

Chapter 40 ZONING¹

ARTICLE I. IN GENERAL

Sec. 40-1. Policy.

This chapter is enacted pursuant to Public Act 207 of 1921, as amended (being the City and Village Zoning Act, MCL 125.581, et seq.). From and after July 1, 2006, the continued administration of this chapter, amendments to this chapter, and all other matters concerning operation of this chapter, shall be done pursuant to Public Act 110 of 2006, as amended (being the Michigan Zoning Enabling Act, MCL 125.3101, et seq. "the Zoning Enabling Act").

In accordance with the statutory authority and intent, the village is desirous of providing for the orderly development of the village which the village council deems essential to the well-being of the community and which will protect and preserve its residents and recognized land uses. The policy of the village council is to meet the needs of the community's residents for food, fiber, energy and other natural resources, and to provide for desirable residential housing, recreation, service and other uses of land, while imposing limitations to prevent or discourage the inappropriate design or character of buildings, the overcrowding of land, the congestion of population, and the imposition of unnecessary burdens upon transportation systems and other public facilities. By this chapter the village council intends to facilitate adequate and efficient provision for transportation systems, sewage disposal, water supply systems, communication and information systems, energy and other natural resources, education, recreation, and other public services and facility needs, and to ensure orderly and harmonious development that compliments existing structures, all for the general public health, safety, and welfare of the community and its residents. By protecting against incompatible uses of land and by promoting the proper use of land as provided for in this chapter, the village council promotes the vitality of the village and encourages the provision of adequate space conducive to healthy living conditions, while contemporaneously making adequate provision for the reasonable, harmonious and compatible uses of land, buildings, and accessory uses incident to the principally permitted uses within the village, all in a manner compatible with the village master plan.

(Ord. No. 200, 7-7-1997; Ord. No. 239, § I, 8-15-2006)

Sec. 40-2. Intent.

By this chapter, the village council intends to facilitate development where the physical, visual and spatial characteristics are established and reinforced through the use of compatible design and architectural elements

¹Charter reference(s)—Powers over zoning, ch. II, § 3.

Cross reference(s)—Any ordinance pertaining to rezoning saved from repeal, § 1-12(15); administration, ch. 2; buildings and building regulations, ch. 6; environment, ch. 10; fences, walls and hedges, ch. 12; land divisions and subdivisions, ch. 16; planning, ch. 26; streets, sidewalks and other public places, ch. 30; vegetation, ch. 38.

State law reference(s)—Authority to regulate land use, MCL 125.581 et seq.; municipal planning, MCL 125.31 et seq.

that relate to the design characteristics of individual structures or neighborhoods in a harmonious manner, resulting in a coherent overall development pattern and streetscape; to provide procedures which relate the type, design and character of residential development on a particular site to surrounding buildings; to promote the village's goal of encouraging compatible, harmonious residential development in a manner consistent with the preservation or enhancement of property values within existing residential neighborhoods; to encourage compatible, harmonious residential development so that housing in the village may continue to demonstrate a dominant type, design and character of dwellings; to promote the conservation and efficient use of open space ancillary to these dwellings; to ensure that the flexibility and design specificity of the development standards and guidelines authorized in this chapter are carried out under such administrative procedures so as to encourage the disposition without due delay of proposals for development, all of which shall retain the strong sense of community identity as expressed in the village master plan; and, conversely, to discourage generic, monotonous suburban development that bears little or no relation to the historic developed character of village neighborhoods.

(Ord. No. 200, 7-7-1997)

Sec. 40-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate building or structure, including a detached garage, on the same lot or a part of the principal building, occupied by, or devoted exclusively to, an accessory use.

Accessory use means a use naturally and normally incidental, subordinate and devoted exclusively to the main use of the premises.

Awning and *canopy* mean any canvas (or other similar type material) awning or structure not a part of the roof or the building to which it is attached, and which extends over a porch, patio, deck, balcony, walk, window, door or open space.

Banner sign means a sign made of fabric, plastic, or other non-rigid material without an enclosing structural framework, that exceeds the dimensional limitations of a temporary sign.

Bay means a regularly repeated unit on a building elevation, defined by columns, pilasters or other vertical elements, or by a given number of windows or openings.

Belt course, *string course* and *horizontal course* mean a projecting horizontal band on an exterior wall marking the separation between floors or levels.

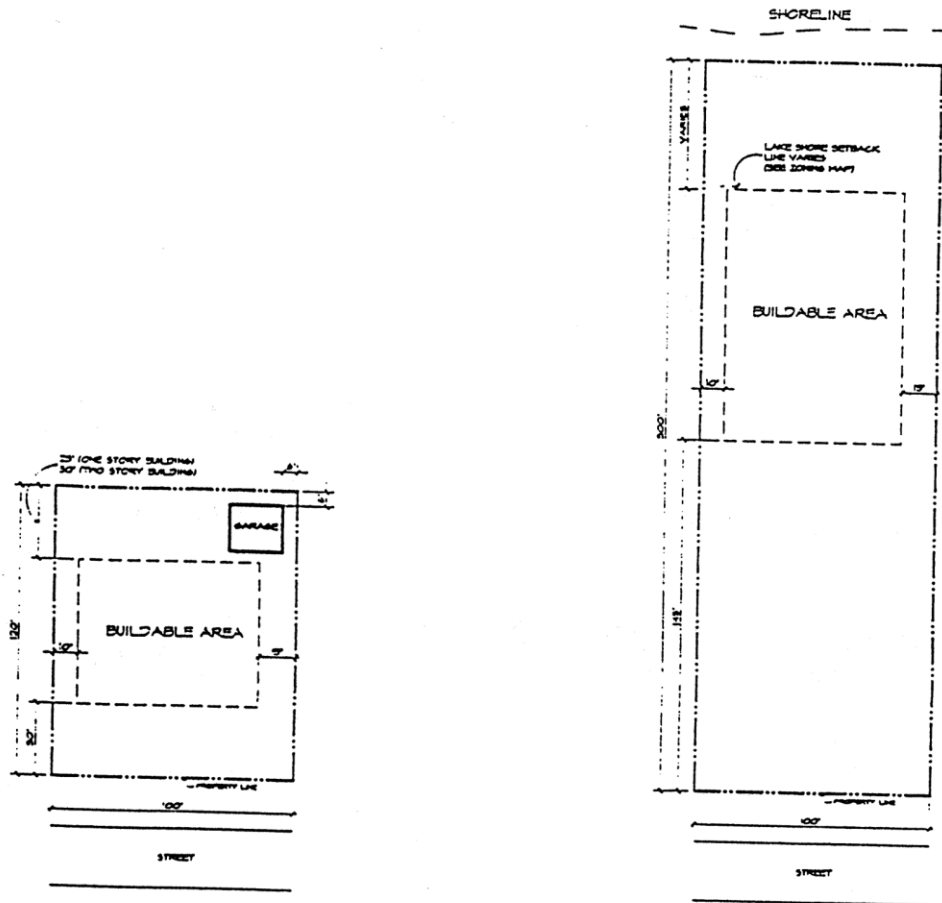
Berm means an undulating mound of soil graded, shaped and improved with landscaping in such a fashion as to be utilized for decorative purposes.

Blank wall means an exterior building wall with no openings and generally constructed of a single material, uniform texture and on a single plane.

Board of appeals and *board* mean the Zoning Board of Appeals of the Village of Grosse Pointe Shores.

Buffer means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of existing natural vegetation or created by the use of trees, shrubs, berms and/or fences, and designed to limit views and sounds from adjacent properties and vice versa.

Buildable area means the space of a lot or parcel remaining after yard, parking or any other requirements of this chapter have been satisfied.



