning Commission shall consider the request. At the meeting, the Planning Commission may recommend approval, denial or postpone the request for further study. In making a recommendation on the proposed amendment, the Planning Commission shall consider the standards for zoning amendments included in Section 14.04 of this ordinance.
4. The Planning Commission shall provide a record of the public hearing concerning the proposed amendment, and a written recommendation based on criteria in Section 14.04, to the Village Council for their consideration.

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5. At the next regularly scheduled Village Council meeting following receipt of the Planning Commission's report, the Village Council shall consider the proposed amendment and may take the following actions on a zoning amendment.
  - a. Approve the proposed amendment. Approval requires an affirmative vote of a majority of the members of the Village Council.
  - b. Deny the request.
  - c. Hold a public hearing on the matter before making the decision. If the Village Council chooses to hold a public hearing on the proposed amendment, it shall have provided notice of the hearing to the public, meeting the requirements of Section 12.11 Public Hearing Notices.
  - d. Consider changes to the proposed amendment. The Village Council may only choose to revise an amendment it has initiated. It may consider changes initiated by a property owner with the property owner's agreement. If it proposes to make changes to an amendment initiated by the Planning Commission, it shall resubmit the amendment to the commission and provide it with 30 days to comment before taking action.
  - e. Table the request for further information.
6. Before making a decision on a proposed amendment, the Village Council shall grant a hearing to an interested property owner who requests a hearing by certified mail, addressed to the Village Clerk. A hearing under this subsection does not require notice per Section 12.11 Public Hearing Notices, except for notice to the interested property owner by mail at least 15 days prior to the hearing.
7. Upon presentation of a protest petition meeting the requirements of this subsection, an amendment to a zoning ordinance which is the object of the petition shall be passed only by a two-thirds (2/3) vote of the Village Council. The protest petition shall be presented to the Village Council before final legislative action on the amendment, and shall be signed by one of the following:
  - a. The owners of at least twenty (20) percent of the area of land included in the proposed change.
  - b. The owners of at least twenty (20) percent of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change.
  - c. Publicly-owned land shall be excluded in calculating the twenty (20) percent land area requirement.
8. Following adoption of the zoning amendment, one (1) notice of adoption shall be published in a newspaper of general circulation in the village within fifteen (15) days of adoption. The notice shall include:
  - a. A summary of the regulatory effect of the amendment or the actual text of the amendment.
  - b. The effective date of the ordinance.
  - c. The place and time where a copy of the ordinance may be purchased or inspected.
9. In the case of an approved conditional rezoning request, the village shall record an affidavit signed by the Planning Commission Chairperson and the zoning applicant outlining the

Misc. Provisions  
General Requirements  
Nonconforming  
Special Land Uses  
Zoning Board of Appeals

Definitions  
Sign Regulations  
Landscaping  
Site Plan Review  
Amendments

District Regulations  
Parking/Loading/Access  
Condominiums  
Administration  
Design Standards



approved conditions including the length of time the conditions apply. If the approved time frame expires without the property owner meeting the conditions, the village may initiate rezoning of the property.

#### **SECTION 14.04 STANDARDS FOR APPROVAL**

1. In the case of a proposal to amend the zoning ordinance text, the Planning Commission must find:
  - a. The change is necessary to clarify a provision of the ordinance, or
  - b. The change is necessary to correct a mistake in the ordinance, or
  - c. The change is necessary to implement a goal or policy of the village master plan, or
  - d. The change is necessary to improve administration of the ordinance or to better serve the community.
  - e. In addition to one (1) or more of the above findings, the Planning Commission must determine that the requested amendment is consistent with the village master plan or that a mistake in the plan, or changes in conditions or village policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not consistent with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
2. In the case of a proposed zoning map amendment (rezoning), the Planning Commission must find one of the following:
  - a. The requested amendment is consistent with the village master plan or that a mistake in the plan, or changes in conditions or village policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not consistent with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
  - b. The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the village master plan.

