

Village of Lakeview



Zoning Ordinance

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CHAPTER 1

TITLE

SECTION 1.01 TITLE. This Ordinance shall be known and may be cited as the “Village of Lakeview Zoning Ordinance.”

CHAPTER 2

PURPOSE, SCOPE, AND LEGAL BASIS

SECTION 2.01 PURPOSE. This Ordinance is designed (1) to promote the public health, safety, and general welfare; (2) to encourage the use of land in accordance with its character and adaptability and limit the improper use of land; (3) to conserve natural resources and energy, to meet the needs of the State's citizens for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; (4) to insure that uses of land shall be situated in appropriate locations and relationships; (5) to avoid the overcrowding of population; (6) to provide adequate light and air; (7) to lessen congestion on the public roads and streets; (8) to reduce hazards to life and property, (9) to facilitate the adequate provision of a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements, and (10) to conserve the expenditure of funds for public improvements and services so as to obtain the most advantageous uses of land, resources and properties. This Ordinance is adopted with reasonable consideration, among other things, of the uses, the character of each zoning district, its peculiar suitability for particular uses, the conservations of property values and natural resources, and the general and appropriate trend and character of land, building and popular development.

SECTION 2.02 SCOPE AND INTERPRETATION. This Ordinance shall not repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances, or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the Village is a party. Where this Ordinance imposes greater restrictions, limitations, or requirements upon (1) the use of buildings, structures, or land; (2) the height of buildings or structures; (3) lot coverage; (4) lot areas; (5) yards or other open spaces; or (6) any other use or utilization of land than are imposed or required by such existing laws, ordinances, regulations, private restrictions, or restrictive covenants, the provisions of this Ordinance shall control.

SECTION 2.03 LEGAL BASIS. This Ordinance is enacted pursuant to Michigan Act 207 of 1921, as amended.

CHAPTER 3

DEFINITIONS

SECTION 3.01 RULES APPLYING TO TEXT. The following listed rules of construction apply to the text of this Ordinance.

- (a) The particular shall control the general.
- (b) With the exception of this Chapter, the heading which title a chapter, section, or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provision of this Ordinance in any respect.
- (c) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- (d) Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- (e) A “building” or “structure” includes any part thereof.
- (f) The word “person” includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as a natural person.
- (g) The words “used” or “occupied”, as applied to any land or building, shall be construed to include the words “intended”, “arranged”, or “designed to be used”, or “occupied”.
- (h) Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.
- (i) Any dispute over language contained in the Zoning Ordinance may be resolved under Chapter 17 pertaining to zoning authority and procedure before the Board of Appeals.

The following listed terms and words are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

SECTION 3.02 ACCESSORY USE OR STRUCTURE. A use, building or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use, building or structure. In no event shall a truck or school bus body be considered as an accessory use or structure.

SECTION 3.03 ALTERATIONS, STRUCTURAL. Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, and substantial change in the roof, or an addition to or diminution of a structure or building.

SECTION 3.04 AUTOMOBILE REPAIR SHOP OR GARAGE. General repair, rebuilding, or reconditioning of engines, or vehicles, collision service (including body repair and frame straightening), painting or upholstering; or vehicle steam cleaning and undercoating or minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two (2) tons capacity.

SECTION 3.05 AUTOMOBILE SERVICE STATION. Buildings and premises for the primary purpose of the retail sales of gasoline, oil, grease, batteries, tires, and other operational fluids and accessories for the automobile, and the installation of such commodities, and for other minor automobile repair not to include auto refinishing, body work, dismantling of automobiles for the purpose of reuse or resale of parts, or storage of automobiles other than those in for immediate repair or service.

SECTION 3.06 BASEMENT. That portion of a building which is partly or wholly below finished 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.

SECTION 3.07 BED AND BREAKFAST ESTABLISHMENT. A private residence that offers sleeping accommodations to lodgers in fourteen (14) or fewer rooms for rent, in the innkeeper's (owner or operator) principal residence while renting rooms to lodgers; and serves breakfasts at no extra cost to ins lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed and breakfast establishment for fewer than thirty (30) consecutive days.

SECTION 3.08 BERM. A mound of earth graded, shaped and improved with landscaping in such a fashion as to be used for visual and/or audible screening purposes.

SECTION 3.09 BILLBOARDS AND SIGNS.

- (a) Billboard – Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed, or fabricated on such land.
- (b) Business Sign – Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the land where the structure is located, or products primarily sold, manufactured, processed, or fabricated on such land.
- (c) Real Estate Sign – Any temporary structure used only to advertise with pertinent information the sale, rental, or leasing of the premises upon which it is located.
- (d) Identifying Sign – Any structure on the same premises it identifies which serves (1) only to tell the name or se of any public or semi-public building or recreation space, club, lodge, church, or institution; (2) only to tell the name or address of an apartment house, hotel, or motels; or (3) only to inform the public as to the use of a parking lot.
- (e) Name Plate – A structure affixed flat against the wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.

SECTION 3.10 BOARDING HOUSE OR LODGING HOUSE. A dwelling having one or more kitchens and primarily used for the purpose of providing meals or lodging or both meals and lodging for compensation of any kind.

SECTION 3.11 BUILDING. Any structure, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for the purpose of housing, sheltering, storing, or enclosing persons, animals, or personal property, or carrying on business activities. This definition includes: mobile homes, tents, sheds, garages, greenhouses, and other accessory structures. Truck trailers, truck bodies, or bus bodies are not considered to be a building.

SECTION 3.12 BUILDING HEIGHT. In the case of a principal building, the vertical distance measured from the average finished grade to the highest point of flat roofs, to the deck line of mansard roofs, and the average height between eaves and the ridge of gable, hip, and gambrel roofs. The height of an accessory building shall be determined as the distance between the peak and the ground floor of the accessory building.

SECTION 3.13 BUILDING INSPECTOR. An individual appointed by the Village Council delegated to administer the Village of Lakeview Building Code Ordinance.

SECTION 3.14 BUILDING SETBACK LINE. A line which defines the minimum distance (as determined by the minimum front, side, or rear yard setback) which any building, deck, or porch shall be located from a property line, existing street right-of-way, easement line of an approved private street, or ordinary high water mark. Steps may be located within the building setback line. (Ref. Setback)

SECTION 3.15 CHILD CARE CENTER. A facility, other than a private residence, receiving one (1) or more children for 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. Child care center includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. Child care center does not include a Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks, during a twelve (12) month period, or a facility operated by a religious organization where children are cared for not greater than three (3) hours, while persons responsible for the children are attending religious services.

SECTION 3.16 CHURCH. A building, the primary use of which is regular assembly of persons for religious worship or services, together with accessory uses, such as Vacation Bible School, instruction, counseling, recreation, social events, and periodic humanitarian activities.

SECTION 3.17 COMMON OPEN SPACE. An unoccupied area within a development which is reserved primarily for the leisure and recreational use of all the planned unit development residents and generally owned and maintained in common by them, often through a homeowners association.

SECTION 3.18 DENSITY. The number of dwelling units situated on or to be developed per net or gross acre of land.

SECTION 3.19 DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons

while in the motor vehicle rather than within a building or structure, including customer communication facilities for banks or other uses.

SECTION 3.20 DRIVE-THROUGH RESTAURANT. A restaurant in which all or a substantial portion of the business consists of serving foods and beverages in a ready-to-consume state from a drive-through window to patrons in motor vehicles. A drive-through restaurant may or may not also have indoor seating.

SECTION 3.21 DWELLING UNIT. A building, or enclosed portion thereof, designed for occupancy by one (1) family for residential purposes and having independent living, eating, sleeping, cooking, and sanitary facilities. A dwelling unit shall include both manufactured units (mobile homes and modular homes) and site built units.

- (a) Dwelling, Single Family – A detached building designed exclusively for, and containing one (1) dwelling unit only.
- (b) Dwelling, Two Family – A detached building designed exclusively for, and containing two (2) dwelling units only.
- (c) Dwelling, Multi Family – A building designed exclusively for, and containing three (3) or more dwelling units.

SECTION 3.22 DWELLING, EARTH BERMED. A dwelling where the ground floor area is partly below grade to provide climatic, noise, or life safety protection, but is so designed not to include any portion of a basement in the floor area calculation.

SECTION 3.23 DWELLING, EARTH SHELTERED. A dwelling where the ground floor is partly below grade to provide climatic, noise, or life safety protection, but so designed to meet the requirements of the Village Building Code and includes all or part of a basement in the floor area calculations.

SECTION 3.24 EASEMENT. A grant of one or more of the property rights by a property owner to and/or for use by the public, or another person or entity.

SECTION 3.25 ESSENTIAL SERVICES. Essential services shall mean the erection, construction, alteration, or maintenance by public utilities, municipal departments or commissions, or any governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution system, collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of utility service by such public utilities, municipal departments, commission or any governmental agencies, or for the public health, safety, or welfare.

SECTION 3.26 FAMILY.

- (a) An individual or group of two or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants, with not more than one additional

unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or

- (b) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing nontransient domestic character and who are cooking and living as a single nonprofit or 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.

SECTION 3.27 FAMILY DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household in which one (1) but less than seven (7) minor children are received for care and supervision for periods of less than twenty four (24) hours per 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 home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

SECTION 3.28 FLOOR AREA – GROSS. The gross floor area of all floors of a building or an addition to an existing building. For all office buildings and for any other building, except dwelling units where the principal use thereof shall include the basement, the basement floor area shall be included except that part thereof which contains heating and cooling equipment and other basic utilities.

SECTION 3.29 FLOOR AREA – USABLE. For the purposes of computing parking requirements, usable floor area shall be considered as that area 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 or processing of merchandise, hallways, stairways, and elevator shafts, or for utilities for sanitary facilities, shall be excluded from this computation of usable floor area. Usable floor area shall be measured from the interior faces of the exterior walls, and total usable floor area for a building shall include the sum of the usable floor area for all floors.

SECTION 3.30 FOSTER CARE FACILITY. An establishment which provides supervision, assistance, protection, or personal care, in addition to room and board, to persons. A foster care facility is other than a home for the aged or nursing home, licensed under Act No. 139 of the Public Acts of 1956, as amended, or a mental hospital for mental patients licensed under sections 51 and 52 of Act No. 151 of the Public Acts of 1923, as amended.

SECTION 3.31 GRADE. The surface of the earth or finished material located immediately adjacent to the structure.

SECTION 3.32 GROSS SITE AREA. The total area of a development site including flood plains, wetlands, water bodies, and rights-of-way.

SECTION 3.33 GROUP DAY CARE HOME. A private residence in which the operator permanently resides as a member of the household in which more than six (6) but not more than twelve (12) minor children are given care and supervisions for periods of less than twenty four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

SECTION 3.34 HOME OCCUPATION. A gainful occupation traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place. Home occupations may include any profession, vocation, or trade, but shall not include beauty shops, barber shops, nursery schools caring for more than three (3) children, photographic studios, restaurants, retail sales, or vehicle repairs.

SECTION 3.35 HOTEL. A series of attached, semi-detached, or detached rental units which provide lodging on a temporary basis, and are offered to the public for compensation. The term "hotel" shall include tourist cabins and homes, motor courts, and motels. A hotel shall not be considered or construed to be a multiple-family dwelling.

SECTION 3.36 IMPROVEMENTS. Those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of a village and future users or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalks, screening, drainage, parking areas and landscaping.

SECTION 3.37 JUNKYARD. A place where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including wrecked vehicles, used building materials, structural steel materials and equipment, and other manufactured goods that are worn, deteriorated, or obsolete.

SECTION 3.38 KENNEL. Any place where four (4) or more dogs, cats, or other domestic pet animals four (4) months of age or older are kept temporarily or permanently for any reason other than veterinary medicine.

SECTION 3.39 LOT. A parcel of land separated from other parcels of land by description on a recorded plat or by metes and bounds description, including a building site as defined herein as relating to a condominium subdivision; having frontage upon a public or private street and having sufficient size to comply with the requirements of this ordinance for minimum area, setbacks, coverage and open space.

- (a) Area, Lot – The total area encompassed within the lines of a parcel or piece of property, excluding street or road right-of-ways.
- (b) Corner Lot – A lot located at the intersection of two (2) or more streets where the corner interior angle, formed by the intersection of the center lines of the streets, is one hundred thirty-five (135) degrees or less, or a lot abutting upon a curved street or streets if tangents to the curve at the two (2) points where the lot lines meet the centerline curve form an interior angle of one hundred thirty-five (135) degrees or less.
- (c) Depth, Lot – The distance between the front and the rear lot lines, measured along the median between the side lot lines.
- (d) Double Frontage Lot – Any lot, excluding a corner lot, which fronts on two (2) streets which do not intersect.
- (e) Interior Lot – A lot other than a corner lot which, with the exception of a "through lot," has only one lot line fronting on a street.

- (f) Width Lot – The distance between straight lines connecting front and rear lot lines at each side of the lot, provided however, that in determining lot frontage on odd shaped lots if the lot abuts on the outside curve boundary of a curving street and as a result the side lot lines diverge toward the rear, the measurement of width may be taken at the front building line of the principal building; and provided further that if the lot abuts on an inside curve boundary of a curved street wherein the lot lines converge toward the rear, the lot width measurement may be taken at the rear line of the principal building or thirty (30) feet behind the front setback line, parallel to the street or street chord.
- (g) Lot Line, Front – The line(s) separating the lot from any street right-of-way, private road, or other access easement.
- (h) Lot Line, Rear – The lot line opposite and most distant from the front line. In the case of a triangular or otherwise irregularly shaped lot or parcel, an imaginary line ten feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.
- (i) Lot Line, Side – Any lot line other than a front or rear lot line.

SECTION 3.40 MANUFACTURED HOUSING. A dwelling unit which is designed for long-term residential use and is wholly or substantially constructed at an off-site location. Manufactured housing includes mobile homes and modular housing units.

SECTION 3.41 MOBILE HOME OR HOUSE TRAILER. A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on a flat bed or other trailer, and further designed to be occupied as a dwelling without the necessity of further substantial construction or alteration except for incidental assembly, unpacking, foundation work or construction, utility connections, skirting construction, site preparation and other minor work, construction, or installation. In the event of any controversy concerning whether or not a particular unit is included within the foregoing definition, the Board of Appeals shall have the right and authority to determine whether the same is so included, based upon the similarity of the unit involved to the customary dwelling unit known as a mobile home or to a standard constructed home.