Building means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, chattels or property of any kind.

Building department means the department or official authorized by the village council or by ordinance to enforce the provisions of this chapter.

Building line means the minimum setback line at which the face of the building may be located (see the definition of *Setback, front*).

Building, main or principal, means the main structure devoted to the principal use of the site.

Building scale means the relationship between the mass of a building and its surroundings, including the width of the street, open space and mass of surrounding buildings.

Caliper means the diameter of a tree trunk when measured four feet above the ground level.

Church means a building used principally for religious worship, but such term shall not include or mean an undertaker's chapel or funeral building, rectory, dwelling or cemetery.

Column means a vertical pillar or shaft, usually structural.

Commission means the Planning Commission of the Village of Grosse Pointe Shores.

Condominium act means Public Act No. 59 of 1978 (MCL 559.101 et seq.).

Context means the character of the buildings, streetscape and neighborhood which surround a given building or site.

Corner lot means a lot of which at least two adjacent sides abut substantially upon a street, provided that such two sides intersect at an angle of not more than 135 degrees. Where a lot is on a curve, if tangents through extreme points of the street line of such lot make an interior angle of not more than 135 degrees, it is a corner lot. In the case of a corner lot with a curved street line, the corner shall be considered to be the point on the street line nearest to the point of intersection of the tangents described in this definition.

Cornice means the top part of an entablature, usually molded and projecting.

Court means an open, unoccupied land area, other than a yard, bounded on three sides by walls.

Cupola means a small roof tower, usually rising from the roof ridge.

Curtain wall means a light, nonstructural outer wall of a building, in the form of a metal grid, with infill panels of glass and other materials.

Directional sign means a sign which gives directions, instructions, or facility information for the use on the lot on which the sign is located, such as parking or exit and entrance signs.

District means an area within the village within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this chapter.

Double frontage lot (through lot) means any interior lot having frontage on two more or less parallel streets, as contrasted with a corner lot, which generally has frontage on two intersecting streets. In the case of a double frontage lot or a row of double frontage lots, all yards of such lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Dwelling and dwelling unit mean a room, or rooms connected together, constituting a separate independent housekeeping establishment for one household only, for owner occupancy or for rental, lease or other occupancy for a term of not less than 12 months, physically separated from any other rooms or dwelling units, and containing independent cooking, bathing and sleeping facilities.

Elevation means an exterior facade of a structure, or its head-on view, or representation drawn with no vanishing point, and used primarily for construction.

Environmental constraints means features, natural resources or land characteristics that are sensitive to improvements and may require conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

Essential services means the erection, construction, alteration or maintenance by public utilities, or village departments or commissions, of underground or overhead gas, electrical, steam, telephone or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith. Such term shall not include buildings reasonably necessary for the furnishing of adequate service by such public utilities or village departments or commissions.

Facade means a building face or wall.

Family means an individual or group of two or more persons related by blood, marriage or adoption, together with foster children 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. Notwithstanding such definition, a family shall be deemed to include persons not within the second degree of kinship occupying a dwelling unit and living as a single, nonprofit housekeeping unit, if such occupants are handicapped persons as defined in title VIII of the civil rights act of 1968, as amended by the fair housing amendments act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in this definition.

Fascia means a projecting, flat, horizontal member or molding, also part of a classical entablature.

Fenestration means window and other openings on a building facade.

Floor area means the measurement of usable floor area for residential uses that shall be the sum of the area of the first story measured to the exterior face of exterior walls, and, similarly measured, the area having more than seven feet, six inches of headroom of any upper story that is connected by a fixed interior stairway and which may be made usable for human habitation. The measurement of such floor area shall exclude the floor area of basements, garages, accessory buildings, attics, breezeways and unenclosed porches.

Focal point means a point, surface, building or structure terminating a vista or view, often at the end of a straight street or coinciding with a bend.

Freestanding sign means a permanently affixed sign which is erected upon or supported by the ground on one or more poles, uprights or braces, including pole or pylon signs.

Front lot line means, in the case of a lot abutting upon Lake Shore Road, the Lake Shore Road lot line. In the case of a lot abutting only one street, such term means the line separating such lot from such street. On a corner lot, other than Lake Shore Road, only one street line shall be considered the front lot line.

Gable means the part of the end wall of a building between the eaves and a pitched or gambrel roof.

Garage door opening means a garage door opening for a vehicle(s) shall be either a single door eight to ten feet in width [i.e., a single-car garage] or a double door 16 to 20 feet in width [i.e., a two-car garage].

Gateway means a principal point of entrance into a district or neighborhood.

Grade means the ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by computing the average elevation of the ground for each face of the building and then using the average of the several averages.

Ground sign means a two-dimensional, self-supporting, base-mounted freestanding sign, consisting of two or more sides extending up from the base, and upon which a message, business, group of businesses or center name is affixed.

Half story means a story which is situated within a sloping roof, the area of which, at a height of four feet above the floor, does not exceed 75 percent of the floor area directly below it.

Harmony, without limiting the generality of the commonly accepted definition of such term (e.g., the effect produced when different things come together without clashing or disagreement), means determinations made under this chapter relative to such term so as to promote congruity in character between or among buildings, lots or structures considering all relevant factors, such as lot size and shape, building or structure size, setback, height, density, shape, exterior architecture and design, landscaping, use of materials, color and scale.

Height of building means the vertical distance measured from the average elevation of the finished grade along the front of the building to the highest point of the roof.

Home occupation means an activity carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes. (See also section 40-244.)

Horizontal course. See the definition of *Belt course*.

Human scale means the relationship between the dimensions of a building, structure, street, open space or streetscape element and the average dimensions of the human body.

Impervious surface means any material at or near grade level that prevents the absorption of stormwater into the ground. Impervious surfaces shall include, but are not limited to: concrete or asphaltic surfaces, areas constructed of brick pavers, wood or other synthetic wood type decking, graveled areas, etc. This includes driveways, sidewalks, walkways, parking areas, hard surface landscape areas, decorative ponds, and/or sport or recreation areas.

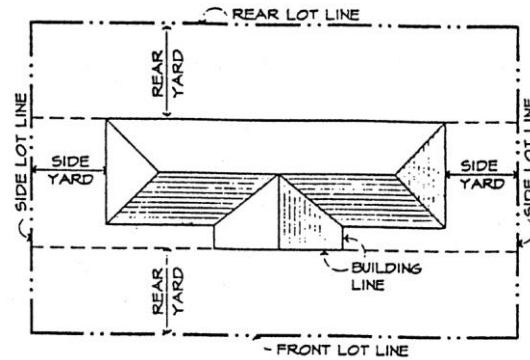
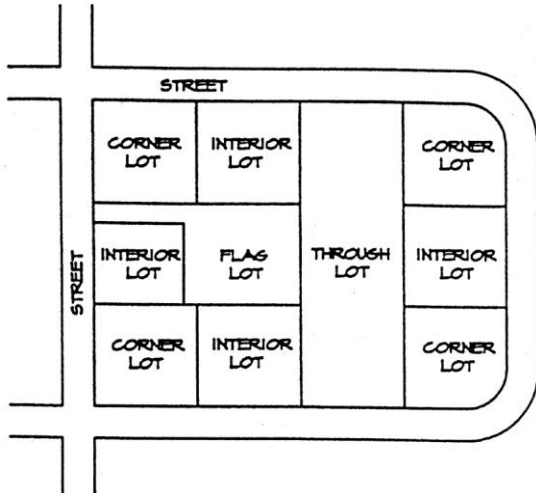
Interior lot means a lot, other than a corner lot.

Land division act means Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Lintel means a horizontal beam, either structural or decorative, over an opening in a masonry wall.