#### **SECTION 14.05 CONDITIONAL REZONING AGREEMENTS**

1. Authority. The Village Council may, after a public hearing by the Village Planning Commission, enter into an agreement with a property owner to rezone property pursuant to the authority contained in Michigan Compiled Law Section 125.3405, being part of the Michigan Zoning Enabling Act.
2. Application. Any offer to enter into a conditional rezoning agreement shall be submitted along with a rezoning application as outlined in Section 14.02. If the applicant is not the property owner, then the property owner must sign-off on any proposed conditions. Proposed rezoning agreements may only be initiated by a property owner/applicant and not by the Village.
3. Pre-Hearing Meeting. Prior to a public hearing by the Planning Commission on a conditional rezoning, a pre-hearing meeting shall be scheduled between the applicant and the Planning

Commission. At the pre-hearing meeting, the applicant shall fully explain the conditions being proposed..

4. Public Hearing and Recommendation. After due notice, a public hearing in compliance with all regular procedural rezoning requirements shall be conducted by the Planning Commission as to the proposed rezoning agreement. The Commission shall subsequently adopt recommendations as to the approval, approval with revisions, or denial of the proposed rezoning agreement.
5. Village Council. Upon receipt of the recommendations of the Village Planning Commission, the Village Council shall undertake consideration of the proposed rezoning agreement. Any decision by the Village Council which results in a rezoning agreement shall be incorporated in a written document duly executed by the Village Council and the property owner. The proposed agreement shall be reviewed for legal sufficiency by the Village Attorney before final approval. Any such agreement shall be recorded with the Register of Deeds and shall run with the land. The Village shall either record the agreement or shall receive verification that the applicant has recorded the agreement.
6. Standards for Decision. In deciding whether or not to approve a proposed rezoning agreement, the Planning Commission and the Village Council shall base their decisions on the following factors:
  - a. The terms of the offer must be reasonably related to the property covered in the agreement.
  - b. The proposed land use must be designed in such a way as to be compatible with surrounding land uses.
  - c. The proposed land use must be consistent with the goals and policies of the Village, including the Village Master Plan.
7. Limitations on Agreements. A rezoning agreement shall not be used to allow any land uses which would not otherwise be permitted in the proposed new zoning district. The agreement does not guarantee any subsequent zoning approvals by the Planning Commission or ZBA such as variances or site plans. Any agreement shall include a specific time period during which the terms of the agreement must be completed.
8. Zoning Reversion. If the terms of a zoning agreement are not fulfilled within the time specified in the agreement, the Village Council shall initiate a proposed rezoning to revert the property back to the original classification.

## **Chapter 15 Design Standards**

### **SECTION 15.01 ACCESSORY SOLAR ENERGY SYSTEM**

1. Accessory solar energy system – General requirements
  - a. It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.
  - b. Solar energy collectors and racking shall be dull or dark in color, non-glossy, and substantially non-reflective of light. This shall not create a nuisance to adjacent dwelling units
  - c. The installation of any solar panel (private or commercial) shall not negatively impact adjacent properties with additional or excessive storm water runoff and/or drainage.
  - d. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to building official/inspector prior to installation.
2. Accessory solar energy system – Structure mounted
  - a. Solar energy collectors shall not project more than two (2) feet above the highest point of a roof or exceed maximum building height limitations allowed in that zoning district.
  - b. Solar energy collectors shall not project more than two (2) feet above the highest point of a roof or exceed maximum building height limitations allowed in that zoning district.
  - c. Solar energy collectors that are mounted on a roof shall not be located within three (3) feet of any peak, eave, or valley to maintain adequate accessibility .
3. Accessory solar energy system – Ground mounted
  - a. Solar energy collectors are permitted in rear and side yards.
  - b. Ground mounted solar energy collectors shall not exceed thirty (30) percent of the rear yard.
  - c. Ground-mounted solar energy collectors shall not exceed nine (9) feet in height measured from ground level to the highest point of the solar panel.
  - d. All ground-mounted solar energy collectors shall be regulated as an accessory structure and shall meet all applicable accessory building requirements of this ordinance.
  - e. Installation/Review. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to building official/inspector prior to installation. Building official/inspector approval is required.

### **SECTION 15.02 ACCESSORY WIND ENERGY SYSTEM**

1. Wind generators may be permitted in the rear yards of residentially zoned property provided:
  - a. The highest point of any portion of the generator shall not exceed thirty-five (35) feet above the average grade of the lot.