- (a) Single Wide – A mobile home with a longitudinal width of no greater than fourteen (14) feet for its full length.
- (b) Double Wide – A combination of two (2) mobile homes designed and constructed to be connected along the longitudinal axis, thus providing double the living space of a conventional single wide unit without duplicating any of the service facilities such as kitchen equipment or furnace.

SECTION 3.42 MODULAR HOME. A dwelling which consists of prefabricated units transported to the building site upon a separate vehicle or flatbed trailer and having no wheels, metal undercarriage or chassis, as distinguished from a mobile home. Such modular home shall be considered a single-family dwelling under the Zoning Ordinance of the Village and subject to all requirements thereof.

SECTION 3.43 MOTEL. A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or

occupied by, automobile travelers. The term shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.

SECTION 3.44 MOTOR VEHICLE. Every vehicle which is self-propelled.

SECTION 3.45 NONCONFORMING BUILDING OR STRUCTURE. A structure or building lawfully constructed that does not conform to the requirements of the district in which it is situated.

SECTION 3.46 NONCONFORMING USE. A use which existed prior to the effective date of this Ordinance, or amendments thereto, that does not conform to the use regulations of the district in which it is located.

SECTION 3.47 OFFSET. The distance between the centerlines of driveways or streets across the street from one another.

SECTION 3.48 PARKING AREA, SPACE, OR LOT. An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors, or employees. Parking area shall include access drives within the actual parking area.

SECTION 3.49 PLANNING COMMISSION. The Village of Lakeview Planning Commission.

SECTION 3.50 PRINCIPAL OR MAIN USE. The primary or predominant use of a lot.

SECTION 3.51 RECREATIONAL VEHICLE. A vehicle primarily designed as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle in accordance with Act 49, Michigan Public Acts of 1975 as amended. Recreation vehicles includes travel trailers, motor homes, pickup campers, tent trailers, off road vehicles, house car, house trailer, trailer home, trailer coach, or other portable unit.

SECTION 3.52 RIGHT OF WAY. A street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles.

SECTION 3.53 SATELLITE DISH. A parabolic dish designed for the purpose of transmitting and/or receiving microwave radio, television, satellite, or other electromagnetic energy signals, including as a part of the apparatus or device the main reflector, subreflector feed, amplifier and support structure.

SECTION 3.54 SETBACK REQUIRED. The minimum unoccupied distance between a front, side, or rear lot line and the principal and accessory buildings, as required herein. Steps may be located within the building setback. Porches are considered as part of the building or structure and may not be located within the building setback.

SECTION 3.55 SIGHT DISTANCE. The length of roadway visible to the driver. Generally related to the distance or time (perception/reaction time) sufficient for the driver to execute a maneuver (turn from driveway or side street, stop or pass) without striking another vehicle or object in the roadway.

SECTION 3.56 SIGN, FREE STANDING. A sign structurally separated from a building being supported by one or more poles or braces.

SECTION 3.57 SIGN, GROUND. A sign structurally separated from a building being attached and supported directly to the ground, rather than poles or braces.

SECTION 3.58 SITE PLAN. A scaled drawing(s) illustrating existing conditions and containing the elements required herein as applicable to the proposed development to ensure compliance with zoning provisions.

SECTION 3.59 SPECIAL LAND USE. A use of land which may be permitted within a particular zoning district only if the applicable standards have been met. A special land use requires that a special land use permit be obtained after review of a site plan and a public hearing.

SECTION 3.60 STORY. That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

SECTION 3.61 STREET. A publicly owned and maintained right-of-way which affords traffic circulation and principal means of access to abutting property, including any avenue, place, way, drive, lane, boulevard, highway, road, or other thoroughfare, except an alley.

SECTION 3.62 STRUCTURE. Anything except a building, constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.

SECTION 3.63 TOURIST HOME. A building, other than a hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients, including bed and breakfast operations.

SECTION 3.64 VARIANCE. A relaxation or modification of the requirements of this Ordinance as authorized by the Board of Appeals under the provisions of this Ordinance and Act 184 of 1943, as amended.

SECTION 3.65 VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

SECTION 3.66 VILLAGE. Village of Lakeview, Montcalm County, Michigan.

SECTION 3.67 VILLAGE COUNCIL. The Village of Lakeview Council.

SECTION 3.68 YARD. A required open space other than a court unoccupied and unobstructed by any building or structure or portion thereof from thirty (30) inches above the general ground level of the lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

SECTION 3.69 YARD – FRONT. A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line or navigable waterway and the main wall of the building or structure. In the case of waterfront lots, the front yard shall be the distance between the navigable waterway and the main wall of the building or structure.

SECTION 3.70 YARD – REAR. A yard, unoccupied except for accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and the rear wall of the main building.

SECTION 3.71 YARD – SIDE. A yard between a building and the side lot line, extending from the front yard to the rear yard. The width of the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the building.

SECTION 3.72. ZERO LOT LINE. The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

SECTION 3.73 ZONING ACT. Michigan Act 207 of 1921, as amended.

SECTION 3.75 ZONING ADMINISTRATOR. The Village of Lakeview Zoning Administrator.

CHAPTER 4

MAPPED DISTRICTS

SECTION 4.01 ZONE DISTRICTS. The Village of Lakeview is hereby divided into the following zoning districts:

- (a) R-1 Single Family Residential District
- (b) R-2 Medium Density Residential District
- (c) R-3 High Density Residential District
- (d) C-1 Business District
- (e) I Industrial District
- (f) PUD Planned Unit Development District

SECTION 4.02 ZONING MAP. The locations and boundaries of the zoning districts are hereby established as shown on a map, as the same may be amended from time to time, entitled "The Zoning Map of the Village of Lakeview, Montcalm County, Michigan", which accompanies and is hereby made a part of this Ordinance. Where uncertainty exists as to the boundaries of zoning districts as shown on the zoning map, the following rules of construction and interpretation shall apply.

- (a) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as approximately following village boundaries shall be construed as following village boundaries.
- (d) Boundaries indicated as approximately following shorelines or lake or stream beds shall be construed as following such shorelines or lake or stream beds, as in the event of change in the location of shorelines or lakes or stream beds, shall be construed as moving with the shoreline and lake or stream bed.
- (e) Lines parallel to streets without indication of the depth from the street line shall be construed as having a depth of two hundred (200) feet from the front lot line.
- (f) Boundaries indicated as approximately following property lines, section lines or other lines of a government survey shall be construed as following such property lines, section lines, or other lines of a government survey as they exist as of the effective date of this Ordinance or applicable amendment thereto.

SECTION 4.03 AREAS NOT INCLUDED WITHIN A DISTRICT. In every case where land has not been included within a district on the zoning map, such land shall be in the R-1 Zoning District.

CHAPTER 5

R-1 SINGLE FAMILY RESIDENTIAL DISTRICT

SECTION 5.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for low density residential uses together with required recreational, religious, and educational facilities.

SECTION 5.02 USE REGULATIONS. Land, buildings, or structures in this Zoning District may be used for the following purposes only:

- (a) Single family dwellings.
- (b) Private and public schools, libraries, museums, and similar uses, when owned and operated by a governmental agency or nonprofit organization and when authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the following standards and Chapter 14: (1) the size, nature, and character of the proposed use; (2) the proximity of the proposed use to adjoining properties; (3) the parking facilities provided for the proposed use; and (4) any traffic congestion or hazards which will be occasioned by the proposed use; and (5) how well the proposed use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.
- (c) Parks, playgrounds, community centers, churches, governmental, administration, or service buildings which are owned and operated by a governmental agency or a noncommercial organization, provided a site plan is submitted for review in accordance with Chapter 12.
- (d) Home occupations when authorized as a special use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards, Section 11.22 and Chapter 14:
 - (1) The nature of the home occupation;
 - (2) The effect of the home occupation on the surrounding neighborhood;
 - (3) The environmental effects of the home occupation;
 - (4) The nature of the surrounding neighborhood;
 - (5) Potential traffic congestion as a result of the home occupation; and
 - (6) Provision for parking for traffic or clientele which may result from the operation of the home occupation.
- (e) Bed and breakfast establishments when authorized by the Planning Commission as a special use in accordance with Chapter 14.

- (f) Child or adult day care facilities when authorized by the Planning Commission as a special use in accordance with Chapter 14.

SECTION 5.03 HEIGHT REGULATIONS. No residential building or structure shall exceed twenty-eight (28) feet in height. All other buildings and structures shall not exceed their usual and customary heights.

SECTION 5.04 AREA REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area, and building coverage requirements.

- (a) Front Yard – There shall be a front yard of not less than twenty-five (25) feet. Also see Section 11.13 – Additional Setbacks for Structures Adjacent to Major Streets.
- (b) Side Yard – No side yard shall be less than ten (10) feet.
- (c) Rear Yard – There shall be a rear yard of not less than twenty-five (25) feet.
- (d) Lot Area and Width Minimum – The lot area and width shall be seven thousand, nine hundred twenty (7,920) square feet and sixty-six (60) feet, respectively.

SECTION 5.05 MINIMUM FLOOR AREA. Each dwelling unit, unless specified elsewhere, shall have a minimum of eight hundred sixty (860) square feet of usable floor area.

CHAPTER 6

R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT

SECTION 6.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for medium density one and two family and low density multi-family residential and related uses.

SECTION 6.02 USE REGULATIONS. Land, buildings, or structures in this Zoning District may be used for the following purposes only:

- (a) Any use permitted in the R-1 Zoning District, subject, except as specifically provided otherwise in this Chapter, to the same conditions, restrictions, and requirements as are provided in the I, Industrial Zoning District.
- (b) Multi-family dwellings, if the site plan is reviewed by the Planning Commission in accordance with Chapter 12.
- (c) Bed and Breakfast Establishments as a special use when authorized by the Planning Commission in accordance with Chapter 14.
- (d) Foster Care Facilities when authorized by the Planning Commission as a special use in accordance with Chapter 14.
- (e) Child or Family Day Care Facilities when authorized as a special use by the Planning Commission in accordance with Chapter 14.

SECTION 6.03 HEIGHT REGULATIONS. No building or structure shall exceed twenty-eight (28) feet in height.

SECTION 6.04 AREA REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements.

- (a) Front Yard – There shall be a front yard of not less than twenty-five (25) feet. Also see Section 10.13 – Additional Setbacks for Structures Adjacent to Major Streets.
- (b) Side Yard – There shall be total side yards as follows:
 - (1) For single and two family dwellings, no side yard shall be less than ten (10) feet.
 - (2) For multi-family dwellings and all other permitted uses, each side yard shall be not less than twenty-five (25) feet)
- (c) Rear Yard – There shall be a rear yard of not less than twenty-five (25) feet.

- (d) Lot Area and Width (Two Family) – The minimum lot area and width for a two family dwelling shall be fifteen thousand (15,000) square feet and one hundred twenty (120) feet, respectively.

SECTION 6.05 MINIMUM FLOOR AREA. Each single family and two family dwelling shall have minimum usable floor area as is required in the R-1 District. Each multi-family dwelling shall have minimum usable floor area as follows: One bedroom unit, six hundred fifty(650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.

SECTION 6.06 REQUIRED CONDITIONS.

- (a) If more than one building is located upon a single site, an open space of at least eighteen (18) feet shall separate buildings.
- (b) Ground level activities shall be adequately screened from adjacent Residential Districts by a berm or evergreen screening or decorative fencing extending to a height of not less than six (6) feet within two years from installation, which installation shall be accomplished prior to occupancy for dwelling purposes. The Planning Commission may determine the adequacy and necessity of such screening during its Site Plan Review of the development, based upon the nature of the development, adjacent developments, the contour of the land, the characteristics of the activities to be screened, and the purpose of this screening requirement to make the multiple family use compatible with adjacent developments and zoning.
- (c) An enclosed garbage and rubbish disposal facility shall be located on the multiple family dwelling site for each building, adequately screened from adjoining properties in the same manner as other ground level activities and shall be maintained in a neat, clean, and orderly manner.
- (d) Where sanitary sewers and/or municipal sewers and/or municipal water are available within two hundred (200) feet of the multiple family development site, the development shall be connected to such sanitary sewer and municipal water system at the developers expense.
- (e) Any swimming pool constructed as part of a multiple family development shall be enclosed by a fence which is at least four (4) feet in height and of a type not readily climbable by children. The gates shall be of a self-closing and latching type with the latch on the inside of the gate not readily available for children to open. Doors and gats shall be securely locked when the premises are not being used or when the same are not being supervised by an authorized adult. A building wall may be utilized as a part of such fence. Woven-wood fences are not considered sufficient safety protection under this provision.
- (f) The multiple family dwellings and accessory buildings shall not occupy more than forty percent (40%) of the area of the building site upon which the same are locate.

CHAPTER 7

R-3 HIGH DENSITY RESIDENTIAL DISTRICT

SECTION 7.01 DESCRIPTION AND PURPOSE. This Zoning District is intended for high density one and two family and medium and high density multi-family residential and related uses, provided municipal water and sewer services are available.

SECTION 7.02 USE REGULATIONS. Land, buildings, or structures in this Zoning District may be used for the following purposes only:

- (a) Any use permitted in the R-1 Zoning District, subject, except as specifically provided otherwise in this Chapter, to the same conditions, restrictions, and requirements as are provided in the R-2 Zoning District.
- (b) Multi-family dwellings if the site plan is reviewed by the Planning Commission in accordance with Chapter 12.
- (c) Nursing homes, senior citizen housing, foster care facilities, and similar group housing if the site plan is reviewed by the Planning Commission in accordance with Chapter 12.
- (d) Mobile home parks, when authorized as a special use by the Planning Commission and provided they are in conformance with all state regulations governing mobile home parks, including Public Act 419 of 1976 as amended. In considering such authorization, the Planning Commission shall consider Chapter 14.
- (e) Any special use eligible for consideration in the R-2 Medium Density Residential District in accordance with Chapter 14.

SECTION 7.03 HEIGHT REGULATIONS. No building or structure shall exceed thirty six (36) feet in height.