Lot

section 40-252



Lots

Lot coverage means the percent of the lot or parcel occupied, or which could be occupied, by the main or principal buildings, accessory buildings and structures. Patios not higher than six inches above the ground, trees, shrubs and natural landscaping, walkways, driveways and parking spaces shall not be counted or measured as part of the maximum lot coverage. The maximum lot coverage permitted in the residence district and residence lakefront district is 25 percent.

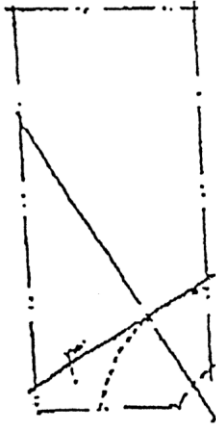
Lot depth means the horizontal distance between the front and rear lot lines. In the case of irregularly shaped lots, the average depth shall apply.

Lot line means any boundary line separating one lot from another, whether the line is at the side, rear or front of the properties.

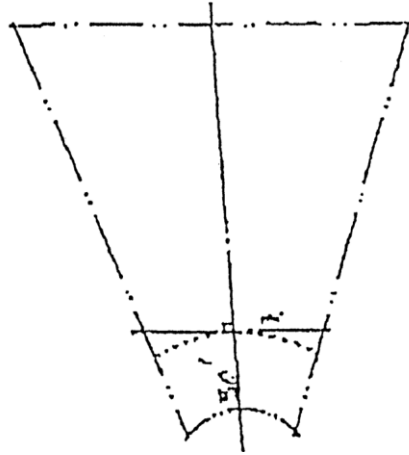
Lot of record means a parcel of land, the dimensions of which are recorded on file with the county register of deeds at the time of inception of the ordinance from which this chapter is derived or in common use by village or county officials, and which actually exists as shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

Lot width

Example A



Example B



Lot Width

Masonry means wall building material, such as brick or stone, which is laid up in small units.

Massing means the three-dimensional bulk of a structure (i.e., height, width and depth).

Master plan means a comprehensive plan adopted by the commission, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the village, and including any unit or part of such plan, and any amendment to such plan or parts thereof, and is intended to be the plan referred to in Public Act No. 207 of 1921 (MCL 125.581(2)).

Mean grade means the arithmetical average of elevations of points on the boundary lines of a site (parcel of land), uniformly spaced, and not more than 100 feet apart.

Off-street parking means an improved hard surface area for the parking of automobiles, not on a public right-of-way, providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide defined access for entrance and exit for the automobiles.

Parking space means an accessible area, either garage or surfaced area, of definite length and width, exclusive of drives, aisles or entrances giving access thereto, for the parking of permitted vehicles.

Parkway means a planting area located within the public right-of-way, typically located between the curb and the sidewalk, and planted with ground cover and trees.

Paving and to pave mean to construct a surface, or a surface constructed, of a plant mix bituminous aggregate or a concrete surface in conformance with applicable village ordinances or state specifications.

Pilaster means a column partially embedded in a wall, usually nonstructural.

Pitch means the angle of slope of a roof or berm.

Portico means an open-sided, permanent structure attached to a building, sheltering an entrance or serving as a semi-enclosed space.

Proportion means the relationship or ratio between two dimensions (i.e., width of street to height of building wall, or width to height of window).

Public utility means any person, village department or board duly authorized to furnish, and furnishing to the public under village regulations, electricity, gas, steam, communication, telegraph, transportation or water.

Public view means that which is reasonably visible, under average conditions, to the average observer located on any public land or right-of-way or on any semipublic or private space which is normally accessible to the general public.

Rear lot line means a lot line opposite the front lot line.

Recreation vehicles includes the following:

- (1) *Aircraft* means all types of airborne vehicles.
- (2) *Boat* and *boat trailer* include boats, personal watercraft, floats and rafts, plus the normal equipment to transport such vehicles on the highway.
- (3) *Folding tent trailer* means a canvas or plastic folding structure mounted on wheels and designed for travel and vacation uses.
- (4) *Motor home* means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (5) *Pickup camper* means a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation and vacation uses.
- (6) *Snowmobile* and *all-terrain vehicle* mean snowmobiles, all-terrain vehicles and the normal equipment to transport such vehicles on the highway.
- (7) *Travel trailer* means vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreation and vacation uses.
- (8) *Utility trailer* means a vehicle with an open or enclosed platform built on a chassis, designed to be used for the transport of goods and materials.

Rhythm means the effect obtained through repetition of:

- (1) Architectural elements, such as building footprints, height, roof lines or side yard setbacks;
- (2) Streetscape elements, such as decorative lampposts; or
- (3) Natural elements, such as trees.

Rhythm of solids to voids means the relationship between the solid portions of a building facade and the voids formed by doors, windows, other openings and recesses. Such term may also refer to the relationship between building mass (solids) and side yard setbacks (voids) along a street.

Roof sign means a sign erected above the roof line of a building. A roof line is defined as the top edge of a roof or parapet wall, whichever is higher but excluding any cupolas, chimneys, or other minor projections. The roofline is the highest point of the roof surface if a flat roof; to the deck of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

Setback, front, means the minimum horizontal distance between the required front line of a building and the street right-of-way line.

Side lot line means any lot line, other than the front lot line or rear lot line.

Sidewalk, public, means a paved path provided for pedestrian use and usually located at the side of a road within a right-of-way. In residential areas, it is separated from the roadway by a parkway.

Sign means any words, numerals, figures, devices, designs, pictures or trademarks erected on or otherwise affixed to a building, wall board, plate or any other structure, or on a vehicle or trailer, for the purpose of advertising or identifying an establishment, product, service, or activity.

Special land use means a use specified in this chapter as permissible in a specific use district only after certain special standards are met.

Story means the portion of a building between one floor level and the floor level next above it, or between the uppermost floor and the roof. Any story lying more than 50 percent by volume below the established sidewalk grade at the center of the front of the building and any mezzanine, balcony or similar story having a floor area of less than 50 percent of the floor area of the story immediately above it shall not be counted as a story in measuring the height of buildings under this chapter.

Street means a public thoroughfare which affords a principal means of access to abutting property.

Street furniture means functional elements of the streetscape, including, but not limited to, benches, trash receptacles, planters, telephone booths, kiosks, sign posts, street lights, bollards and removable enclosures.

Streetscape means the built and planted elements of a street which define its character.

String course. See the definition of *Belt course*.

Structural alteration means any change in the number and widths of exits in the supporting members of a building, such as bearing walls, partitions, columns, beams or girders, or any substantial change in the roof.

Structure means anything erected which requires permanent location on the ground or attachment to something having permanent location on the ground.

Temporary building or use means a structure or use permitted by the board of appeals to exist during periods of construction of the main building or use.

Temporary sign means a sign, banner or other device constructed of cloth, canvas, fabric, plastic or other light temporary material, with or without structural frame, that is not permanently attached to the ground or a structure, or any other sign intended for a limited period of display.