- b. The generator device shall be placed no closer to any side or rear lot line than the total distance between the grade of the lot at the base of the tower and the highest point of any portion of the generator.
  - c. The maximum diameter formed by a circle encompassing the outermost portions of the blades or other wind activated surfaces shall not exceed thirty (30) percent of the distance between the ground and the highest point of any portion of the wind generator. The generator shall be so located that no portion of the structure would penetrate the vertical plane of any adjacent property line if it were to topple over in its normally assembled configuration.
  - d. The construction of the tower's blades, base structure, accessory building, and wiring shall meet all applicable local building codes and ordinances.
2. Wind generators may be permitted on the roofs of principal structures of any property provided:
- a. Height. The height of a structure mounted wind generator shall not exceed fifteen (15) feet as measured from the highest point of the roof, excluding chimneys, antennae, and other similar protuberances.
  - b. Setback. The setback of the structure mounted wind generator shall be a minimum of fifteen (15) feet from the property line, public right-of-way, public easement, or overhead utility lines if mounted directly on a roof or other elevated surface of a structure. If the structure mounted wind generator is affixed by any extension to the side, roof, or other elevated surface, then the setback from the property line or public right-of-way shall be a minimum of fifteen (15) feet. The setback shall be measured from the furthest outward extension of all moving parts.
  - c. Location. The structure mounted wind generator shall not be affixed to the wall on the side of a structure facing a road.
  - d. Quantity. No more than three (3) structure mounted wind generator shall be installed on any parcel of property.
  - e. Separation. If more than one structure mounted wind generator is installed, a distance equal to the height of the highest structure mounted wind generator must be maintained between the furthest outward extension of any moving part of each structure mounted wind energy system.
3. Wind generators may be permitted in the rear yard, or non-required front or side yard of a commercial or industrially zoned property provided:
- a. The highest point of any portion of the generator shall not exceed sixty-five (65) feet above the average grade of the lot.
  - b. The generator device shall be placed no closer to any side or rear lot line than the total distance between the grade of the lot at the base of the tower and the highest point of any portion of the generator.
  - c. The maximum diameter formed by a circle encompassing the outermost portions of the blades or other wind activated surfaces shall not exceed thirty (30) percent of the distance between the ground and the highest point of any portion of the wind generator. The generator shall be so located that no portion of the structure would penetrate the vertical

plane of any adjacent property line if it were to topple over in its normally assembled configuration.

### **SECTION 15.03 ADAPTIVE REUSE**

In order to grant an adaptive reuse special land use approval, the Planning Commission shall find:

1. That the property is functional obsolete, which would include uses for which there is no longer a market demand in the village or where the building or site no longer meets the needs that the use has under current market conditions or the use can no longer be reasonably continued for its existing purpose by reason of market conditions or operational constraints (i.e., limited site size, floor area deficiencies, parking or loading area, etc.);
2. Site redevelopment in accordance with the village zoning ordinance would be unnecessarily burdensome by reason of ordinance compliance (restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot) or cost;
3. The principal structure has not been destroyed by any means to the extent of more than 50 percent of its replacement cost at time of destruction. Any subsequent use of such land shall conform to the regulations of the zoning district in which it is located.
4. The proposed use can be conducted in a manner that is consistent with the uses in the surrounding area.
5. The Planning Commission may impose conditions necessary to ensure that consistency including changes to the site layout, parking, screening, lighting, hours of operation and other development or operational requirements.
6. The Planning Commission shall determine the parking requirement for the proposed adaptive reuse at the time of approval.
7. In areas meeting the criteria set out in this section, zoning district development standards including the range of uses allowed, setbacks, lot coverage and parking requirements may be modified by the Planning Commission upon finding adequate evidence that the proposed use:
  - a. Will be compatibly designed, constructed, and maintained with the existing and intended character of the vicinity;
  - b. Will not be hazardous or disturbing to existing or future neighboring uses;
  - c. Will be served adequately by essential public services and facilities, or the agencies responsible for the establishment of the proposed use will be able to adequately provide for such services; and
  - d. Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare.