SECTION 7.04 AREA REGULATIONS. No building or structure nor any enlargement thereof shall be hereafter erected except in conformance with the following yard, lot area and building coverage requirements.

- (a) Front Yard – There shall be a front yard of not less than twenty-five (25) feet. Also see Section 11.13 – Additional Setbacks for Structures Adjacent to Major Streets.
- (b) Side Yard – There shall be total side yards as follows:
 - (1) For single and two family dwellings, no side yard shall be less than ten (10) feet.
 - (2) For multi-family dwellings and all other permitted uses, each side yard shall be not less than twenty-five (25) feet.

- (c) Rear Yard – There shall be a rear yard of not less than twenty-five (25) feet.
- (d) Lot Area and Width (Two Family) – The minimum lot area and width for a two family dwelling shall be fifteen thousand (15,000) square feet and one hundred twenty (120) feet, respectively.

SECTION 7.05 MINIMUM FLOOR AREA. Each single family and two family dwelling shall have minimum usable floor area as is required in the R-1 District. Each multi-family dwelling shall have minimum usable floor area as follows: One bedroom unit, six hundred fifty (650) square feet per unit; two bedroom unit, seven hundred fifty (750) square feet per unit; three bedroom unit, nine hundred (900) square feet per unit; additional bedrooms shall require an additional one hundred (100) square feet of usable floor area for each additional bedroom.

SECTION 7.06 REQUIRED CONDIITONS.

- (a) If more than one building is located upon a single site, and open space of at least eighteen (18) feet shall separate buildings.
- (b) Ground level activities shall be adequately screened from adjacent Residential Districts by a berm or evergreen screening or decorative fencing extending to a height of not less than six (6) feet within two years from installation, which installation shall be accomplished prior to occupancy for dwelling purposes. The Planning Commission may determine the adequacy and necessity of such screening during its Site Plan Review of the development, based upon the nature of the development, adjacent developments, the contour of the land, the characteristics of the activities to be screened, and the purpose of this screening requirement to make the multiple family use compatible with adjacent developments and zoning.
- (c) An enclosed garbage and rubbish disposal facility shall be located on the multiple family dwelling site for each building, adequately screened from adjoining properties in the same manner as other ground level activities shall be maintained in a neat, clean, and orderly manner.
- (d) Where sanitary sewers and/or municipal water are available within two hundred (200) feet of the multiple family development site, the development shall be connected to such sanitary sewer and municipal water system at the developer's expense.
- (e) Any swimming pool constructed as part of a multiple family development shall be enclosed by a fence which is at least four (4) feet in height and of a type not readily climbable by children. The gates shall be of a self-closing and latching type with the latch on the inside of the gate not readily available for children to open. Doors and gates shall be securely locked when the premises are not being used or when the same are not being supervised by an authorized adult. A building wall may be utilized as a part of such fence. Woven-wood fences are not considered sufficient safety protection under this provision.
- (f) The multiple family dwellings and accessory building shall not occupy more than thirty-five percent (35%) of the area of the building site upon which the same are located.

CHAPTER 8

C-1 BUSINESS DISTRICT

SECTION 8.01 DESCRIPTION AND PURPOSE. A business district wherein retail business or service establishments supply commodities or perform services to meet the needs of the community. Residence uses are not allowed in this or any succeeding commercial or industrial zone district except as specifically provided.

SECTION 8.02 PERMITTED USES. No building or part thereto in C-1 Business District shall hereafter be used, erected, altered, or converted, or land used in whole or in part, except for:

- (a) Antique Store
- Automobile laundry
- Automobile repair shop or garage – if all operations are conducted within a completely enclosed building
- Automobile sales and service agency for new and used automobiles, provided that used car sales may be allowed as an accessory to the principal use
- Automobile service station
- Automotive accessories
- Baked-goods or pastry store
- Bank
- Barber or beauty shop
- Book, stationery, or gift store
- Bowling alley
- Candy store, soda fountain, ice cream store
- Catering establishment
- Clothes cleaning and/or laundry pick-up station
- Clothing or dry goods store
- Contractor (plumbing, heating, electrical, etc.) provided all operations and storage are completely enclosed in a building
- Decorators shop
- Delicatessen store
- Dress shop
- Drive-in or food pickup businesses
- Drug store
- Electrical supply store
- Feed store
- Florist
- Frozen food locker
- Fruit stand – enclosed
- Funeral home with single family living quarters within
- Furniture store
- Grocery store and/or meat market
- Hardware store
- Hotels and motels

Household appliance store
 Ice vending machine
 Jewelry store
 Laboratory, medical or dental
 Laundromat
 Lodge hall, private clubs, veterans' clubs
 Nursery school and day nurseries
 Office (business or professional – including medical clinic)
 Paint and wallpaper store
 Painters
 Parcel delivery station
 Parking lots
 Pet shop not involving the treatment or boarding of cats or dogs
 Photographers
 Plumber
 Printing, lithography, publishing, and Photostatting establishment
 Private school operated as a commercial enterprise
 Public garage operated within a completely enclosed building
 Radio and television store
 Restaurants, cafes and drive-ins
 Retail stores
 Self-service laundry
 Self-storage warehouse
 Service stations (automobile), including minor repairs
 Shoe repair shop
 Tailor
 Taxidermist
 Theater (not including drive-in theaters)
 Tire shops, excluding recapping and retreading
 Variety store, including notions and "five and ten" stores
 Veterinary clinics, provided all operations are within an enclosed building

SECTION 8.03 SIGNS. No signboard or billboard shall be erected or used in a C-1 District nor shall any exterior sign be used except those which meet the standards of Section 11.12.

SECTION 8.04 REQUIRED CONDITIONS. The use of property in this District shall be subject to the following conditions:

- (a) All products produced on the premises, whether primary or incidental, shall be sold only at retail and on the premises where produced.
- (b) If the above uses are adjacent to an R-1 or R-2, a buffer must be constructed at the common property line consisting of either a solid fence, greenbelt, or a wall at least six (6) feet in height. Said buffer shall be maintained in a neat and orderly manner.

SECTION 8.05 HEIGHT, AREA, AND YARD REQUIREMENTS.

- (a) No building shall exceed a maximum of three (3) stories or thirty-six (36) feet in height, whichever is the lesser.
- (b) Each commercial building shall have a front yard of at least five (5) feet, provided that where an existing lesser setback line has been established by existing commercial buildings occupy forty (40) percent or more of the commercially-zoned frontage on the same block, said setback shall apply.
- (c) No side yard shall be required for a commercial building, except that where a side yard of a commercially-zoned lot adjoins a residential or agricultural district or a side street, a ten (10) foot side yard shall be required, unless a lesser side yard has been established by existing commercial buildings occupying forty (40) percent or more of the commercially-zoned frontage within the same block along the side street, in which case the established setback shall apply.

CHAPTER 9

I – INDUSTRIAL DISTRICT

SECTION 9.01 DESCRIPTION AND PURPOSE. This district permits compounding, assembling, or treatment of articles or materials. This district also allows as a special use heavy manufacturing, processing of raw materials, and other similar industrial uses.

SECTION 9.02 USE REGULATIONS. For land and/or building, the permitted uses and height and area requirements of the I Zone are as follows:

- (a) 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.
- (b) 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.
- (c) The manufacture, only by electricity or gas, of pottery and figurines or other ceramic products, using only previously pulverized clay.
- (d) Petroleum storage located at five hundred (500) feet from any residentially zoned property.
- (e) Auto repair shops
- (f) Auto wash
- (g) Bottling plants and dairies
- (h) Contractor yards
- (i) Crating and packing service
- (j) Dry cleaning and laundry
- (k) Machine shop
- (l) Printing shops
- (m) Sign painting and servicing shops
- (n) Taxidermist
- (o) Warehouses and storage

(p) Wholesale sales

The above uses shall be conducted within a completely enclosed building or within an area enclosed on all sides by a solid non-combustible fence or wall at least six (6) feet in height; provided further, that no goods, materials, or objects shall be stacked higher than the fence or wall; and provided further, that all business will be conducted in such a manner that no noise, smoke, dust, vibration, or any other like nuisance shall exist to affect adjoining residential properties adversely

(q) Drive-in theaters

(r) Landing and take-off areas for rotocraft and airports

(s) Parking lots

(t) Radio and TV towers

(u) Billboards, business signs, real estate signs, identifying signs, name plate

(v) Any other industrial uses when authorized by the Planning Commission. In considering such authorization the Planning Commission shall make written findings certifying that satisfactory provision and arrangement has been made concerning the following where applicable:

- (1) Ingress and egress to the lot and the proposed buildings and structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required with particular attention to the items in subparagraph (1) above and the economic, noise, glare, or odor effects of the use on adjoining properties and the surrounding neighborhood;
- (3) Refuse and service areas with particular reference to the items in subparagraphs (1) and (2) above;
- (4) Utilities with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with adjoining and surrounding neighborhood properties;
- (7) Required yards and other open spaces; and
- (8) General compatibility with adjacent properties and the surrounding neighborhood.

(w) Junk or salvage yards, when authorized as a special use by the Planning Commission. In considering such authorization, the Planning Commission shall consider the following standards and Chapter 14:

- (1) A site development plan is submitted and approved.
- (2) Architectural elevation drawings of proposed building are submitted.
- (3) Specifications of screening fence is submitted.
- (4) All vehicles, parts, materials, and equipment must be stored within enclosed buildings or within an area completely enclosed by a screening fence at least eight (8) feet in height.
- (5) The screening fence must be of such design as to completely obstruct one's vision.
- (6) The area enclosed by the screening fence may not take up any of the area of the premises required for minimum yards.
- (7) Meet all other requirements pertaining to the I District.
- (8) The elevation of the area enclosed by the screening fence must be such that, from ground level at any point within three hundred (300) feet of the premises, one cannot see the area within such screening fence.
- (9) No items placed within the enclosed area shall exceed the height of the screening fence.

SECTION 9.03 HEIGHT REGULATIONS. Four (4) stories or forty-eight (48) feet, whichever is lesser.

SECTION 9.04 AREA REGULATIONS. No building or structure nor the enlargement of any building or structure shall be hereafter erected unless the following requirements are provided and maintained in connection with such building, structure, or enlargement.

- (a) Front Yard – There shall be a setback of not less than twenty-five (25) feet.
- (b) Side Yards – There shall be total side yards of not less than fifty (50) feet; provided, however, that no side yard shall be less than twenty-five (25) feet.
- (c) Rear Yard – There shall be a rear yard of not less than twenty-five (25) feet
- (d) Lot Area and Width – The minimum lot area shall be thirty thousand (30,000) square feet and the minimum lot width shall be one hundred twenty-five (125) feet.

CHAPTER 10

PUD – PLANNED UNIT DEVELOPMENT

SECTION 10.01 INTENT. This Article provides enabling authority and standards for the submission, review, and approval of applications for Planned Unit Developments within districts zoned for high density residential or commercial purposes. It is the intent of this Article to authorize the consideration and use of Planned Unit Development regulations for the following purposes:

- (a) To encourage the use of land in accordance with its character and adaptability.
- (b) To encourage innovation in land use planning and variety in design, layout, and type of structures constructed.
- (c) To promote the enhancement of employment, shopping, traffic circulation, and recreational opportunities for the people of the Village.
- (d) To promote and ensure greater compatibility of design and use between neighboring properties.
- (e) To achieve economy and efficiency in the use of land, natural resources, energy and public services and utilities.
- (f) To encourage useful open space.
- (g) To provide for the regulation of land uses not otherwise authorized within this Ordinance.

The provisions of this Article are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of this Article are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in accordance with standards provided in this Article to ensure appropriate, fair, and consistent decision-making. A Planned Unit Development must comply with this Article.

SECTION 10.02 EFFECT OF “PLANNED UNIT DEVELOPMENT” DESIGNATION. The approval of a Planned Unit Development application shall require an amendment to the Zoning Ordinance to revise the zoning map and designate the subject property “PUD, Planned Unit Development.” An approval granted under this Article including all aspects of the final site development plan and conditions imposed on it, shall constitute an inseparable part of the zoning ordinance.

SECTION 10.03 PERMITTED USES. Uses permitted within any underlying residential zoning district shall be as follows:

- (a) High Density Residential Districts:
 - (1) Any use permitted by right in the R-3 High Density Residential Zoning District.

(2) All use of land and buildings in a PUD district shall comply with the listings of uses shown on an approved Planned Unit Development Plan.

(b) Commercial Districts:

- (1) Any use permitted by right in the C-1 Business Zoning District.
- (2) Private and public schools, churches, parks, playgrounds, and similar uses.
- (3) Outdoor ponds.
- (4) Laboratories, experimental, film or testing, when wholly enclosed within a building.

SECTION 10.04 QUALIFYING CONDITIONS. In order to be eligible for PUD rezoning, the following conditions shall apply:

- (a) The proposed area shall be located within an area zoned as either R-3 High Density Residential or C-1 Business.
- (b) The proposed area shall consist of a minimum of two (2) acres.
- (c) Public water and sanitary sewer shall be available to service the site.
- (d) The proposed area shall be under the control of one owner or a single entity and shall be capable of being planned and developed as one integral unit. Application for Planned Unit Development zoning must be made with the written authorization of all owners of the site and with all parties having an interest in the property joining in said application.
- (e) The proposed area shall abut a street as defined in the Village Master Plan.
- (f) The proposed development shall be in accordance with the intent for a Planned Unit Development as contained herein.

SECTION 10.05 DEVELOPMENT REQUIREMENTS. The following development requirements shall apply to all Planned Unit Developments:

- (a) Applicable Base Regulations: Unless waived or modified in accordance with the procedures and standards set forth in this article, the yard and bulk, parking, loading, landscaping, lighting, and their standards set forth in the districts listed below shall generally be applicable for uses proposed as part of a Planned Unit Development:
 - (1) Commercial and Office uses shall comply with the regulations applicable in the Business district.
 - (2) Mixed uses shall comply with the regulations applicable for each individual use, as outlined above, except that if conflicts exist between provisions, the regulations applicable to the most dominant use shall apply.

Consistent with the Planned Unit Development concept, and to encourage flexibility and creativity in development, departures from the regulations outlined above may be granted at the discretion of the Village Council upon the recommendation of the Planning Commission as

part of the approval of a Planned Unit Development. Such departures may be authorized if there are features or planning mechanisms designed into the project which would achieve the objectives of each of the regulations from which a departure is being requested.