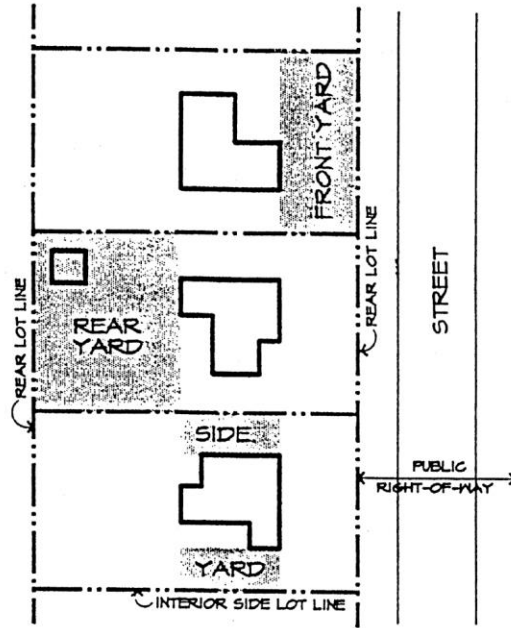
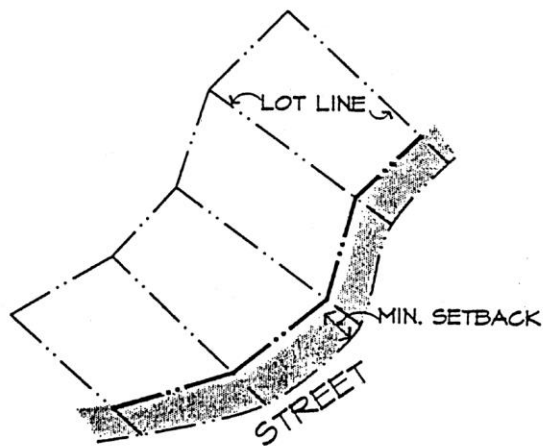
Texture means the exterior finish of a surface, ranging from smooth to coarse.

Use means the purpose for which land, or any building on such land, is designed, arranged or intended to be occupied or used, or for which it is occupied or maintained.

Vehicle sign means a sign measuring more than two square feet in size that is mounted, placed, written, or painted on a vehicle or trailer, whether motor-driven or not.

Wall (building-mounted) sign means a sign attached parallel to the wall of a building, a sign mounted on a mansard, and a sign mounted on an interior wall intended for viewing from the outside.

Yard means a space open to the sky and unoccupied or unobstructed except by encroachments specifically permitted in section 40-258 on the same lot with a building or structure. Yard measurements shall be the minimum horizontal distances.



Yards

- (1) *Front yard* means a yard extending across the full width of the lot between the front lot line and the nearest line of the main building.
- (2) *Rear yard* means a yard extending across the full width of the lot between the rear lot line and the nearest line of the main building.
- (3) *Side yard* means a yard extending from the front yard to the rear yard between the side lot line and the nearest line of the main building or accessory building attached to the main building.

Zoning board of appeals. See the definition of *Board of appeals*.

(Ord. No. 200, art. 2, § 200, 7-7-1997; Ord. No. 212, § 1, 1-16-2001; Ord. No. 226, § 1(200), 4-15-2003; Ord. No. 232, § 1, 2-17-2004; Ord. No. 244, § 1, 12-18-2007; Ord. No. 270, § 2, 5-25-2021)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 40-4. Conformance required.

No building, structure or land shall be used, and no building or structure shall be moved into the village, erected, altered, converted or enlarged, for any purpose other than a purpose permitted in the district in which such building, structure or land shall be located, except and in conformity with the regulations prescribed in this chapter.

(Ord. No. 200, art. 3, § 300, 7-7-1997)

Sec. 40-5. Interpretation.

The provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except as specifically provided in this chapter, it is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing

provisions of law or ordinances or any rules, regulations or permits previously adopted, or issues pursuant to law relating to the use of buildings, structures or premises; provided, however, that where this chapter imposes a greater restriction upon the use of buildings, structures or premises, or upon the height or character of buildings or structures, or requires larger yards or other open spaces than are imposed or required by such existing provisions of law or ordinance or by such rules, regulations or permits, the provisions of this chapter shall control.

(Ord. No. 200, art. 3, § 301, 7-7-1997)

Sec. 40-6. Exemptions.

The provisions of this chapter shall not apply to any property, building or structure used, owned or operated by the village.

(Ord. No. 200, art. 3, § 302, 7-7-1997)

Sec. 40-7. Vested right.

- (a) Any structure or improvement for which a building permit has been issued and construction begun, may be completed and used in accordance with the plans and applications upon which, prior to the enactment of the ordinance from which this chapter is derived, such building permit was granted.
- (b) Any permit for a use which would be nonconforming under this chapter or any amendment to this chapter shall not be renewed if construction has not commenced before the effective date of the ordinance from which this chapter is derived.

(Ord. No. 200, art. 3, § 303, 7-7-1997)

Sec. 40-8. Authority of council to change district boundaries or regulations; amendments.

The village council may, from time to time, on its own motion or on petition, amend, supplement or change the district boundaries or regulations established in the manner prescribed by the Zoning Enabling Act. Whenever the owners of 50 percent or more of the frontage in any district, or part thereof, shall present a petition to the council, in writing, duly signed, and which shall have been acknowledged by each of the petitioners substantially in accordance with the provisions for the acknowledgement of deeds, requesting an amendment, supplement, change or repeal of the regulations prescribed for such district, or part thereof, it shall be the duty of the council to vote upon such petition within 90 days after the filing of the petition by the petitioners with the council. If any area is transferred to another district by a change in district boundaries by an amendment, as provided in this section, the provisions of this chapter relating to buildings or uses of buildings or premises existing at the time of passage of the ordinance from which this chapter is derived shall apply to buildings or uses of buildings or premises existing at the time of passage of such amendment in such transferred area.

(Ord. No. 200, art. 17, § 1700, 7-7-1997; Ord. No. 239, § II, 8-15-2006)

State law reference(s)—Ordinances, MCL 125.584.

Sec. 40-9. Public notice.

All applications for development approval requiring a public hearing shall comply with the Zoning Enabling Act and the other provisions of this chapter with regard to public notification.

- (a) *Responsibility.* When the provisions of this chapter or the Zoning Enabling Act require that notice be published, the village manager or the manager's designee shall be responsible for preparing the

content of the notice, having it published in a newspaper of general circulation in the Village of Grosse Pointe Shores, and mailed or delivered as provided in this section.

- (b) *Content.* All mail, personal and newspaper notices for public hearings shall:
- (1) Describe nature of the request: Identify whether the request is for a rezoning, text amendment, special land use, planned unit development, variance, appeal, ordinance interpretation or other purpose.
 - (2) Location: Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used. No street addresses must be listed when 11 or more adjacent properties are proposed for rezoning, or when the request is for an ordinance interpretation not involving a specific property.
 - (3) When and where the request will be considered: Indicate the date, time and place of the public hearing(s).
 - (4) Written comments: Include a statement describing when and where written comments will be received concerning the request.
- (c) *Personal and mailed notice.* When the provisions of this chapter or state law require that personal or mailed notice be provided, notice shall be provided to:
- (1) The owners of property for which approval is being considered, and the applicant, if different than the owner(s) of the property.
 - (2) Except for rezoning requests involving 11 or more adjacent properties or an ordinance interpretation request that does not involve a specific property, to all persons to whom real property is assessed within 300 feet of the boundary of the property subject to the request, regardless of whether the property or occupant is located within the boundaries of the Village of Grosse Pointe Shores. If the name of the occupant is not known, the term "occupant" may be used in making notification.

Notice by mail/affidavit: Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid.

- (d) *Timing of notice.* Unless otherwise provided in the Zoning Enabling Act, or this chapter where applicable, notice of a public hearing on an application for a rezoning, text amendment, special land use, planned unit development, variance, appeal, or ordinance interpretation shall be given not less than 15 days before the date the application will be considered for approval.

(Ord. No. 239, § III, 8-15-2006)

Sec. 40-10. Registration of residents.