### **SECTION 15.04 HOME OCCUPATION – HIGH INTENSITY**

1. The non-residential use shall only be incidental to the primary residential use.
2. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference to the extent that it creates a nuisance for nearby residences. In the case of electrical interference, no equipment or process shall

be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

3. The home occupation shall employ no more than one (1) person other than those members of the immediate family residing on the premises.
4. The majority of all activities shall be carried on indoors. No visible outdoor storage will be permitted.
5. Any change in the exterior appearance of the building or premises or other visible evidence of the conduct of the home occupation shall be minimal and shall not detract from the residential character of the area.
6. No traffic shall be generated by such home occupation in greater volumes than would significantly exceed that normally expected in a residential neighborhood, and adequate off-street parking will be provided in an appropriate location.

#### **SECTION 15.05 HOME OCCUPATION – LOW INTENSITY**

1. The non-residential use shall only be incidental to the primary residential use.
2. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
3. The home occupation shall not employ persons other than those members of the immediate family residing on the premises.
4. The majority of all activities shall be carried on indoors. No visible outdoor storage will be permitted.
5. There shall be no change in the exterior appearance of the building or premises or other visible evidence of the conduct of such home occupation other than a sign as permitted under this Ordinance.
6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

#### **SECTION 15.06 SINGLE-FAMILY DWELLINGS**

All single-family dwellings outside of mobile home parks shall comply the following:

1. Complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
2. Has a minimum width across any front, side, or rear elevation of twenty (20) feet and complies in all respects with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code, then and in that event such federal or state standard or regulations shall apply.

3. Is 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 of the dwelling and constructed of 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 be installed pursuant to the manufacturer's setup 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 and shall have a perimeter wall as required above.
4. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanisms, undercarriage, or chassis.
5. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Gladwin County Health Department.
6. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
7. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively, with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two exterior doors with the second one being in the rear or side of the dwelling; and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals as provided for in Section 13.08. Any determination of compatibility shall be based upon the standards set forth in this definition of "dwelling" as well as the character, design, and appearance of one or more residential dwellings located outside of mobile home parks throughout the village. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
8. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
9. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

10. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by state or federal law or otherwise specifically required in the ordinance of the village pertaining to such parks.
11. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code as promulgated by the Michigan State Construction Commission under the provisions of the of the 1972 PA 230 as amended.

#### **SECTION 15.07 TELECOMMUNICATION ANTENNAE**

1. Application Information.

In addition to the information required for a site plan, the following additional information is required where applicable

- a. Documentation from an engineer demonstrating compliance with the standards in subsection 4 below.
  - b. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed transmission tower, antennas, and ancillary facilities from at least four (4) points within a three (3) mile radius. Such points shall be chosen by the applicant with review and approval by the Village Zoning Administrator to ensure that various potential views are represented.
  - c. A statement providing the reasons for the location, design, and height of the proposed antennas.
2. Noise Reduction. When the adjacent property is zoned residentially or occupied by a dwelling, medical facility, school, library, or nursing home, noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to 45 decibels. In all other locations, noise shall be regulated by application of ordinances.
3. When antennas are proposed to be placed on structures other than previously approved towers, the approval of such a structure for that purpose shall require SLU approval to ensure the antenna and any associated equipment shall not impact the character of the surrounding area.
4. The proposed tower shall be certified as capable of supporting the estimated weight of the proposed antennas including potential collocation.

#### **SECTION 15.08 TELECOMMUNICATION TOWER**

1. Application Information.

In addition to the information required for a site plan, the following additional information is required where applicable

- a. All of the applicable information required for a collocation request.
- b. The capacity of the transmission tower in terms of the number and type of antennas it is designed to accommodate.



- c. A signed agreement stating that the applicant will allow collocation with other users, provided all safety, structural, and technological requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the transmission tower.
- d. The names, addresses, and telephone numbers of all owners of other transmission towers or usable antenna support structures within a one-half (1/2) mile radius of the proposed new transmission tower site, including Village-owned property.
- e. An affidavit attesting to the fact that the applicant made diligent, but unsuccessful efforts for permission to install or collocate the applicant's telecommunications facilities on Village-owned facilities or usable antenna support structures or transmission towers owned by other persons located within a one-half (1/2) mile radius of the proposed transmission tower site.
- f. Written, technical evidence from an engineer(s) that the proposed transmission tower or telecommunications facilities cannot be installed or collocated on another person's transmission tower or usable antenna support structure located within a one-half (1/2) mile radius of the proposed transmission tower site because of the coverage requirements of the applicant's communications system.
- g. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed transmission tower, antennas, and ancillary facilities from at least four (4) points within a three (3) mile radius. Such points shall be chosen by the applicant with review and approval by the Village Planner to ensure that various potential views are represented.