(b) Commercial Districts:

- (1) Any use permitted by right in the C-1 Business Zoning District.
- (2) Private and public schools, churches, parks, playgrounds, and similar uses.
- (3) Outdoor ponds.
- (4) Laboratories, experimental, film or testing, when wholly enclosed within a building.

SECTION 10.04 QUALIFYING CONDITIONS. In order to be eligible for PUD rezoning, the following conditions shall apply:

- (a) The proposed area shall be located within an area zoned as either R-3 High Density Residential or C-1 Business.
- (b) The proposed area shall consist of a minimum of two (2) acres.
- (c) Public water and sanitary sewer shall be available to service the site.
- (d) The proposed area shall be under the control of one owner or a single entity and shall be capable of being planned and developed as one integral unit. Application for Planned Unit Development zoning must be made with the written authorization of all owners of the site and with all parties having an interest in the property joining in said application.
- (e) The proposed area shall abut a street as defined in the Village Master Plan.
- (f) The proposed development shall be in accordance with the intent for a Planned Unit Development as contained herein.

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- (a) Applicable Base Regulations: Unless waived or modified in accordance with the procedures and standards set forth in this article, the yard and bulk, parking, loading, landscaping, lighting, and their standards set forth in the districts listed below shall generally be applicable for uses proposed as part of a Planned Unit Development:
 - (1) Commercial and Office uses shall comply with regulations applicable in the Business district.
 - (2) Mixed uses shall comply with the regulations applicable for each individual use, as outlined above, except that if conflicts exist between provisions, the regulations applicable to the most dominant use shall apply.

Consistent with the Planned Unit Development concept, and to encourage flexibility and creativity in development, departures from the regulations outlined above may be granted at the discretion of the Village Council upon the recommendation of the Planning Commission as

- part of the approval of a Planned Unit Development. Such departures may be authorized if there are features or planning mechanisms designed into the project which would achieve the objectives of each of the regulations from which a departure is being requested.
- (b) **Street Provisions and Vehicular Access:** Each lot, main building, and principal use within the Planned Unit Development district shall have vehicular access from a public street. Adequate provision shall be made for dedications of land for streets and essential services.
 - (c) **Parking and Loading Requirements:** Parking and loading/unloading requirements set forth in this Ordinance shall apply, except that the number of spaces required may be reduced in a Planned Unit Development, if approved by the Village Council, upon recommendation of the Planning Commission, as part of the site plan. Such reduction shall be based upon a finding that sufficient parking will be available through the sharing of spaces by different uses or that requirement is excessive for the type of use proposed.
 - (d) **Greenbelt:** A greenbelt of at least thirty (30) feet wide shall be required when adjacent to a residential area, school site, park, and similar areas. Such greenbelts shall be landscaped with trees, shrubs, ground covers, and other plant materials.
 - (e) **Required Yards and Common Areas:** All required yards and common areas shall be landscaped and adequately and permanently maintained by the property owner, tenant, or organization responsible for maintaining common areas.
 - (1) Provide for the privately-owned open space to be maintained by private property owners with an interest in the open space. Maintenance standards and a maintenance schedule shall be included.
 - (2) Provide for assessment of the private property owners by the Village for the cost of maintenance of the open space in the event that it is inadequately maintained and becomes a public nuisance.
 - (f) **Water and Sanitary Sewer Service:** Each main building in a Planned Unit Development shall be connected to public water and sanitary sewer lines.
 - (g) **Storm Drainage:** Each site in a Planned Unit Development shall be provided with adequate storm drainage and meet all applicable local, county, state, and federal laws.
 - (h) **General Provisions:** A Planned Unit Development shall comply with the provisions in Chapter 11, General Provisions.
 - (i) **Timetable for Construction:** A timetable for construction for a Planned Unit Development and all phases of the Planned Unit Development shall be included as part of the review and approval process. In accordance to Section 10.09, the Village may require that a performance bond be posted by the developer to assure compliance with the construction timetable. Unapproved deviations or delays in the timetable during construction may result in a loss of all or a portion of the performance bond.

- (j) Phasing: Where a project is proposed for construction in phases, the project shall be so designed that each phase, when completed, shall be capable of standing on its own in terms of the presence of services, facilities, landscaping, and open space.

SECTION 10.06 PUD DESIGN CONSIDERATIONS. In addition to complying with the development requirements specified under Section 10.05, a proposed Planned Unit Development shall take into account the following specific design considerations. While flexibility in design is encouraged, such considerations are necessary to ensure compliance with all applicable regulations, to ensure the compatibility of the project with adjoining properties and the general area in which the property is located, and to ensure the overall harmonious design of development itself.

- (a) Perimeter setbacks.
- (b) Street drainage and utility design with respect to location, availability, ownership, and compatibility.
- (c) Underground installation of utilities.
- (d) Separation of pedestrian ways from vehicular streets and ways.
- (e) Achievement of integrated and harmonious development with respect to signs, lighting, landscaping, and construction materials.
- (f) Noise reduction and visual screening mechanisms between uses and from adjoining residentially zoned land.
- (g) Ingress and egress to the property with respect to automotive and pedestrian safety and convenience, traffic flow and control, street capacity, and emergency access.
- (h) Off-street parking, loading, refuse, and other service areas with respect to ingress and egress to the potential effects of noise, glare, vibration, and odor emanating from such facilities.
- (i) Screening and buffering with respect to dimensions and character.
- (j) Yard areas and other open space.
- (k) Density and intensity of development expressed in terms of percent of land area coverage and the height of building and other structures.
- (l) The preservation of natural resources and natural features.

SECTION 10.07 APPLICATION AND PROCESSING PROCEDURES.

(a) Pre-application Conference: Prior to the submission of an application for Planned Unit Development, the applicant shall request a meeting with the Zoning Administrator, Village President, Chairman of the Planning Commission, and such consultants as deemed appropriate. The applicant shall present at such conference, a sketch plan of the Planned Unit Development and the following information:

- (1) A legal description of the property in question.
- (2) The total number of acres to be included in the project.
- (3) Floor area of office, commercial, and industrial uses.
- (4) The approximate number of acres to be occupied by and/or devoted to each type of use.
- (5) Departures from the regulations of the Ordinance which may be requested.
- (6) The number of acres to be preserved as open space or recreation space.
- (7) All natural resources and features.

The purpose of the meeting is to inform Village and other Officials of the concept of the proposed development and provide the potential applicant with information regarding land development policies, procedures, and requirements of the Village in terms of the proposed development. To this end, the applicant is encouraged to present schematic plans, site data, and any other information that will explain the proposed development.

Statements made at the pre-application conference shall not be legally binding commitments.

(b) Planned Unit Development Application: Following the above conference or conferences, copies of a site development plan and application for a PUD rezoning request shall be submitted. The submission shall be made to the Zoning Administrator who shall forward it to the Planning Commission. The plan shall be accompanied by an application form and fee as determined by the Village Council. The preliminary site development plan shall contain all of the following information:

- (1) Cover letter signed by the applicant and owner(s) holding an equitable interest in the property.
- (2) Date, north arrow, and scale which shall not be more than 1" = 100'.
- (3) Locational sketch of site in relation to surrounding area.
- (4) Legal description of property including common street address.

- (5) Size of parcel.
 - (6) All lot or property lines with dimensions.
 - (7) General location and size of all existing structures on the site and within one hundred (100) feet of the property lines.
 - (8) The total floor area of all proposed buildings.
 - (9) General location and dimensions of all existing and proposed streets, driveways, parking areas, including total number of parking spaces and typical dimensions.
 - (10) General size and location of all areas devoted to green space.
 - (11) Location of existing vegetation and general location and size of proposed landscaped areas and buffer strips.
 - (12) All areas within the 100-year floodplain, wetland areas or bodies of water.
 - (13) Existing topographical contours at a minimum of five (5) foot intervals.
 - (14) A proposed schedule of usable floor areas and land areas by category of use and building ground coverage.
 - (15) Architectural sketches showing building heights, external wall facades, site entry ways, and loading and unloading facilities.
 - (16) A narrative describing:
 - General description of proposed development, including a timetable of development.
 - A statement describing how the proposed project meets the objectives of the PUD.
 - A statement from a registered professional engineer describing how the proposed project will be serviced by public water, sanitary sewer, and storm drainage.
 - (17) Proof-of-ownership or legal interest in property.
 - (18) Other information deemed pertinent to the proposed development by the Planning Commission or Village Council.
- (c) Planning Commission Review: The Planning Commission shall review the site development plan according to Section 10.01 through 10.07 herein and make reasonable inquires of the applicant. The Planning Commission shall transmit in writing any recommendations for changes or modifications of the Development Plan to the applicant.
- (d) Public Hearing: The Planning Commission shall schedule a public hearing on the proposed Planned Unit Development. Notice of the public hearing shall be published in a newspaper of general circulation in the Village sent by mail or personal delivery to the owners of property in

questions, to all persons to whom any real property within 300 feet is assessed, and to the occupants of all dwellings within 300 feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the address given in the last assessment roll. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notice shall be made not less than eight (8) days before the hearing and shall contain the following information:

- (1) Nature of the Planned Unit Development project requested.
 - (2) Boundaries of the property which is the subject of the request.
 - (3) Date and time of the public hearing.
 - (4) Location and times that written comments will be received concerning the request.
- (e) Planning Commission Recommendations. Within a reasonable time following the public hearing, the Planning Commission shall make its final consideration of the request, and shall recommend to the Village Council denial, approval, or approval with conditions, of the request. The Planning Commission shall have prepared a report stating its conclusions, the basis for its recommendations, and any conditions relating to an affirmative recommendation. The Planning Commission shall also make a recommendation on the proposed zoning amendment. The public hearing held pursuant to this subsection shall also serve as the public hearing for the proposed zoning amendment.

In making its recommendation, the Planning Commission shall find that the proposed Planned Unit Development meets the intent of the PUD district and the following standards:

- (1) The public health, safety, and welfare will be better served by this development. In making such findings, the following shall be considered: location, density of population, adequacy of schools, public facilities, hours of operation, traffic volumes and circulation, compatibility with existing development, adequate provisions for light and air, and accessibility for police and fire protection.
- (2) In relation to the underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities, and utilities, and shall not place a material burden upon the subject or surrounding land or property owners and occupants or the natural environment.
- (3) The Planned Unit Development shall be compatible with the Master Plan of the Village and shall be consistent with the intent and spirit of this Chapter.
- (4) The Planned Unit Development shall not change the essential character of the surrounding area.
- (5) The Planned Unit Development shall be designed to minimize any adverse impact of traffic generated by the proposed uses.

- (6) The Planned Unit Development shall be in compliance with all applicable federal, state and local laws and regulations.
- (f) Village Council Action: The Village Council shall be provided with a copy of the Planning Commission's report, a summary of comments received at the public hearing, minutes of all proceedings, and all documents related to the Planned Unit Development. Within a reasonable time of the action of the Planning Commission, the Village Council shall deny, approve, or approve with conditions, this request.

In accordance with Section 10.09, the Village Council may require that a performance guarantee be deposited with the Village to insure faithful completion of improvements. Improvements shall mean those features and actions associated with the project which are considered necessary by the Village Council to protect natural resources, or the health, safety, and welfare of the residents of the Village and future users or inhabitants of the proposed development, including roadways, lighting, utilities, sidewalks, screening, landscaping, and drainage.

- (g) Signed Agreement: If the application and site plan are approved by the Village Council, the applicant and all owner(s) of record or the legal representative of the owner(s) of record of all property included within the Planned Unit Development shall then sign an agreement that the approved application and site plan, and the conditions of approval, shall be binding upon the applicant and owner(s) of record and upon their heirs, successors, and assigns. The application and site plan shall not be officially approved nor may the building permit be issued, until said agreement has been signed as required herein and has been received by the Village Clerk.
- (h) Designation on Zoning Map: Within three (3) days of the official approval of the application and the site plan by the Village council, the Village Clerk shall attest the Planned Unit Development designation for the lot in question on the Zoning Map.
- (i) Record with Register of Deeds: The approved site plan and signed agreement shall be recorded by the petitioner with the Montcalm County Register of Deeds within ten (10) days of the date of approval of the application. The petitioner shall immediately provide a certified copy of the recorded documents to the Village Clerk.

SECTION 10.08 ENFORCEMENT. The Village Council may enforce any or all provisions of the approved site plan and agreement, and conditions of approval, against the petitioner, owners, successors, assigns, or agents.

Each phase of the project shall be commenced within twenty-four (24) months of the schedule set forth on the approved plan for the Planned Unit Development. If construction is not commenced within the required time period, approval of the plan shall become null and void. Revisions to the construction schedule may be approved by the Village Council.

SECTION 10.09 PERFORMANCE GUARANTEES. The Village Council may require formal agreements or the posting of a bond or other surety sufficient to guarantee the proper performance of required improvements or materials to meet the provisions and intent of this Ordinance. Where a bond is required, it shall be a corporate surety bond, meeting the approval of the Village.

- (a) **Accrual:** The bond shall accrue to the Village and shall cover the full cost of constructing and installing the specific public improvement and, where applicable, placing the specific public improvements in operation.
- (b) **Amount:** The bond shall be in an amount equal to the total estimated cost for completing construction and installation of the specific public improvement, including contingencies as estimated by the Village Council, as well as, where applicable, the total estimate of the cost of placing the specific public improvement in operation, including contingencies, as estimated by the Village Council.
- (c) **Term:** The term of the bond shall be for such period as shall be specified by the Village Council.
- (d) **Bonding or Surety Company:** The bond shall be written by a surety company authorized to do business in the State of Michigan, acceptable to the Village Council.

SECTION 10.10 REVISION OF APPROVED PLANS.

- (a) **General Revisions.** Approved final plans for a Planned Unit. Development may be revised in accordance with the procedures set forth in Section 10.07.

Major changes include, but are not limited to, increases in density, land area, or building size; the addition of uses not authorized by the original Planned Unit Development approval; the rearrangement of lots, blocks, or building tracts; changes in the character or function of a street; and changes in the concept or of the development.