- (1) *Generally.*
- (a) The owner(s) of record of all owner-occupied dwellings within the village, and the lessee(s) of all tenant-occupied dwellings within the village, shall register all persons who reside in such dwellings with the village within 30 days after such persons begin residency.
 - (b) To register, the owner(s) or lessee(s) of residential property, as the case may be, shall file a declaration with the village, on a form prescribed by the village, which includes:

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1. The name, address and phone number of the owner(s) of an owner-occupied dwelling and, if applicable, the name, address and phone number of the lessee(s) of a tenant-occupied dwelling;
 2. The names, dates of birth and relationship to the owner(s) or lessee(s) of all persons who are residents of the dwelling; and
 3. Whether the dwelling is owner-occupied or tenant-occupied; and, if tenant-occupied, the commencement and expiration dates of the tenancy.
- (2) *Enforcement.* If a village employee, including an employee of the department of public safety, knows or has reason to believe that one or more residents of a particular home is not registered with the village in accordance with the ordinance, the employee shall contact the resident(s) to commence or facilitate the registration process.
- (3) *Violations; penalties.*
- (a) An owner or tenant of a dwelling who, with knowledge of the requirements of this section, fails and refuses to register with the village as required by this section, shall be guilty of a municipal civil infraction.
 - (b) A person who knowingly provides false or incomplete information on a registration form shall be guilty of a municipal civil infraction.
 - (c) A conviction for violation of this section shall subject the offender to a civil fine not exceeding \$500.00, plus the costs of prosecution. The remedies of this section for violation of this ordinance do not limit the village's right or ability to seek abatement of any violations of this section by other means.

(Ord. No. 243, §§ I—III, 11-20-2007)

Sec. 40-11. Rental properties.

- (1) *Rental property information required.* Before any dwelling or dwelling unit is rented or leased, the property owner (or an authorized agent of the property owner) shall, using such form or forms as may be prescribed by the village, provide in writing at least the following information:
- (a) The street address of the dwelling unit;
 - (b) The commencement date and expiration date of any lease or occupancy agreement;
 - (c) The name(s), date(s) of birth, and contact information (telephone, email address, mailing address), of the lessee(s) or other occupant(s);
 - (d) The number and relationship of the occupants to reside in the dwelling unit;
 - (e) The name(s), date(s) of birth, and contact information (telephone, email address, mailing address) of the owner(s) of the dwelling unit; and
 - (f) Such other relevant information as may be requested by the village.
- Such form shall be signed by the owner, and shall include the following acknowledgements:
- (i) That the use of the property must be in strict compliance with the applicable zoning district;
 - (ii) That the owner shall be responsible for maintaining the property in strict compliance with all Village of Grosse Pointe Shores codes and ordinances; and
 - (iii) That the failure to maintain the property in strict compliance with such codes and ordinances may result in enforcement action against the owner (even if such failure was attributable, in whole or in part, to the acts or omissions of the tenant(s) or occupant(s) of the dwelling unit), that could result in

finances, liens against the property or other civil or criminal penalties; and a certification by the owner, under penalty of perjury, that the information provided in the form is true, accurate and complete to the best of the owner's knowledge and belief.

- (2) *Property inspections.* Each dwelling or dwelling unit that is rented or leased must pass a periodic inspection performed by the village building official or designee to determine compliance with the property maintenance code and other applicable codes and ordinances of the Village of Grosse Pointe Shores. Such inspections shall be required:
- (a) Upon any change in occupancy of the dwelling unit; and
 - (b) Even if there is no change in occupancy, not less frequently than in 24-month intervals.

The owner shall fully cooperate with the village in the performance of such inspections. It shall be the responsibility of the owner to schedule the required inspections and to arrange for access to the dwelling unit to complete such inspections. The owner shall also pay a fee for such inspection, in an amount to be set by the village council.

- (3) *Rental authorization certificate.* Upon compliance by the owner of a dwelling or dwelling unit to be rented or leased with the requirements of subsections (1) and (2) of this section, the village shall issue to the owner a rental authorization certificate authorizing the rental of the dwelling or dwelling unit. No dwelling or dwelling unit shall be rented or leased unless and until the owner has obtained a rental authorization certificate for such dwelling or dwelling unit from the village.
- (4) *Revocation or suspension of rental authorization certificate.* Upon notice to the property owner, a rental authorization certificate may be revoked or suspended by the village building official for violation of any of the provisions of this section, or for violation of other codes or ordinances of the Village of Grosse Pointe Shores or applicable laws governing rental dwellings or the maintenance thereof, or for other sufficient cause. A suspension of the rental authorization certificate may be for a specific duration or until certain conditions have been satisfied or violations corrected. An inspection fee for any required reinspection may be charged. Following revocation or suspension of any rental authorization certificate, the owner shall not permit the continued occupancy of the dwelling unit until such time as a rental authorization certificate for the dwelling becomes effective.
- (5) *Prohibition of certain short-term rentals.* Consistent with Ordinance 244, a dwelling or dwelling unit shall not be rented or leased, or offered for rent or lease, or otherwise occupied under any written or oral occupancy agreement (other than by the owner and the owner's family), for a duration less than 12 months. In cases of unusual practical difficulty or hardship, the owner may apply in writing to the building official for a temporary exception to such minimum duration, stating the reason(s) for such requested temporary exception, and the building official shall act upon such request as soon as may be practicable by issuing a written decision either granting or denying the request for a temporary exception. In the event of denial of such request for a temporary exception, the owner may appeal such denial to the village council in writing within 30 days after issuance of the determination by the building official, and upon such appeal the village council is authorized to affirm, reverse or modify the determination of the building official. Vacation of the dwelling or dwelling unit by a tenant or occupant sooner than 12 months after the commencement date of the rental agreement, lease or occupancy agreement, in violation of the terms of such rental agreement, lease or occupancy agreement, shall not be deemed a violation of the requirements of this section.
- (6) *Penalties.* Violation of this ordinance shall constitute a municipal civil infraction, punishable by a civil fine not exceeding \$500.00, plus the costs of prosecution. Each day that such violation continues shall constitute a separate violation. The remedies for violation of this section do not limit or supersede the village's right or ability to seek abatement of any violations of this section by other means.

(Ord. No. 245, §§ I—VI, 6-17-2008)

Secs. 40-12—40-40. Reserved.

ARTICLE II. ZONING DISTRICTS²

DIVISION 1. GENERALLY

Sec. 40-41. Classes of use districts.

- A. For the purpose of regulating and restricting the location of uses, regulating and limiting the height and bulk of buildings, and regulating and determining the density of population and the area of yards, courts and other open spaces surrounding erected buildings, the city is hereby divided into the following classes of use districts:
- (1) R-12 residence district.
 - (2) R-10 residence district.
 - (3) Vernier residence district.
 - (4) Colonial residence district.
 - (5) Residence lakefront district.
 - (6) Philanthropic district.
 - (7) Park/club district.
- B. In addition, a residence planned district has been created, which is an overlay zone as referred to in division 7 of this article.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-42. Zoning use district map.

The boundaries of the use districts are shown on the 2010 zoning use district map which accompanies this chapter and is certified as such and is hereby declared to be a part of this chapter. The use district designations which accompany the zoning use district map and all other legends on such map are hereby declared to be a part of this chapter.

(Ord. No. 252, § I, 10-19-2010)

²Editor's note(s)—Ord. No. 252, adopted Oct. 19, 2010, amended art. II in its entirety to read as herein set out.

Former art. II consisted of §§ 40-41, 40-42, 40-61, 40-62, 40-81—40-84, 40-111—40-115, 40-141—40-147, pertained to the same subject matter and derived from Ord. No. 200, adopted July 7, 1997; Ord. No. 209, adopted July 19, 2000; Ord. No. 215, adopted Sept. 18, 2001; Ord. No. 224, adopted Apr. 15, 2003; Ord. No. 226, adopted Apr. 15, 2003; Ord. No. 228, adopted Apr. 15, 2003; Ord. No. 233, adopted Feb. 17, 2004; Ord. No. 239, adopted Aug. 15, 2006; and Ord. No. 240, adopted Nov. 21, 2006.