## 2. Standards for Transmission Towers and Antennas

- a. Separation. No transmission tower may be constructed within one-half (1/2) mile of any existing transmission tower. Tower separation shall be measured by following a straight line from the portion of the base of the proposed transmission tower which is closest to the base of any pre-existing transmission tower. For purposes of this paragraph, an existing tower shall include any transmission tower for which the Village has issued a building permit, or for which an application has been filed and not denied. Transmission towers constructed or approved prior to the adoption of this Ordinance may be modified to accommodate additional providers consistent with provisions for collocation in this section.
- b. Height. The maximum height of transmission including antennas, is one hundred fifty (150) feet.
- c. Collocation. It is the policy of the Village to minimize the overall number of newly established locations for wireless communication facilities and wireless communication support structures within the Village and to encourage the use of existing structures for attached wireless communication facilities.
  - 1) Collocation shall be required unless an applicant demonstrates that collocation is not feasible. Collocation shall be deemed feasible for the purpose of this article where all of the following are met:

- a) The wireless communication provider or property owner where collocation is proposed will accept market rent or other market compensation for collocation and the wireless communication provider seeking the facility will pay such rates.
  - b) The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
  - c) The collocation being considered is technically reasonable, e.g. the collocation will not result in unreasonable interference, given appropriate physical and other adjustments in relation to the structure, antennas and the like.
- 2) New transmission towers shall be designed to accommodate collocation of additional providers.
- a) New transmission towers of a height of one hundred (100) feet or more shall be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification to the transmission tower.
  - b) New transmission towers of a height of at least sixty (60) feet and no more than one hundred (100) feet shall be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification to the transmission tower.
- d. Penalties for not permitting collocation. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to alter a structure to accommodate a proposed and otherwise feasible collocation such facility shall thereupon and thereafter be deemed to be a nonconforming structure and use, and shall not be altered, expanded, or extended in any respect. In addition, if a party refuses to allow collocation in accordance with the intent of the Article and, this action results in construction of a new tower, the Village may refuse to approve a new wireless communication support structure from the party for a period of up to five (5) years. Such a party may seek and obtain a variance from the Zoning Board of Appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five-year prohibition would unreasonable discriminate amount providers of functionally equivalent wireless communication services or that such enforcement would have the effect of prohibiting the provision of personal wireless communication services.
- e. Setback. The transmission tower shall be set back from adjacent property lines and rights-of-way a minimum number of feet that is equal to the height of the transmission tower unless a waiver is granted as provided for elsewhere in this section.
- f. Buffering. In all zoning districts in which telecommunication towers are allowed by special permit, existing vegetation shall be preserved to the maximum extent possible. Landscaping shall be placed completely around the outer boundary of the transmission tower and ancillary facilities located at ground level except as required to access the facility. Such landscaping shall consist of evergreen vegetation with a minimum planted height of six (6) feet placed densely so as to form a screen. Landscaping shall be compatible with other nearby landscaping and shall be kept healthy and well maintained. Landscaping shall be installed on the outside of any fencing.

- g. Lighting. Transmission towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). In cases where there are residential uses located within a distance which is three hundred percent (300%) of the height of the transmission tower from the transmission tower, and when required by federal law, dual mode lighting shall be requested from the FAA.
- h. Color. The transmission tower and attached antennas shall be unpainted galvanized steel or painted neutral colors or such shades as are appropriate and compatible with the surrounding environment, as approved by the Village.
- i. Display. No signs, striping, graphics, or other attention getting devices are permitted on the transmission tower or ancillary facilities except for warning and safety signage with a surface area of no more than three (3) square feet. Such signage shall be affixed to a fence or ancillary facility and the number of signs is limited to no more than two (2).
- j. The facility shall comply with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC).
- k. The proposed tower shall be certified as capable of supporting the estimated weight of the proposed antennas including potential collocation.