- (b) **Minor Changes.** Notwithstanding sub-section (a) above, minor changes may be approved by mutual agreement of the applicants or successors in interest and the Planning Commission, provided the changes comply with all applicable requirements of the Zoning Ordinance and all other Village regulations or State law, and subject to a finding by the Planning Commission that:
 - (1) Such changes will not adversely affect the initial basis for granting approval.
 - (2) Such minor changes will comply with all applicable requirements of this Zoning Ordinance and all other Village regulations or state law, and will not adversely affect the overall Planned Unit Development in light of the intent and propose of such development as set forth in Section 10.01.

CHAPTER 11

GENERAL PROVISIONS

These general provisions shall apply to all Zoning Districts.

SECTION 11.01 THE EFFECT OF ZONING. Zoning applies to every building, structure, or use. No building, structure or land shall be used or occupied, and no building or structure or part thereof shall be erected, moved, placed, reconstructed, extended, enlarged, or altered, except in conformity with this Ordinance.

SECTION 11.02 RESTORATION OF UNSAFE BUILDING. Subject to the provisions of the Nonconforming Uses Chapter, nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure which is unsafe.

SECTION 11.03 AREA, HEIGHT, AND USE CONDITIONS AND EXCEPTIONS.

- (a) Required Area or Space – A lot or lots in common ownership or a yard, court, parking area or other space shall not be divided, altered, or reduced so as to make it not in conformance with the minimum requirements of this Ordinance. If already less than the minimum requirements of this Ordinance, a lot or lots in common ownership of a yard, court, parking area or other space shall not be divided, altered or reduced so as to increase its noncompliance with such minimum requirements.
- (b) Existing Lots of Record – A lot which is platted, or otherwise of record as of the effective date of this ordinance, may be used as specified in the zoning district. The structure shall be located on the lot to assure maximum compliance with all yard and setback requirements for the zoning district in which the lot is located.
- (c) Exceptions – The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls not exceeding four (4) feet in height, chimneys, cooling towers, elevator bulkheads, fire towers, grain elevators, silos, stacks, elevated water towers, stage towers, scenery lofts, monuments, cupolas, domes, spires, penthouses housing necessary mechanical appurtenances, wind powered electrical generator, and private television and radio reception antennas and towers which do not exceed one hundred (100) feet in height. Additions to existing buildings and structures which now exceed the height limitations of their zoning district up to the height of an existing building or structure on the same lot are permitted if the lot is large enough to encompass a circular area with a radius at least equal to the height of the structure or building.

SECTION 11.04 ESSENTIAL SERVICE. The erection, construction, alteration or maintenance by public utilities or governmental units, boards or commissions of overhead or underground gas, electrical, steam or water distribution, transmission, collection, communication, or supply systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, utility pump and metering stations, and other similar equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such public utility or municipal department of commission or for the public health, safety or general welfare is permitted in any Zoning District.

Notwithstanding the exceptions contained in the immediately preceding sentence:

- (a) Electrical substations and/or gas regulator stations shall be enclosed with a fence or wall six (6) feet high and adequate to obstruct passage of persons or materials.
- (b) Public utility buildings when located in any Residential District shall not include maintenance shops, repair garages, or storage yards as a principal or accessory use.
- (c) Public utility facilities in any zoning district are required to be constructed and maintained in a neat and orderly manner. Any building which is constructed shall be landscaped and shall conform with the general character of the architecture of the surrounding neighborhood.

SECTION 11.05 REQUIRED YARD OR LOT. All lots, yards, parking areas or other spaces created after the effective date of this Ordinance shall comply with the minimum requirements of the Zoning District in which they are located.

SECTION 11.06 CONTROL OF HEAT, GLARE, FUMES, DUST, NOISE VIBRATION AND ODORS. Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot on which the use is located.

SECTION 11.07 TEMPORARY USES OR STRUCTURES REQUIRING ZONING ADMINISTRATOR AUTHORIZATION.

- (a) Upon application, the Zoning Administrator may issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location if such a building or yard is still incidental and necessary to construction at the site where located.
- (b) Upon application, the Zoning Administrator may issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six (6) calendar months and shall be renewed by the Zoning Administrator for four (4) additional successive periods of six (6) calendar months or less at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.
- (c) In considering such authorization, the Zoning Administrator shall consider the following standards:
 - (1) No unreasonable detrimental effect upon adjacent properties;
 - (2) Necessary for the convenience and safety of the construction proposed;
 - (3) The nature of the surrounding neighborhood;

- (4) The least offensive access point.

SECTION 11.08 ACCESSORY USES.

- (a) In any District, accessory uses, incidental only to a permitted use, are permitted when located on the same property; provided that such accessory uses shall not involve the conduct of any business, trade, or industry.
- (b) Gardening and the keeping of domestic or farm animals shall be considered customary to, and commonly associated with, the operation of the permitted uses; provided any structure housing farm animals located less than one hundred twenty-five (125) feet from the road right-of-way shall be a minimum of one hundred (100) feet from every property line. Any structure housing farm animals located more than one hundred twenty-five (125) feet from the road right-of-way may be a minimum of fifty (50) feet from the side and rear property line, provided such farm structure is located a minimum of one hundred twenty-five (125) feet from existing residential structures.
- (c) Private garages, but said garages shall at no time be used as living quarters.

SECTION 11.09 ACCESSORY BUILDINGS. 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.

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 building.

Detached accessory buildings and garages shall not 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 larger than four hundred (400) square feet in area shall be at least twenty (20) feet from the side lot line.

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.

No accessory building shall include residential or living quarters for human beings.

SECTION 11.10 PRINCIPAL USE ON A LOT. In all Zoning Districts, no more than one (1) principal use shall be placed on a lot.

SECTION 11.11 DOUBLE FRONTAGE LOTS. Buildings on lots having frontage on two (2) intersection or nonintersecting streets shall comply with front yard requirements on both such streets.

SECTION 11.12 SIGNS.

(a) Generally:

- (1) No sign shall project into or be placed within the right-of-way of a street except those authorized and erected for traffic circulation and regulation by a governmental agency.
- (2) Signs mounted on and parallel to a building wall shall not project more than one (1) foot from the exterior surface of said building wall; however, such signs shall not extend beyond the intersection of a perpendicular exterior wall surface.
- (3) Signs on corner lots shall not be permitted within the triangle found between the points on the road right-of-way within twenty-five (25) feet of their intersection.
- (4) All illuminated signs shall be so placed as to prevent the rays of illumination therefore from being cast upon neighboring residences within a residential district and shall be located not less than one hundred (100) feet from such residential district.
- (5) The color saturation and hue of any illuminated sign shall be such as to preclude confusion with traffic signals.
- (6) All signs and billboards shall conform to the regulations as set forth in this Ordinance, and any sign or billboard not conforming thereto shall be deemed a nonconforming structure subject to the provisions of this Ordinance.
- (7) Vehicle signs are prohibited in all districts.
- (8) The bottom height of a freestanding sign or part thereof shall be six (6) feet above the average ground elevation of the front lot line.

(b) Signs in Residential Districts: In Residential Districts, signs are permitted as follows:

- (1) For principal and accessory uses other than dwellings, one (1) sign not exceeding twenty (20) square feet in area. No sign shall be located nearer to a front lot line than one-half (1/2) the depth of the required front yard.
- (2) One (1) "For Sale" or "For Rent" sign, not to exceed six (6) square feet in area advertising only the premises on which erected. Such sign(s) shall be removed within thirty (30) days after the premises are sold or rented.
- (3) In subdivision developments, one (1) temporary subdivision sign advertising the sale of dwelling therein, having an area of not more than thirty-two (32) square feet. The permit for any such sign shall expire within two (2) years.
- (4) No sign shall be illuminated by other than continuous white light nor shall contain any visible moving parts.

(c) Signs in Commercial and Industrial Districts: In Commercial and Industrial Districts, identification, business, and advertising signs are permitted as follows:

- (1) Any sign permitted in residential districts.

- (2) One (1) or more on-site signs, the total surface area of all such signs not exceeding ten percent (10%) of the wall surface area facing front lot line or fifty (50) square feet, whichever is less. Advertising signs in parking lots shall be included in the computed sign area.
- (3) No sign or part thereof shall be closer than twenty (20) feet to the front lot line or ten (10) feet to any other lot line.
- (4) The maximum height of a freestanding sign or a part thereof shall be twenty (20) feet above the average ground elevation of the front lot line.
- (5) The maximum height of a sign which is attached to a building shall be the height of the building plus one (1) foot.
- (6) A ground sign shall not exceed four (4) feet in height above the grade, as measured at the nearest point of the adjacent right-of-way.

SECTION 11.13 ADDITIONAL SETBACKS FOR STRUCTURES ADJACENT TO MAJOR STREETS.

Notwithstanding any other provision of this Ordinance, no building or structure shall be hereafter constructed, erected, or enlarged on a lot abutting a street maintained by the Montcalm County Road Commission unless the following minimum building setback measured from the street centerline is maintained:

- (a) County Primary – one hundred (100) feet
- (b) County Secondary – seventy-three (73) feet
- (c) Collector Streets – seventy-three (73) feet.

SECTION 11.14 MINIMUM PUBLIC STREET FRONTAGE.

- (a) Except as hereinafter provide, minimum lot widths for building sites in all districts shall be measured along the lot line abutting a public street and shall not be diminished below such minimum throughout the lot or parcel.
- (b) In the case of lots abutting public cul-de-sac streets, the minimum lot width shall be measured at the required setback distance for buildings and structures from abutting public street and the minimum width shall not be diminished throughout the remainder of the lot. Such cul-de-sac lots shall have a minimum width of fifty (50) feet at the abutting street line, which minimum shall not be diminished within the required setback area for structures and buildings.
- (c) Irregular, flag, or T-shaped lots complying with the minimum lot requirements for the zone in which located, as measured at the building setback line, as well as the minimum area requirements, and which are not abutting a cul-de-sac street, shall have a minimum width of fifty (50) feet at the abutting public street line, which minimum width shall not be diminished between said street and the building setback line.
- (d) No new, irregularly-shaped lots shall be created that do not meet required lot width and area requirements of the Zoning Ordinance unless they are part of an approved, recorded

subdivision, have been the subject of an approved variance by the Board of Appeals under Chapter 17 of the Zoning Ordinance.

SECTION 11.15 GOVERNMENTAL 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.

SECTION 11.16 RAZING OF BUILDING. 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 11.17 MOVING OF BUILDING. No existing building or structure of any type or kind shall be moved into the Village or moved from one lot in the Village to another lot in the Village unless a permit is issued by the Zoning Administrator. All such buildings shall meet the construction code as adopted by the Village. In considering such permit, the Zoning Administrator shall consider the following standards:

- (a) The type and kind of construction of the existing building in relation to its strength and whether or not the building may be a fire hazard.
- (b) Whether or not the type and age of the building is in keeping with adjoining and neighboring buildings.

SECTION 11.18 KEEPING OF PETS. No more than three (3) adult dogs and/or cats in combination shall be kept or housed in one (1) residential unit in any Residential Zone.

SECTION 11.19 SWIMMING POOLS.

- (a) Pools used for swimming or bathing shall be in conformity with the requirements of this section; provided, however, these regulations shall not be applicable to any such pool less than twenty-four (24) inches deep or having a surface area less than two hundred and fifty (250) square feet, except where such pools are permanently equipped with a water recirculating system or involve structural materials.
- (b) A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged, or altered until a permit has been obtained from the Zoning Administrator.
- (c) The outside edge of the pool wall shall not be located closer than ten (10) feet from any rear or side property line; provided, that if any part of the pool walls are more than two (2) feet above the surrounding grade level, such pool shall be placed or erected not less than ten (10) feet from any lot line. No pool shall be located under any electrical wiring or in a front yard.
- (d) Each pool shall be enclosed by a fence or wall with a height of at least four (4) feet, sufficient to make such body of water inaccessible to small children. Such enclosure,

including gates therein, must not be less than four (4) feet above the underlying ground; all gates must be self-latching with latches placed four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children.

- (e) All swimming pool installations shall comply with the State Construction Code and all standard codes referred to therein.

SECTION 11.20 UNLICENSED OR INOPERABLE VEHICLES

- (a) Regulations regarding the storage of inoperable and dismantled motor vehicles are established by Ordinance 92-1, adopted March 23, 1992 by the Village Council.

SECTION 11.21 OUTDOOR STORAGE AND WASTE DISPOSAL

- (a) All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities from adjacent property.
- (b) All materials or wastes which might cause fumes, odors, or dust which constitute a fire hazard or may be edible by rodents or insects shall be stored outdoors only in closed containers and screened from the street or adjacent property.
- (c) No materials or wastes shall be deposited on the premises in such form or manner that they may be moved off the premises by natural causes or forces.
- (d) Waste materials shall not be allowed to accumulate on the premises in such manner as to be unsightly, constitute a fire hazard, or contribute to unsanitary conditions.

SECTION 11.22 HOME OCCUPATIONS. All home occupations shall be subject to the following restrictions and regulations:

- (a) The home occupation shall be conducted within the principal building and only by a person resident in the building. Not more than one (1) person shall be employed who is not a resident of the premises.
- (b) No home occupation shall occupy more space than twenty (20) percent of the total floor area of a residence, exclusive of any open porch, attached garage, or similar space not suited for, or intended to be occupied as, living quarters; provided, however, that in no event shall such home occupancy occupy more than three hundred (300) square feet. No rooms which have been constructed as an addition to the residence, nor any living quarters, shall be considered as floor area until two (2) years after the due date of the completion thereof, as shown by the records of the Zoning Administrator.
- (c) For the purpose of identification of such use, one (1) non-illuminated wall sign not exceeding one (1) square foot in area may be permitted. Such signs shall identify only the name of the profession and the name of the occupancy of the premises.
- (d) No motor other than electrically operated motors shall be used in conjunction with such home occupation, and the total horsepower of such permitted electrical motors shall not exceed three (3) horsepower, or one (1) horsepower for any single motor. All motors and

equipment used in the conduct of any home occupation shall be shielded so as not to cause radio or television interference.