VILLAGE OF
GROSSE POINTE SHORES
A Michigan City

ZONING MAP

Approved By:
Village of Grosse Pointe Shores,
A Michigan City
Planning Commission

Adopted By:
Village of Grosse Pointe Shores, A Michigan City
City Council

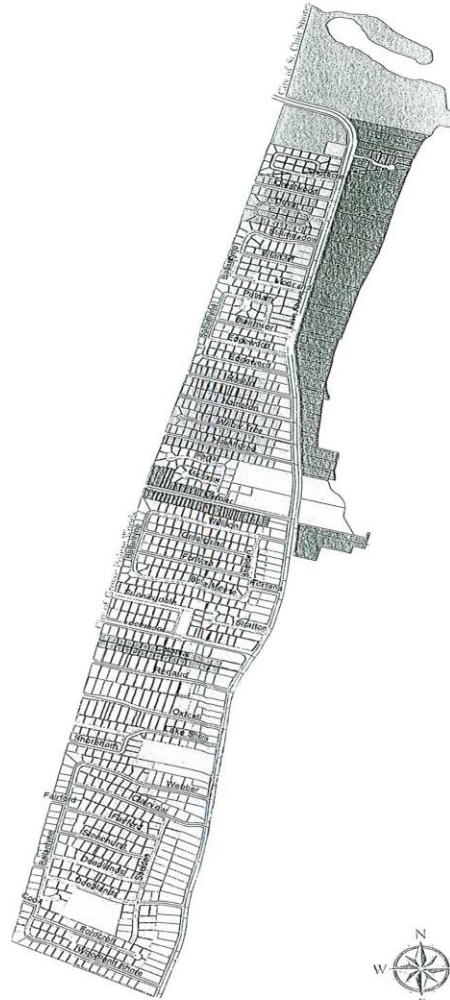
Adoption Date:
Draft July 22, 2010

LEGEND

-  R-10 RESIDENCE DISTRICT
-  R-12 RESIDENCE DISTRICT
-  RESIDENCE LAKEFRONT DISTRICT
-  COLONIAL DISTRICT
-  VERNIER DISTRICT
-  PARK CLUB DISTRICT
-  PHILANTHROPIC DISTRICT



 Community Planning & Management, PC
Professional Planning Consultants



VILLAGE OF
GROSSE POINTE SHORES
A Michigan City

ZONING MAP

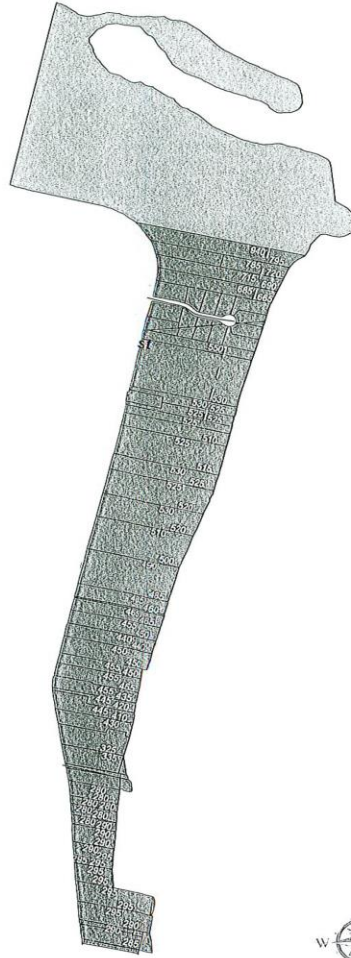
Approved By:
Village of Grosse Pointe Shores,
A Michigan City
Planning Commission

Adopted By:
Village of Grosse Pointe Shores, A Michigan City
City Council

Adoption Date:
Draft July 22, 2010

ATTACHMENT A
WATERFRONT SETBACK

 Community Planning & Management, P.C.
Professional Planning Consultants



Secs. 40-43—40-50. Reserved.

DIVISION 2. R-12 RESIDENCE DISTRICT

Sec. 40-51. Permitted uses.

In the R-12 residence district, no building, structure or land shall be used, and no building or structure shall be erected or altered, which is arranged, intended or designed to be used for a purpose other than one or more of the following purposes:

- (1) One-family dwellings.
- (2) Gardens.

-
- (3) Municipal buildings owned, occupied or controlled by the city.
 - (4) Accessory uses customarily incident to any of the permitted uses as set forth in subsections (1)—(3) of this section, as regulated by section 40-231.
 - (5) Other uses required to be permitted by law.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-52. Area, height and placement requirements.

Area, height and placement requirements in the R-12 residence district shall be as follows:

- (1) *Minimum lot area:* 12,000 square feet.
- (2) *Minimum lot width:* 100 feet.
- (3) *Maximum height:* 30 feet (not to exceed two stories) on all buildable lots of 120 feet or less in lot width. Thirty-three feet on all buildable lots in excess of 120 feet in lot width, provided that the lot contains at least 12,000 square feet, and provided further that the portion of the roof above 30 feet (measured horizontally as viewed from the street or in the case of a corner lot as viewed from the streets), cannot exceed 30 percent of the width of the structure (measured at the level of the second story), as viewed from the street.
 - a. The regulations in this subsection (3) are deemed maximum height limitations and the total height of structures shall also be subject to section 40-173, pertaining to illustrative neighborhood design standards, which may mandate a lower height consistent with the appropriate design guidelines. Further, no new building shall be constructed, nor shall an addition or other modification to an existing building be constructed, which results in the maximum height of such building being greater than the average height of neighboring buildings plus 25 percent of that "average height", subject to the maximum heights set forth in this subsection 40-62(3). This average height provision shall not apply to houses on the east or west side of Lake Shore Road. For the purpose of this section, the term "average height of buildings" means:
 1. With respect to a building not on a corner lot, the average height of the buildings on either side of the building being constructed or modified.
 2. With respect to a building on a corner lot, the average of the height of the two buildings on the same side of the street on which the front facade of the building being constructed or modified is located which are nearest to such building being constructed or modified. If the side of the street on which such front facade of building being constructed or modified does not have two other buildings, the average height of neighboring buildings shall be defined as the average of the height of the two buildings nearest to the building being constructed or modified, regardless of the street or side of street such buildings are located upon.
 - b. Architectural embellishments, such as, but not limited to, decorative railings/fences, statuary, artwork, decorative balustrades, weather vanes, finials, etc., shall be prohibited above the maximum permitted height of the structure as defined by subsection (3) of this section unless such is approved by the planning commission as an integral part of the overall architecture of the facade.
 - c. When the height limitations in subsection (3) of this section result in an unusual situation where the application of the standards set forth in subsection (3) of this section would create an

architectural incongruity because of peculiar circumstances of the lot in question and the neighboring lots and structures thereon, the planning commission and city council may consider approval of a special land use to create architectural compatibility. In reviewing whether to grant a special land use approval for an increase in the total maximum height permissible, the planning commission and city council shall take into account the following:

1. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 2. Proximity of those portions of the building exceeding the height requirements to adjacent property lines and residential structures.
 3. The percentage of building or roofline above the permitted height.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. The overall proposed building height measured from the final approved grade of the lot compared to the overall height of adjacent residences measured in the same manner on the adjoining lots.
- (4) *Maximum lot coverage:* 25 percent.
- (5) *Minimum total floor area:* 2,100 square feet.
- (6) *Minimum front yard:*
- a. Lots abutting the westerly side of Lake Shore Road, south of Vernier Road, shall have a minimum setback of 145 feet.
 - b. Lots abutting the westerly side of Lake Shore Road, north of Vernier Road, shall have a minimum setback of 85 feet.
 - c. On all other lots in the residence districts the minimum setback shall be 30 feet.
 - d. The intent of this section is to create a uniform streetscape along all roadways within the city, to create an environment where individual views and privacy are maintained between residences, and to minimize the impacts of building massing. Therefore, notwithstanding the requirements pertaining to minimum front yard set forth in subsections (6)a, (6)b, and (6)c of this section, no building or accessory building shall be set back from the roadway further than the average of the closest two most immediate principal buildings. With respect to corner lots and double frontage lots, additional setback requirements shall be as set forth in subsections 40-256(b)—(d). No presently existing building or accessory building intruding into the above-described front yard setback shall be considered nonconforming, and all such building shall enjoy the rights conferred by this chapter as a legal structure.
- (7) *Minimum side yards:* Ten percent of the lot width on one side and 15 percent of lot width on the other side; provided, however, that no side yard shall be less width than six feet in width, nor shall the combination of two side yards be less than 16 feet in width.