### 3. Waiver

Any waiver to the requirements of these standards shall be granted only pursuant to the following provisions.

- a. The Village Planning Commission may grant a waiver from the provisions of Section 15.08.2 providing the applicant demonstrates that
  - 1) It is technologically impossible to locate the proposed transmission tower on available sites more than one-half (1/2) mile from a pre-existing transmission tower and still provide the approximate coverage the transmission tower is intended to provide.
  - 2) The pre-existing transmission tower that is within one-half (1/2) miles of the proposed transmission tower cannot be modified to accommodate another provider; and
  - 3) There are no available buildings, light or utility poles, or water towers on which antennas may be located and still provide the approximate coverage the transmission tower is intended to provide.
- b. The Village Planning Commission may grant a waiver to the setback requirements of Section 15.08.2 upon finding that stealth design, proposed landscaping, configuration of the site, or the presence of mature trees obviates the need for compliance.
- c. The Village Planning Commission may grant a waiver to the height limitations listed in Section 15.08.2 if the applicant shows, through written documentation provided by an engineer, that the proposed height is the minimum height needed to meet service needs and to accommodate future collocations per this Section.

## SECTION 15.09 USES NOT LISTED

- 1. This Ordinance acknowledges that all potential uses of land cannot be specifically identified in the zoning districts. A land use which is not cited by name in a zoning district may be permitted upon determination by the Planning Commission that the use is clearly similar in nature and compatible with the principal uses permitted, or as a permitted accessory use listed

in that district. This determination shall be made at a public hearing, with required notice given. The applicant shall be required to submit pertinent information on the physical and operational characteristics of the proposed use and any additional information that may be requested by the Planning Commission. In making a determination of similarity and compatibility with the listed uses in that district, the Planning Commission shall consider the following:

- a. **Determination of Compatibility.** In making the determination of compatibility, the Planning Commission shall consider specific characteristics of the use in question and compare such characteristics with those of the uses which are expressly permitted by right in various district. Such characteristics shall include, but are not limited to, traffic generation, generation of nuisances, parking, types of service offered, types of goods produced, methods of operation, and building characteristics.
  - b. **Classification of Use.** If the Planning Commission determines that the proposed use is compatible with permitted uses in one or more districts, the Planning Commission shall decide whether the proposed use is most similar to those permitted by right, as a special land use, or as a permitted accessory use. If it is determined to be most similar to those permitted by right, or as a permitted accessory use it may approve a classification of such use. If it is determined to be most like a use by special land use, it shall refer it determination to the City Council, who may authorize the initiation of a text amendment to add the use to the appropriate districts in the Table of Uses. The proposed use shall be subject to the review and approval requirements for the district in which it is located. The Planning Commission shall have the authority to establish additional standards and conditions under which a use may be permitted in a district.
  - c. **Use Provided for in Other District.** No use shall be classified under this process if that use is specifically listed as a use permitted by right or as a special land use in any other district.
  - d. **Prohibited Uses.** Certain uses may not be appropriate within the Village given the existing development pattern, environmental conditions, and overall character in the community and some uses may be listed as “prohibited” in the Table of Uses to clearly document the Village Council’s determination that the use is not appropriate. In finding that there is no appropriate location for the use within the Village, the Planning Commission shall consider the following:
    - 1) The land area required by the proposed use.
    - 2) Existing environmental conditions and potential environmental hazards.
    - 3) The potential impact on surrounding properties in terms of traffic, noise, lighting, property valuation, and views.
    - 4) Demand and capacity of utilities and municipal services to support the proposed use.
2. **Report to the Village Council.** In the event that the Planning Commission determines that the use is only similar to uses permitted as special land uses in the ordinance, or they believe the use may be inappropriate for the Village, it shall submit a report to the Village Council outlining its determination. The Council may then initiate an amendment to the zoning ordinance to classify the use as permitted by special land use in one or more districts, or to classify a use as “prohibited.”

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3. The determination by the Planning Commission on a classification initiated by the resident or property owner, by the Zoning Administrator or the Planning Commission may be appealed to the Zoning Board of Appeals.