- (e) There shall be no alteration in the residential character of the premises in connection with such home occupation.
- (f) No merchandise or articles for sale shall be displayed for advertising purposes and no sign or device relative to the sale of such merchandise shall be displayed on the premises.
- (g) No articles or materials used in connection with such home occupation shall be stored other than in the principal building so used.
- (h) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such one occupation shall be provided off the street and not within the required front yard.

SECTION 11.23 CLEAR VISION CORNERS. On any corner, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and eight (8) feet above the established abutting road grade within a triangle formed by the two street right-of-way lines and a line connecting them to points twenty-five (25) feet from the intersection of the right-of-way lines.

SECTION 11.24 MINIMUM REQUIREMENTS FOR DWELLINGS OUTSIDE OF MOBILE HOME PARKS. All dwelling units located outside of mobile home parks shall comply with the following requirements:

- (a) All dwelling units shall provide a minimum height between the floor and ceiling of seven and one half (7.5) feet; or if a mobile home, it shall meet the requirements of the United States Department of Housing and Urban Development Regulations, entitled Mobile Home Construction and Safety Standards, effective June 15, 1972, as amended.
- (b) The minimum width of any single family dwelling unit shall be twenty two (22) feet for at least sixty-seven (67) percent of its length, measured between the exterior part of the walls having the greatest length.
- (c) There shall be a foundation of concrete or block around the entire exterior perimeter of all dwellings. The foundation shall have a minimum depth of thirty (30) inches below grade. The foundation shall provide a maximum exposed foundation above grade of sixteen (16) inches and a minimum exposed foundation above grade of eight (8) inches.
- (d) All dwellings without basements shall provide a crawl space below the entire floor of the dwelling thirty (30) inches in depth, with a vapor barrier consisting of two (2) inches of concrete on the floor of the crawl space. The crawl space shall also be provided with adequate drains to drain any accumulation of water in the crawl space. The building inspector may allow an alternative building plan to be utilized if consistent with the approved construction code of the Village.
- (e) All dwellings shall be firmly attached to the foundation so as to be watertight as required by the construction code adopted by the Village or, if a mobile home, shall be anchored to the

foundation by an anchor system designed and constructed in compliance with the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards."

- (f) The wheels, pulling mechanism, and tongue of any mobile home shall be removed prior to placement on a foundation.
- (g) All dwellings shall be connected to a sewer system and water supply system approved by the Village or the County Health Department.
- (h) All dwelling shall provide steps or porch areas, permanently attached to the foundation where there exists an elevation differential of more than one (1) foot between any door and the surrounding grade. All dwellings shall provide a minimum of two points of ingress and egress.
- (i) All additions to dwellings shall meet all the requirements of this Ordinance.
- (j) All dwellings shall be 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 or roof drainage systems, concentrating roof drainage at collection points along sides of the dwellings. The compatibility of design and appearance shall be determined in the first instance by the Building Inspector upon review of the plans submitted for a particular dwelling. An appeal by an aggrieved party may be taken to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards set forth in this section as well as the character, design, and appearance of residential dwellings located outside of mobile home parks within five hundred (500) feet of the subject dwelling. 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.
- (k) Prior to issuance of a building permit for any dwelling unit, construction plans, including a plot plan adequate to illustrate compliance with the requirements of this Ordinance, shall be submitted to the Building Inspector. If the dwelling unit is a mobile home, there shall also be submitted adequate evidence to assure that the dwelling complies with the standards applicable to mobile homes set forth in this section.
- (l) All mobile homes shall meet the standards for mobile home construction contained in the United States Department of Housing and Urban Development Regulations entitled "Mobile Home Construction & Safety Standards" effective June 15, 1976, as amended. All other dwellings shall meet the requirements of the construction code adopted by the Village.
- (m) A minimum of one hundred (100) square feet of enclosed storage space, excluding closets, shall be provided for each dwelling. Said enclosed storage space may consist of a basement, garage, shed, or other structure approved by the Zoning Administrator.

SECTION 11.25 SCREENING – GENERALLY. For residential zones, fences, hedges, or clumps of shrubs within fifteen (15) feet of the front lot line, or other lot line adjoining a public street, higher than thirty (30) inches above the average sidewalk grade measured at the center of the lot are prohibited. All other fences may not exceed a height of six (6) feet above the lot grade.

SECTION 11.26 MECHANICAL APPURTENANCES. Mechanical appurtenances, such as blowers, ventilating fans and air conditioning units, which are not mounted on a roof must be adjacent to the principal building and be placed not closer than ten (10) feet to adjoining properties.

SECTION 11.27 MECHANICAL WORK. Mechanical work on trucks over one (1) ton or more, or race cars, stock cars, or otherwise, owned by the occupant of a dwelling, or on any vehicles not owned by an occupant of the premises is prohibited in residence zones. Any permitted work on vehicles must be performed entirely within a building, and no parts or vehicles not in a legally operable condition shall be stored outside.

SECTION 11.28 SATELLITE DISH ANTENNA. A satellite dish antenna is permitted in all zoning districts upon approval by the Zoning Administrator provide the following provisions are satisfied:

- (a) The satellite dish antenna shall be permanently anchored to a foundation.
- (b) No portion of the satellite dish antenna shall conduct or display any advertising, message or other graphic representation other than the manufacturer's name.
- (c) No satellite dish antenna shall exceed a height of fifteen (10) feet, including its mounting structure.
- (d) A satellite dish antenna shall only be located in a rear yard and shall not be closer to a property line than its height.
- (e) A satellite dish antenna may be mounted on the roof of a principal or accessory building, provided it shall not exceed a height of five (5) feet.

SECTION 11.29 RECREATIONAL VEHICLE. 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:

- (a) Such recreational vehicle shall be maintained in a clean, well kept state so as not to detract from the appearance of the surrounding area.
- (b) 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 passage hereof.
- (c) At no time shall such parked recreational vehicle be occupied or used for living, sleeping, or housekeeping purposes, except as provided in sub-paragraph (d) of this Section.
- (d) 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 one hundred sixty eight (168) consecutive hours. The total number of days during which a recreational vehicle may be occupied under this sub-section shall not exceed thirty (30) in any calendar year.
- (e) No person shall store or park more than five (5) recreational vehicles on their property outside of an enclosed structure.

- (f) Notwithstanding the provisions above, a unit may be parked anywhere on the premises during active loading or unloading, an use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.

CHAPTER 12

SITE PLAN REVIEW

SECTION 12.01 PURPOSE. The intent of this section is to provide for consultation and cooperation between the applicant and the Village Planning Commission in order that the applicant may accomplish their objectives in the utilization of his land within the regulations of this Zoning Ordinance and with minimum adverse effect on the use of adjacent streets and highways, and on existing and future uses and environment in the immediate area and vicinity.

SECTION 12.02 SCOPE. The Zoning Administrator shall not issue a zoning permit for any principal use requiring more than four (4) parking spaces, a change of use or as required in this Ordinance until a site plan has been reviewed and approved by the Planning Commission.

SECTION 12.03 APPLICATION PROCEDURES. An application for Site Plan Review, plus twelve (12) copies of either a preliminary or final site plan, shall be submitted seven (7) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application and plans for completeness, then transmit to the Planning Commission.

SECTION 12.04 PRELIMINARY PLAN REVIEW. Preliminary sketches of proposed site and development plans may be submitted for review to the Planning Commission prior to final site plan submittal. The purpose of such procedure is to allow discussion between the applicant and the Planning Commission to better inform the applicant of the acceptability of his proposed plans prior to incurring extensive engineering and other costs which might be necessary for final site plan approval. Such plans shall include the following as deemed necessary by the Zoning Administrator.

- (a) Legal description of the property.
- (b) Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
- (c) A generalized map showing any existing or proposed arrangement of:
 - (1) Streets
 - (2) Lots
 - (3) Access points
 - (4) Other transportation arrangement
 - (5) Buffer strips screening
 - (6) Natural characteristics, including but not limited to open space, stands of trees, brooks, ponds, floodplains, hills, and similar natural assets.
 - (7) Signs – location and lighting
 - (8) Buildings

- (d) 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.
 - (3) Dwelling unit densities by type.
 - (4) Proposed method of providing sewer and water service, as well as other public and private utilities.
 - (5) Proposed method of providing storm drainage.
 - (6) Proposed method of revegetating open sand areas, both pre-existing and newly created, to a stable condition.

In addition to the above, said applicant shall submit a fee in accordance with the fee schedule established by the Village Council to cover the normal and specially incurred expenses of the Planning Commission. One half of said fee shall be paid upon submission of the preliminary site plan and the balance upon submission of the final site plan.

SECTION 12.05 PLANNING COMMISSION REVIEW OF PRELIMINARY SITE PLAN. The Planning Commission shall review the preliminary site plan and make recommendations to the applicant at the regular Planning Commission meeting based on the purposes, objectives and requirements of this Ordinance, and specifically, the following considerations when applicable:

- (a) Ingress and egress to the property and proposed structures thereon with particular reference to motor vehicle and pedestrian safety and convenience, traffic flow and control, and access in cases of fire, catastrophe or emergency.
- (b) Off-street parking and loading areas where required, with particular attention to noise, glare, and odor effects of each use in the plan on adjoining properties and properties in the proposed development.
- (c) Sewer, water, and storm drainage with reference to locations, availability, and compatibility.
- (d) Screening and buffering with reference to type, dimensions, and character.
- (e) Signs, if any, and their proposed lighting relative to glare, traffic safety, economic effect, and compatibility and harmony with adjoining properties.
- (f) Required yards.
- (g) General compatibility with adjacent properties.
- (h) The general purposes and spirit of this Ordinance.

SECTION 12.06 FINAL SITE PLAN REVIEW. The site plan shall include the following information and such items as may be requested by the Planning Commission from its review of the optional preliminary site plan.

- (a) Legal description of the property.
- (b) Small scale sketch of properties, streets and use of land within one half (1/2) mile of the area.
- (c) A map at a scale not to exceed one (1) inch equals two hundred (200) feet (1" = 200'). The following items shall be shown on the map:
 - (1) Date site plan was prepared.
 - (2) Name and address of the preparer.
 - (3) The topography of the site at a minimum of five (5) foot intervals and its relationship to adjoining land.
 - (4) Existing man-made features.
 - (5) Dimensions of setbacks, locations, heights, size of buildings and structures.
 - (6) Street right-of-ways, indicating proposed access routes, internal circulation, and relationship to existing right-of-ways.
 - (7) Proposed grading.
 - (8) Location and type of drainage, sanitary sewers, storm sewers, and other utilities.
 - (9) Location and type of fences, landscaping, buffer strips, and screening.
 - (10) Location and type of signs and on-site lighting.
 - (11) Proposed parking areas and drives. Parking areas shall be designed by lines showing individual spaces and shall conform with the provisions of Chapter 13.
 - (12) Easements, if any.
 - (13) Dimensions and number of proposed lots.
- (d) A narrative describing the items indicated in Section 12.04 (d).

SECTION 12.07 PLANNING COMMISSION REVIEW OF FINAL SITE PLAN. The Planning Commission shall review the final site plan and either approve, deny, or approve with conditions, the final site plan based on the purposes, objectives and requirements of this Ordinance and specifically the considerations listed in Section 12.05.

- (a) Further, the Planning Commission is empowered to require a performance bond or certified check in an amount equal to the estimated cost of improvements (as defined in Section 3.36) associated with the project. Such performance guarantee shall be deposited with the Clerk of the Village at the time of the issuance of the permit authorizing the activity or project to insure faithful completion of the improvements indicated with the approved site plan; if not, said performance bond shall be forfeited. The Village shall rebate a proportional share of cash deposits only when requested by the depositor, based on the percent of improvements completed, as attested to by the depositor and verified by the Zoning Administrator. In cases where the provisions of Section 12.07 (b) have not been met, the amount of the aforementioned performance guarantee shall be used by the Village to return the property to a safe and healthy condition; and the balance, if any, shall be returned to the applicant.
- (b) Each development shall be under construction within one (1) year after the date of final approval by the Planning Commission. If said applicant does not fulfill this provision, the commission may grant a sixty (60) day extension provided the applicant presents reasonable evidence to the effect that said development has encountered unforeseen difficulties but is then ready to proceed. Should neither of the aforementioned provisions be fulfilled or a sixty (60) day extension has expired without construction underway, the site development plan shall be null and void.
- (c) The Planning Commission shall undertake and complete all site plan reviews within sixty (60) days of submission of all required information by the applicant. Upon approval of said plan, the Chairman of the Planning Commission shall sign three (3) copies thereof. One (1) signed copy shall be made a part of the Commission's files and one (1) shall be forwarded to the Zoning Administrator for issuance of a building permit. The third copy shall be returned to the applicant.