If the above-noted requirements cannot be met, the planning commission and city council may reduce the required setback through special land use approval.

In reviewing whether to recommend or grant a special land use approval for a reduction in side yard setback, the planning commission and council shall take into account the following:

- a. Ability to reconfigure the building layout or addition to allow for appropriate construction, expansions, or alterations without the granting of special land use approval.

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- b. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 - c. Proximity of adjacent residences, their windows and other openings, outdoor spaces, and the setback from the mutual property line.
 - d. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 - e. Building materials, proposed landscaping materials, and other hardscapes proposed along the property line.
- (8) *Minimum rear yard:*
- a. One-story buildings: 25 feet.
 - b. More than one-story buildings: 30 feet.
- (9) On all lots of 100 feet of width or greater, the amount of impervious surface permitted in the front yard area shall be limited to a maximum of 30 percent of the front yard area measured from one side of the lot to the other and from the front facade of the residence to the front lot line. On lots of less than 100 feet in width, the amount of impervious surface areas shall be a maximum of 35 percent of the front yard area as measured from the side lot lines and the front facade of the residence to the front lot line.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-53—40-60. Reserved.

DIVISION 3. R-10 RESIDENCE DISTRICT

Sec. 40-61. Permitted uses.

In the R-10 residence district, no building, structure or land area shall be used, and no building or structure shall be erected or altered, which is arranged, intended or designed to be used for a purpose other than one or more of the following purposes:

- (1) One-family dwellings.
- (2) Gardens.
- (3) Municipal buildings owned, occupied or controlled by the city.
- (4) Accessory uses customarily incidental to any of the permitted uses as set forth in subsections (1)—(3) of this section, as regulated in section 40-231.
- (5) Other uses required to be permitted by law.

(Ord. No. 252, § I, 10-19-2010)

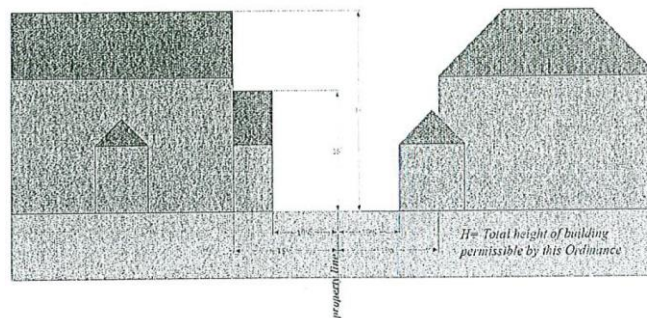
Sec. 40-62. Area, height and placement requirements.

Area, height and placement requirements in the R-10 residence district shall be as follows:

- (1) *Minimum lot area:* 10,000 square feet.

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- (2) *Minimum lot width:* 80 feet.
- (3) *Maximum height:* 30 feet (not to exceed two stories).
- a. The regulations in this subsection (3) are deemed maximum height limitations and the total height of structures shall also be subject to section 40-173, pertaining to illustrative neighborhood design standards, which may mandate a lower height consistent with the appropriate design guidelines. Further, no new building shall be constructed, nor shall an addition or other modification to an existing building be constructed, which results in the maximum height of such building being greater than the average height of neighboring buildings plus 25 percent of that "average height", subject to the maximum heights set forth in this subsection. For the purpose of this section, the term "average height of buildings" means:
1. With respect to a building not on a corner lot, the average height of the buildings on either side of the building being constructed or modified.
 2. With respect to a building on a corner lot, the average of the height of the two buildings on the same side of the street on which the front facade of the building being constructed or modified is located which are nearest to such building being constructed or modified. If the side of the street on which such front facade of building being constructed or modified does not have two other buildings, the average height of neighboring buildings shall be defined as the average of the height of the two buildings nearest to the building being constructed or modified, regardless of the street or side of street such buildings are located upon.
- b. Architectural embellishments, such as, but not limited to, decorative railings/fences, statuary, millwork, decorative balustrades, weather vanes, finials, etc., shall be prohibited above the maximum permitted height of the structure as defined by subsection (3) of this section unless such is approved by the planning commission as an integral part of the overall architecture of the facade.
- c. When the height limitations in subsection (3) of this section result in an unusual situation where the application of the standards set forth in subsection (3) of this section would create an architectural incongruity because of peculiar circumstances of the lot in question and the neighboring lots and structures thereon, the planning commission and city council may consider approval of a special land use to create architectural compatibility. In reviewing whether to grant a special land use approval for an increase in the total maximum height permissible, the planning commission and city council shall take into account the following:
1. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 2. Proximity of those portions of the building exceeding the height requirements to adjacent property lines and residential structures.
 3. The percentage of building or roofline above the permitted height.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. The overall proposed building height measured from the final approved grade of the lot compared to the overall height of adjacent residences measured in the same manner on the adjoining lots.
- d. Regardless of the requirements set forth above, all residences within the district shall be permitted to construct a residence up to a height of 22 feet.

- (4) *Maximum lot coverage:* 25 percent.
- (5) *Minimum total floor area* (all floors): 2,100 square feet.
- (6) *Minimum front yard:*
- a. On all lots in the R-10 residence district the minimum setback shall be 30 feet.
 - b. The intent of this section is to create a uniform streetscape along all roadways within the city, to create an environment where individual views and privacy are maintained between residences, and to minimize the impacts of building massing. Therefore, notwithstanding the requirements pertaining to minimum front yard set forth in subsection (6)a of this section, no building or accessory building shall be set back from the roadway further than the average of the closest two most immediate principal buildings. With respect to corner lots and double frontage lots, additional setback requirements shall be as set forth in subsections 40-256(b)—(d). No presently existing building or accessory building intruding into the above-described front yard setback shall be considered nonconforming, and all such building shall enjoy the rights conferred by this chapter as a legal structure.
- (7) *Side yard setback:*
- a. That portion of the structure one story or less (no more than 18 feet) in height shall be set back a minimum of ten percent of the total lot width from the abutting property line.
 - b. That portion of the structure over one story (over 18 feet) in height shall be set back a minimum of 15 percent of the total lot width from the abutting property line.
 - c. A minimum of one side yard shall be equal to at least 15 percent of the total lot width, regardless of height.



- d. Any existing structure which does not meet this requirement at the time of adoption of this article, shall not be considered a nonconforming structure. However, any addition to such structure shall meet the requirements above.
- e. If the above-noted requirements cannot be met, the planning commission and city council may reduce the required setback through special land use approval. In reviewing whether to recommend or grant a special land use approval for a reduction in side yard setback, the planning commission and council shall take into account the following:
 1. Ability to reconfigure the building layout or addition to allow for appropriate construction, expansions, or alterations without the granting of special land use approval.
 2. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.