CHAPTER 13

PARKING AND LOADING SPACES

SECTION 13.01 GENERAL. In all Zoning Districts, there shall be provided, before any building or structure is occupied or is enlarged or increased in capacity, off-street parking spaces for motor vehicles as follows:

<u>Use</u>	<u>Minimum Parking Spaces Required</u>
(a) Dwellings	Two (2) for each dwelling unit
(b) Lodging, rooming and boarding houses	Two (2) for each three (3) guest rooms or each six (6) beds for guests, whichever amount is greater
(c) Private clubs and lodges	One (1) for each five (5) active members and one (1) for each employee with a minimum of one (1) for each one hundred (100) square feet of floor area
(d) Hospitals	Two (2) for each patient bed
(e) Sanitariums or convalescent or nursing homes	One (1) for each two (2) beds
(f) Homes for senior citizens	One (1) for each three (3) beds
(g) Hotels	One (1) for each two (2) guest rooms
(h) Motels and tourist homes, including bed and breakfast establishments	One (1) for each sleeping room
(i) Theaters, auditoriums, stadiums	One (1) for each four (4) seats
(j) Bowling alleys	Five (5) for each lane
(k) Private, elementary and schools	Two (2) per classroom plus additional for auditorium requirements and one (1) space for each 300 square feet of administrative office space
(l) Senior high schools and higher	Seven (7) per classroom plus additional for auditorium requirements and one (1) space for each 300 square feet of administrative office area
(m) Churches	One (1) for each four (4) seat or eight (8) feet of pew in the main worship unit
(n) Community center	One (1) for each one hundred (100) square feet of

		assembly floor area
(o)	Libraries, museums, and post offices	One (1) for each one hundred (100) square feet of floor area
(p)	Professional offices and buildings	One (1) for each two hundred (200) square feet of floor area
(q)	Restaurants, grills, dining rooms, dairy bar, soda fountain	One (1) for each two seats
(r)	Medical doctors, dental, and veterinary offices and clinics	One (1) for each one hundred-fifty (150) square feet of floor area
(s)	Banks, business offices, and public buildings not specifically mentioned elsewhere	One (1) for each one hundred-fifty (150) square feet of floor area
(t)	Mortuaries or funeral homes	One (1) for each fifty (50) square feet of floor area used for services
(u)	“Drive-in” establishments	One (1) for each two seats
(v)	Use groupings	
	(1) Retail stores, super markets, department stores, personal service shops – general business	One (1) for each one hundred (100) square feet of floor area in the basement and on the first floor used for retail sales and one (1) for each four hundred (400) square feet of floor area on the second floor used for retail sales and one (1) for each six hundred (600) square feet of floor area on the third floor used for retail sales, and one (1) for each eight hundred (800) square feet of floor area on any additional floors used for retail sales
	(2) Business offices and/or research laboratories and/or similar uses	One (1) for each employee on the maximum shift or peak employment period
	(3) Manufacturing, processing, and/or fabricating, manufacturing buildings and/or business offices and/or research laboratories and/or other facilities related, but not necessarily connected to a manufacturing or industrial building	One (1) for each three (3) employees on the maximum shift or peak employment area

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| (4) | Other uses not specifically mentioned | For uses not specifically mentioned therein, off-street parking requirements shall be established by the Zoning Administrator from requirements for similar uses |
| (5) | Mixed uses in the same building | In the case of mixed uses in the same building, the amount of parking space for each use specified shall be provide and the space for one (1) use shall not be considered as providing required spaces for any other use except as to churches and auditoriums incidental to public and parochial schools permitted herein |

SECTION 13.02 JOINT USE OF FACILITIES. Provision of common parking facilities for several uses in the same vicinity is encouraged. In such cases, the total space requirement is the sum of the maximum individual requirements.

SECTION 13.03 LOCATION OF FACILITIES. Off-street parking facilities shall be located as hereafter specified; when a distance is specified, it shall be the walking distance measured from the nearest point of the parking facility to nearest normal entrance to the building or use that such facility is required to serve.

- (a) For all residential buildings and for all nonresidential buildings and uses in residential Zoning Districts, required parking shall be provided on the lot with the building or use it is required to serve.
- (b) For commercial and all nonresidential buildings and uses in Commercial and Industrial Zoning Districts, required parking shall be provided within three hundred (300) feet.

SECTION 13.04 SIZE OF PARKING SPACE. Each off-street parking space shall have an area of not less than one hundred sixty-two (162) square feet (exclusive of access drives or aisles) and shall be a minimum of nine (9) feet in width and eighteen (18) feet in length.

SECTION 13.05 REQUIREMENTS FOR PARKING AREAS. Every parcel of land hereafter established as an off-street public or private parking area for more than five (5) vehicles, including a municipal parking lot, commercial parking lot, automotive sales and/or service lot, and accessory parking areas for multiple dwellings, businesses, public assembly, and institutions, shall be developed and maintained in accordance with the following requirements:

- (a) The parking lot and its driveways shall be effectively screened on each side which adjoins or faces premises situated in any Residential Zoning District, a greenbelt ten (10) feet in width landscaped with lawn and low shrubbery clumps or backed up by a solid planting of evergreen trees at least five (5) feet in height and five (5) feet wide after one (1) growing season or other suitable screening device.
- (b) The parking lot and its driveway shall be: (1) designed to provide adequate drainage; (2) surfaced with concrete or asphalt pavement, or other suitable material; and (3) maintained in good condition, free of dust, trash, and debris.

- (c) The parking lot and its driveways shall not be used for repair, dismantling, or servicing of any vehicles.
- (d) The parking lot shall be provided with entrances and exits so located as to minimize traffic congestion.
- (e) Lighting facilities shall be so arranged as to reflect the light away from adjoining properties.
- (f) No part of any public or private parking area regardless of the number of spaces provided shall be closer than ten (10) feet to the street right-of-way.

SECTION 13.06 OFF-STREET LOADING SPACES. For every building or addition to an existing building hereafter erected to be occupied by storage, display of goods, retail store or block of stores, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other similar uses requiring the receipt or distribution in vehicles of materials or merchandise, there shall be provided and maintained on the same lot with such building or addition: (1) an area or means adequate for maneuvering and ingress and egress for deliver vehicles; and (2) off-street loading spaces in relation to floor areas as follows:

- (a) Up to twenty thousand (20,000) square feet – one (1) space;
- (b) Twenty thousand (20,000) or more but less than fifty thousand (50,000) square feet – two (2) spaces; and
- (c) One (1) additional space for each additional fifty thousand (50,000) square feet or fraction thereof.

Each such loading space shall be at least ten (10) feet in width, thirty-five (35) feet in length, and fourteen (14) feet in height. No such space shall be located closer than fifty (50) feet to any lot in any Residential Zoning District.

CHAPTER 14

SPECIAL USES

SECTION 14.01 PURPOSE. Special uses are those uses of land which are not essentially incompatible with uses permitted in a zoning district, but possess characteristics or locational qualities which require individual review and discretion in order to avoid incompatibility with the character of the surrounding area, public services, and facilities, and adjacent uses of land. The purpose of this chapter is to establish equitable procedures and criteria which shall be applied in the determination of requests to establish special uses. The criteria for decision and requirements provided for under the provisions of the chapter shall be in addition to those required elsewhere in this ordinance which are applicable to the special use under consideration.

SECTION 14.02 APPLICATION PROCEDURES. An application for permission to establish a special use shall be submitted and acted upon in accordance with the following procedures:

- (a) Application – Applications for a special use shall be submitted twenty (20) days prior to the next scheduled Planning Commission meeting through the Zoning Administrator who will review the application for completeness, then transmit to the Planning Commission. Each application shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by the Village Council to cover the costs of processing the application.
- (b) Required Information – An application for a special use permit shall be accompanied by the following documents and information:
 - (1) A special use application form supplied by the Zoning Administrator which has been completed in full by the applicant.
 - (2) A site plan, as specified in Chapter 12.
 - (3) A statement with regard to compliance with the criteria required for approval in Section 14.03, and other criteria imposed by this Ordinance affecting the special use under consideration.
- (c) Public Hearing – Upon receipt of an application for a special use, the Planning Commission shall call a public hearing for the purpose of receiving comments relative to the special use application. A notice shall be published in a newspaper which circulates in the Village, and sent by mail or personal delivery to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. The notice shall be given not less than five (5) nor more than fifteen (15) days before the date the application will be considered. The notice shall:
 - (1) Describe the nature of the special use application.
 - (2) Indicate the property which is the subject of the special use application.
 - (3) State when and where the special use application will be considered.

- (4) Indicate when and where written comments will be received concerning the application.
- (d) Review and Approval – Within thirty (30) days following the public hearing, the Planning Commission shall review the application for a special use, comments received at the public hearing, the site plan and other materials submitted in relation to the application, and make a determination on the special use application in accordance with the criteria for approval stated in Section 14.03, and such standards contained in this Ordinance which relate to the special uses under consideration. Upon the approval or approval with conditions by the Planning Commission, the applicant may apply for a building permit.

SECTION 14.03 BASIS OF DETERMINATION. Prior to approval of a special use application, the Planning Commission shall insure that the standards specified in this section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special use under consideration.

- (a) General Standards – The Planning Commission shall review the particular circumstances of the special use application under consideration in terms of the following standards, and shall approve a special use only upon a finding of compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:
 - (1) The special use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.
 - (2) The special use shall not change the essential character of the surrounding area.
 - (3) The special use shall not be hazardous to adjacent property, or involves uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, fumes or glare.
 - (4) The special use shall not place demands on public services and facilities in excess of current capacity.
- (b) Conditions – The Planning Commission may impose conditions with the approval of a special use which are necessary to insure compliance with the standards for approval stated in this section and any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the special use application and shall be enforced by the Zoning Administrator.
- (c) Any property which is the subject of a special use permit which has not been used for a period of twelve (12) months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission for the purposes for which such special use was granted) shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special use shall thereupon terminate. This time limitation shall not apply to second and

subsequent phases of a development which is part of a comprehensive plan under the following paragraph (d) hereof.

- (d) An applicant for a special use approval may include a comprehensive plan and specifications for a development which is to be accomplished in phases over a specified period of months or years and secure a review of the entire project, thereby avoiding the need for multiple special use hearings unless modifications in any approved special use plan are subsequently necessary, wherein a special use hearing on the modification would be required.

SECTION 14.04 EXISTING SPECIAL SITUATIONS. Uses of land and/or development projects granted special exception status by the Village prior to the adoption of this Zoning Ordinance may continue this status, provided the rules, regulations, requirements, and conditions of the special exception are met.

CHAPTER 15

NONCONFORMING USES, BUILDINGS OR STRUCTURES

SECTION 15.01 CONTINUANCE OF NONCONFORMING USES, BUILDINGS, OR STRUCTURES. Except where specifically provided to the contrary, and subject to the provisions of this Chapter, the lawful use of any building or structure or of any land or premises which is existing and lawful on the effective date of this Ordinance, or in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this Ordinance or any amendment thereto. In addition, except where specifically provided to the contrary and subject to the provisions of this Chapter, a building or structure which is existing and lawful on the effective date of this Ordinance, or , in the case of an amendment of this Ordinance, then on the effective date of such amendment, may be maintained and continued although such building or structure does not conform with the provisions of this Ordinance or any amendment thereto.

SECTION 15.02 EXPANSION. Structures, buildings, or uses nonconforming by reason of height, area, and/or parking and loading space provisions only may be extended, enlarged, altered, remodeled, or modernized provided: (1) there is compliance with all height, area, and/or parking and loading provisions with respect to such extension, enlargement, alteration, remodeling, or modernization; and (2) the Zoning Administrator shall determine that such alteration, remodeling, or modernization will not substantially extend the life of any nonconforming building or structure. Any use of a building or structure which is nonconforming by reason of parking and loading provisions and which is thereafter made conforming or less nonconforming by the addition of parking and/or loading space shall not thereafter be permitted to use such additionally acquired parking and/or loading space to meet requirements for any extension, enlargement, or change of use which requires greater areas for parking and/or loading space.

No nonconforming use of any building or structure or of any land or premises which is nonconforming for reasons other than height, area, and/or parking and loading space provisions shall hereafter be extended or enlarged: (1) unless all extensions or enlargements do not exceed fifty (50) percent of the area of the original nonconforming use; and (2) unless such extensions or enlargement is authorized by the Planning Commission as a special use. In considering such authorization, the Planning Commission shall consider the following standards and Chapter 18: (1) whether the extension or enlargement will substantially extend the probable duration of such nonconforming use; and (2) whether the extension or enlargement will interfere with the use of other properties in the surrounding neighborhood for the uses for which they have been zoned or with the use of such other properties in compliance with the provisions of this Ordinance.

SECTION 15.03 RESTORATION AND REPAIR. All repairs and maintenance work required to keep a nonconforming building or structure in sound condition may be made but it shall not be structurally altered to permit the use of such building or structure beyond its natural life except for repairs necessary to maintain public safety. In the event any nonconforming building or structure is damaged by fire wind, Act of God or public enemy, it may be rebuilt or restored if the cost thereof does not exceed the assessed valuation of the nonconforming building or structure prior to its damage or destruction. In the event any nonconforming building or structure is damaged by fire, wind, Act of God, or public enemy, and the cost of rebuilding or restoration exceeds the assessed valuation of such building or structure prior to its damage or destruction, such rebuilding or restoration shall only be

permitted if first authorized by the Planning Commission as a Special Use under the Zoning Ordinance. In considering such authorization, the Planning Commission shall consider the following standards:

- (a) Whether such rebuilding or restoration will substantially extend the probable duration of the nonconforming use.
- (b) Whether or not the land previously occupied by the nonconforming use can be advantageously used for a use permitted in the applicable zoning district.

SECTION 15.04 CHANGE OR DISCONTINUANCE. The nonconforming use of a building or structure or of any land or premises shall not be:

- (a) Changed to any other nonconforming use.
- (b) Re-established after discontinuance, vacancy, lack of operation or otherwise for a continuous period of twelve (12) months.
- (c) Re-established after it has been changed to a conforming use.

SECTION 15.05 BUILDING OR STRUCTURE UNDER CONSTRUCTION ON EFFECTIVE DATE OF ORDINANCE. Any building or structure shall be considered existing and lawful and for purposes of Section 15.01, to have been in use for the purpose for which constructed if on the effective date of this Ordinance, a building permit has been obtained therefore, if required, or, if not building permit is required, a substantial start has been made toward construction and construction is thereafter pursued diligently to conclusion.

CHAPTER 16

ADMINISTRATION AND ENFORCEMENT

SECTION 16.01 ZONING ADMINISTRATION. The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator.

SECTION 16.02 ZONING ADMINISTRATOR. The Zoning Administrator shall be appointed by the Village Council for such term and subject to such conditions and at such rate of compensation as the Village Council shall determine. To be eligible for appointment to the post of Zoning Administrator, the applicant must be: (a) generally informed of the provisions of this Ordinance; (b) have a general knowledge of the building arts and trades; and (c) be in good health and physically capable of fulfilling the duties of the Zoning Administrator. Said applicant shall have no interest whatsoever, directly or indirectly, in the sale or manufacture of any material, process, facility or device entering into or used in connection with building construction.

SECTION 16.03 ZONING PERMITS REQUIRED.

- (a) Permit Required – No building or structure shall be erected, moved, placed, reconstructed, extended, enlarged or altered, unless a permit therefore has been issued by the Zoning Administrator. An application for a permit shall be in writing and upon forms furnished by the Village. A permit issued by the Zoning Administrator is nontransferable and must be obtained before any work, excavations, erection, alteration, or movement is commenced. Satisfactory evidence of ownership of the lot or premises may be required by the Zoning Administrator and shall be furnished upon request. If the application is approved, the Zoning Administrator shall sign and mark approved both copies of the application and file one copy with the Village Clerk and return the other copy to the applicant.
- (b) Contents of Application – Each application shall include such reasonable information as may be requested by the Zoning Administrator in order to determine compliance with the terms and provisions of the Ordinance and shall include, as a minimum, the following information: (1) the location and actual dimensions of the lot or premises to which the permit is to apply; (2) the kind of buildings or structures to which the permit is to apply; (3) the width of all abutting streets; (4) the area, size, and location of all buildings or structures to which the permit is to apply; (5) the type of use to be made of the building or structure to which the permit is to apply; and (6) the use of buildings or structures on adjoining lands. The Zoning Administrator may waive the inclusion of any of the foregoing information in an application if it is determined that such information is not reasonably necessary to determine compliance with the terms and provisions of this Ordinance.
- (c) Accessory Buildings or Structures – Accessory buildings or structures, when erected, moved, placed, reconstructed, extended, enlarged, or altered, at the same time as the principal building on the same lot or premises and when shown on the application for the permit for the principal building, shall not require the issuance of a separate permit. A separate permit shall be required if any accessory building or structure is erected, moved, placed, reconstructed, extended, enlarged, or altered separately or at a different time than the principal building on the same lot or premises.

- (d) Planning Commission Approval – When the terms and provisions of this Ordinance require authorization by the Planning Commission as a special use and such authorization is given, then both copies of the application shall be marked approved by the Secretary of the Planning Commission in addition to being so marked as provided above the Zoning Administrator.
- (e) Issuance of Permit – Within ten (10) days after the receipt of any application, the Zoning Administrator shall either: (1) issue a permit if the proposed work is in conformance with the terms and provisions of this Ordinance; or (2) deny issuance of a permit and state the reason(s) or cause(s) for such denial in writing. In each case the permit or the written reason(s) or cause(s) for denial shall be transmitted to the owner or their agent.
- (f) Expiration of Permits – A permit for a single family dwelling for which all construction work has not been completed within one (1) year from the date of its issuance shall expire automatically; a permit for any other building or structure for which all construction work has not been completed within two (2) years from the date of issuance shall expire automatically. A permit expiring automatically pursuant to this subsection shall, upon reapplication, be renewable once for additional terms of one (1) and two (2) years, respectively (one (1) year for single family dwelling, two (2) years for any other building or structure), on payment of an additional fee equal to one half (1/2) of the original permit fee.
- (g) Cancellation of Permits – The Zoning Administrator shall have the power to remove and cancel any permit in the event of failure or neglect to comply with all of the terms and provisions of this Ordinance or remove in the event of any false statements or misrepresentations in the application for the permit. Notice of such cancellation and revocation shall be securely posted on the construction, such posting to be considered as service upon and notice to the permit holder of the cancellation and revocation of the permit.
- (h) Fees – Fees shall be charged and collected by the Zoning Administrator in accordance with the fee schedule adopted by resolution of the Village Council.

SECTION 16.04 CERTIFICATION OF COMPLIANCE. No change in use shall be permitted and no building or structure which is erected, moved, placed, reconstructed, extended, enlarged, or altered shall be allowed to be used or occupied in whole or in part until the owner thereof has been issued a certificate by the Zoning Administrator affirming that such building or structure conforms in all respects to the provisions of this Ordinance and pertinent decisions of the Board of Appeals.

CHAPTER 17

BOARD OF APPEALS

SECTION 17.01 MEMBERS, APPOINTMENT, TENURE, PER DIEM EXPENSES AND REMOVAL. There is hereby created and continued a Board of Appeals of five (5) members. The first member of such Board of Appeals shall be a member of the Planning Commission. The second member may be a member of the Village Council. The remaining members of the Board shall be appointed from among the electors residing in the Village, provided that no elected officer of the Village nor any employee of the Village Council may serve simultaneously as a member, or as an employee of the Village Board of Appeals except as specified herein. The Board of Appeals may appoint an employee of the Village Council to act as Recording Secretary of the Board. The members selected from among the electors of the Village shall each serve a term of three years staggered in such a way that the term of at least one member expires each year. The total amount allowed such Board of Appeals in any one year as per diem or as expenses actually incurred in the discharge of their duties shall be a responsible sum which shall be provided annually in advance by the Village Council. A member of the Board of Appeals shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

SECTION 17.02 OFFICERS. The Board shall elect from its membership a Chairman, Vice Chairman, and Executive Secretary.

SECTION 17.03 RULES OF PROCEDURE. The Board shall adopt rules of procedure. These rules shall be available for public inspection at the office of the Village Clerk.

- (a) Meetings of the Board shall be held at such times as the Board may determine. There shall be a fixed place of meeting and all hearings shall be open to the public.
- (b) The presence of three members shall constitute a quorum. The Board shall act by resolution. The concurring vote of three members of said Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass by this Ordinance, or to grant variations from the requirements of this Ordinance.
- (c) The Board shall keep minutes of its proceedings, showing the action of the Board, the reasons on which it bases its action, and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examination and other official action, all of which shall be filed promptly in the office of the Board and shall be a public record.
- (d) A copy of each resolution passed upon by the said Board of Appeals shall be submitted to the Clerk of the Village and to the Secretary of the Planning Commission.

SECTION 17.04 JURISDICTION. The Board of Appeals, in conjunction with the provisions of this Ordinance, shall act upon all questions as they may arise in the administration of the Zoning Ordinance, including the interpretation of zoning maps. It shall hear and decide all appeals from and review any order, requirements, decision or determination made by the Zoning Administrator or other administrative officers charged with the enforcement of the provisions of this Ordinance. The Board of

Appeals shall also hear and decide all matters referred to it or upon which it is required to pass under this Ordinance.

SECTION 17.05 POWERS OF THE BOARD. The Board shall have the power to hear applications:

- (a) Where it is alleged that there is error or misinterpretation in any order, requirements, decisions, grant or refusal made by the Zoning Administrator or any other administrative board or official charged with the enforcement of the provisions of this Ordinance.
- (b) Where by reason of the exceptional narrowness, shallowness, or shape of a specific piece of property on the effective date of this Ordinance, or by reason of exceptional topographic conditions or non-dimensional characteristics extraordinary conditions of land, buildings or structure, or of the development of property immediately adjacent to the property in question, there are practical difficulties or would be unnecessary hardship in carrying out the literal enforcement of the requirements of this Ordinance.

SECTION 17.06 VARIANCES. No variance in the provisions or requirements of this Ordinance shall be authorized by the Board unless the Board makes findings, based upon competent, material, and substantial evidence on the whole record:

- (a) The literal enforcement of the requirements of this Ordinance would involve practical difficulties or cause unnecessary hardship.
- (b) That special conditions or circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures of buildings in the same district;
- (c) That literal interpretation of the provisions of this ordinance would deprive the applicant of property rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
- (d) That the special conditions or circumstances do not result from the actions of the applicant;
- (e) That the authorizing of such variance will not be of substantial detrimental to the neighboring property and will not be contrary to the spirit and purpose of this Ordinance.

No nonconforming use of neighboring lands, structures, or buildings shall in itself be considered grounds for the issuance of a variance.

SECTION 17.07 CONDITIONS OF APPROVAL. In authorizing a variance or exception, the Board may, in addition to the specific conditions of approval called for in this Ordinance, attach thereto such other conditions regarding location, character, landscaping or treatment reasonably necessary to the furtherance of the intent and spirit of this Ordinance and the protection of the public interest.

SECTION 17.08 TIME LIMITATIONS ON VARIANCE. Any variance granted by the Board shall automatically become null and void after a period of twelve (12) months from the date granted unless the owner or his agent shall have taken substantial steps, as determined by the Board, in implementing the variances granted by the Board, provided that the owner, upon application filed prior to the expiration of the variance, may obtain an extension of the variance for an additional period of twelve

(12) months upon showing that the expiration of the variance will cause an undue hardship to the owner.

SECTION 17.09 PROCEDURE. The following procedure shall be required:

- (a) An appeal for variance from any ruling of the Zoning Administrator or other administrative officer administering any portion of this Ordinance may be taken by any person or any governmental department affected or aggrieved thereby.
- (b) Fees. Each application for variance shall be accompanied by a filing fee then in effect as established by Village resolution, provided that if the applicant requests that a special meeting of the Appeal Board be called for the purpose of hearing the variance request, the filing fee shall be double the amount specified therefore.
- (c) When an application or appeal has been filed in proper form and with the required data, the Secretary of the Board shall immediately place the said application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served.
 - (1) Notices shall be served either personally or by mail to the owners of the property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, the partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.
 - (2) Notices shall be served at least five (5) days before the hearing. The Secretary of the Board shall file an affidavit of service by mail or personal service with the Board prior to the hearing. Each party may appear at the hearing in person or by agent and/or attorney.

SECTION 17.10 DECISIONS OF THE BOARD. The Board shall decide all applications and appeals within thirty (30) days after the final hearing thereon. The Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end, shall have all issuance of a permit. A copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator within forty-eight (48) hours of such decision. Such decision shall be binding upon the Zoning Administrator and observed by him/her, and he/she shall incorporate the terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board. A decision of the Board shall not become final until the expiration of five days from the date such decision is made unless the Board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

SECTION 17.11 STAY OF PROCEEDINGS. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Appeals, after notice of

appeal shall have been filed with him/her, that by reason of fact stated in the certificate, a stay would, in his/her 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 Board of Appeals or by the Circuit Court on application, after notice to the Zoning Administrator.

CHAPTER 18

PROCEDURES FOR AMENDMENT AND DISTRICT CHANGES

SECTION 18.01 INITIATION OF AMENDMENTS. Whenever the public necessity, convenience, general welfare or good zoning practice require the regulations, restrictions and district boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed; provided, however, that no such action may be taken until a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

An amendment, supplement, or change may be initiated by the Village Council or the Village Planning Commission on a motion by either of these bodies, or by a verified application of one (1) or more of the owners or lessees of property within the area proposed to be changed or affected by this Ordinance.

SECTION 18.02 PROCEDURE FOR CHANGES.

- (a) Applications – Applications for amendments and district changes shall be submitted to the Planning Commission upon forms carefully filled out with such data and information as to assure the fullest practical presentation of facts for the permanent record.
- (b) Notice of Public Hearing – Before submitting its recommendations on a proposed amendment of the text or a district change, the Planning Commission shall hold at least one (1) public hearing, notice of which hearing shall be given by two (2) publications in a newspaper of general circulation in the Village, the first to be printed not more than thirty (30) days nor less than twenty (20) days and the second not more than eight (8) days before the date of such hearing. Not less than twenty (20) days notice of the time and place of such hearing shall also be given by mail to each electric, gas, pipeline, and telephone public utility company that registers its name and mailing address with the Village Planning Commission for the purpose of receiving such notice and to each railroad operating within the district or zone affected. If an individual property, or several adjacent properties, are proposed for rezoning, the Village Planning Commission shall give a notice of the proposed rezoning to the owner of the property in question, to all persons whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all single and two-family dwellings within three hundred (300) feet. The notice shall be delivered personally or by mail to the respective owners and tenants at the addresses given in the last assessment role. If the tenant's name is not known, the term "occupant" may be used. If the notice is delivered by mail, an affidavit of mailing shall be filed with the Planning Commission before the hearing. The notices shall include the places and times at which the proposed amendment to the text or the district change and any maps of this Ordinance may be examined.
- (c) Public Hearing – The public hearing shall be held.
- (d) County Planning Commission – Following such hearing or hearings, the Village Planning Commission shall submit the proposed amendment to the County Planning Commission for approval, disapproval, or suggestions. The approval of the Planning Commission shall be conclusively presumed unless such committee shall, within thirty (30) days of its receipt, have notified the Village Clerk to the contrary.

- (e) Village Council – The Village Planning Commission shall transmit a summary of comments received at the public hearing and the proposed zoning amendment, along with a recommendation of granting or denying the amendment to the Village Council. The Village Council may hold additional hearings if the Village Council considers it necessary. Notice of a public hearing held by the Village Council shall be published in a newspaper which circulates in the Village. The notice shall be published not more than fifteen (15) days, nor less than five (5) days before the hearing.

SECTION 18.03 RE-HEARING ON CHANGES. Whenever a proposed amendment or district change has not been adopted by the Village Council, the Planning Commission shall refuse to consider the same for at least one (1) year unless it is conclusively proven that new conditions and circumstances exist.

SECTION 18.04 SCHEDULE OF FEES. No action shall be taken on the application for a temporary use or structure permit, variance, conditional use authorization, or zoning change, as the case may be, unless or until fees connected with such application have been paid as determined by the Village Council.

Where structures are started or are occupied before permit, zoning change or variance is granted, the fees listed shall be doubled, but payment of such double fees shall not relieve any person from fully complying with the requirements of this Zoning Ordinance.

CHAPTER 19

PENALTIES

SECTION 19.01 PENALTIES. Any building or structure which is erected, moved, placed, reconstructed, razed, extended, enlarged, altered, maintained or used, or any use of a lot or land which is begun, maintained or changed in violation of any term of provision of this Ordinance, is hereby declared to be a nuisance per se. Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement or any term or provision of this Ordinance or any amendment thereof shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500.00) or shall be imprisoned in the Montcalm County Jail for not more than ninety (90) days or both such fine and imprisonment in the discretion of the Court. Each and every day during which any violation continues shall be deemed a separate offense. The duly authorized attorney for the Village is empowered to prosecute such violations.

SECTION 19.02 PROCEDURES. The Village Council and/or Village President may institute injunction, mandamus, abatement or any other appropriate action or proceedings to prevent, enjoin, abate, or remove any violation of this Ordinance. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

CHAPTER 20

MISCELLANEOUS PROVISIONS

SECTION 20.01 ADMINISTRATIVE LIABILITY. No officer, agent, employee, or member of the Planning Commission, Village Council or Board of Appeals shall render himself/herself personally liable for any damage that may accrue to any person as the result of any act, decision, or other consequence or occurrence arising out of the discharge of his/her duties and responsibilities pursuant to this Ordinance.

SECTION 20.02 SEVERABILITY. This Ordinance and the various parts, sections, subsections, paragraphs, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, section, subsection, paragraph, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION 20.03 EFFECTIVE DATE. This Ordinance was approved by the Village Council on September 26, 1994, and is ordered to take immediate effect.