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3. Proximity of adjacent residences, their windows and other openings, outdoor spaces, and the setback from the mutual property line.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. Building materials, proposed landscaping materials, and other hardscapes proposed along the property line.
- (8) *Minimum rear yards:*
One-story buildings: 25 feet
More than one story buildings: 30 feet.
- (9) The amount of impervious surface area within the front yard shall be a maximum of 35 percent, as measured from the side lot lines and the front facade of the residence to the front lot line.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-63—40-70. Reserved.

DIVISION 4. VERNIER RESIDENCE DISTRICT

Sec. 40-71. Permitted uses.

In the Vernier Residence District, no building, structure or land area shall be used, and no building or structure shall be erected or altered, which is arranged, intended or designed to be used for a purpose other than one or more of the following purposes. This district shall only be applied to those properties fronting Vernier Road.

- (1) One-family dwellings.
- (2) Gardens.
- (3) Municipal buildings owned, occupied or controlled by the city.
- (4) Accessory uses customarily incidental to any of the permitted uses as set forth in subsections (1)—(3) of this section, as regulated in section 40-231.
- (5) Other uses required to be permitted by law.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-72. Area, height and placement requirements.

Area, height and placement requirements in the Vernier Residence District are set forth below. It is recognized that a number of properties along Vernier Road do not comply with the following standards. It is the intent of this district to recognize those lots existing at the time of adoption of this article which do not conform to the minimum lot area and lot width of this section as being conforming lots provided the remainder of the standards can be met.

- (1) *Minimum lot area:* 7,000 square feet.
- (2) *Minimum lot width:* 50 feet.
- (3) *Maximum height:* 30 feet (not to exceed two stories).

(Supp. No. 7)

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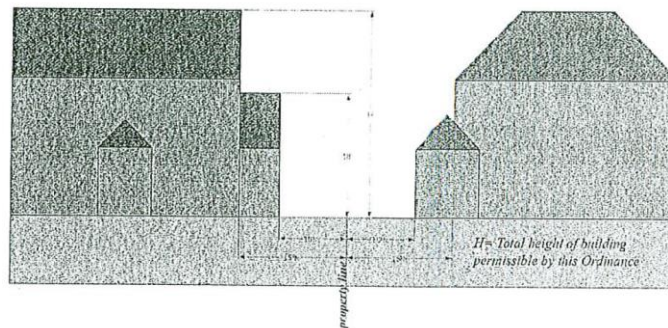
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- a. The regulations in this subsection (3) are deemed maximum height limitations and the total height of structures shall also be subject to section 40-173, pertaining to illustrative neighborhood design standards, which may mandate a lower height consistent with the appropriate design guidelines. Further, no new building shall be constructed, nor shall an addition or other modification to an existing building be constructed, which results in the maximum height of such building being greater than the average height of neighboring buildings plus 25 percent of that "average height", subject to the maximum heights set forth in this subsection. For the purpose of this section, the term "average height of buildings" means:
1. With respect to a building not on a corner lot, the average height of the buildings on either side of the building being constructed or modified.
 2. With respect to a building on a corner lot, the average of the height of the two buildings on the same side of the street on which the front facade of the building being constructed or modified is located which are nearest to such building being constructed or modified. If the side of the street on which such front facade of building being constructed or modified does not have two other buildings, the average height of neighboring buildings shall be defined as the average of the height of the two buildings nearest to the building being constructed or modified, regardless of the street or side of street such buildings are located upon.
- b. Architectural embellishments, such as, but not limited, to decorative railings/fences, statuary, artwork, decorative balustrades, weather vanes, finials, etc., shall be prohibited above the maximum permitted height of the structure as defined by subsection (3) of this section unless such is approved by the planning commission as an integral part of the overall architecture of the facade.
- c. When the height limitations in subsection (3) of this section result in an unusual situation where the application of the standards set forth in subsection (3) of this section would create an architectural incongruity because of peculiar circumstances of the lot in question and the neighboring lots and structures thereon, the planning commission and city council may consider approval of a special land use to create architectural compatibility. In reviewing whether to grant a special land use approval for an increase in the total maximum height permissible, the planning commission and city council shall take into account the following:
1. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 2. Proximity of those portions of the building exceeding the height requirements to adjacent property lines and residential structures.
 3. The percentage of building or roofline above the permitted height.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. The overall proposed building height measured from the final approved grade of the lot compared to the overall height of adjacent residences measured in the same manner on the adjoining lots.
- d. Regardless of the requirements set forth above, all residences within the district shall be permitted to construct a residence up to a height of 22 feet.
- (4) *Maximum lot coverage:* 25 percent.
- (5) *Minimum total floor area* (all floors): 2,100 square feet.

(6) *Minimum front yard:*

- a. On all lots in the Vernier Residence District the minimum setback shall be 30 feet.
- b. The intent of this section is to create a uniform streetscape along all roadways within the city, to create an environment where individual views and privacy are maintained between residences, and to minimize the impacts of building massing. Therefore, notwithstanding the requirements pertaining to minimum front yard set forth in subsection (6)a of this section, no building or accessory building shall be set back from the road way further than the average of the closest two most immediate principal buildings. With respect to corner lots and double frontage lots, additional setback requirements shall be as set forth in subsections 40-256(b)—(d). No presently existing building or accessory building intruding into the above-described front yard setback shall be considered nonconforming, and any such building shall enjoy the rights conferred by this chapter as a legal structure.

(7) *Side yard setback:*

- a. That portion of any new structure one story or less (no more than 18 feet) in height shall be set back a minimum of ten percent of the total lot width from the abutting property line.
- b. That portion of any new structure over one story (over 18 feet) in height shall be set back a minimum of 15 percent of the lot width from the abutting property line.
- c. A minimum of one side yard shall be equal to at least 15 percent of the lot width, regardless of height.



- d. Any existing structure which does not meet this requirement at the time of adoption of this article, shall not be considered a nonconforming structure. However, any addition to such structure shall meet the requirements above.
- e. If the above noted requirements cannot be met, the planning commission and city council may reduce the required setback through special land use approval. In reviewing whether to grant or recommend a special land use approval for a reduction in side yard setback, the planning commission and council shall take into account the following:
 1. Ability to reconfigure the building layout or addition to allow for appropriate construction, expansions, or alterations without the granting of special land use approval.
 2. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 3. Proximity of adjacent residences, their windows and other openings, outdoor spaces, and the setback from the mutual property line.

-
4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. Building materials, proposed landscaping materials, and other hardscapes proposed along the property line.

(8) *Minimum rear yards:*

One-story buildings: 25 feet

More than one story buildings: 30 feet.

- (9) *[Impervious surface area:]* The amount of impervious surface area within the front yard shall be a maximum of 35 percent as measured from the side lot lines and the front facade of the residence to the front lot line.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-73—40-80. Reserved.

DIVISION 5. COLONIAL RESIDENCE DISTRICT

Sec. 40-81. Permitted uses.

In the colonial residence district, no building, structure or land area shall be used, and no building or structure shall be erected or altered, which is arranged, intended or designed to be used for a purpose other than one or more of the following purposes. This district shall only apply to those properties along Colonial Road.

- (1) One-family dwellings.
- (2) Gardens.
- (3) Municipal buildings owned, occupied or controlled by the city.
- (4) Accessory uses customarily incidental to any of the permitted uses as set forth in subsections (1)—(3) of this section, as regulated in section 40-231.
- (5) Other uses required to be permitted by law.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-82. Area, height and placement requirements.

Area, height and placement requirements in the colonial residence district shall be as follows:

- (1) *Minimum lot area:* 9,000 square feet.
- (2) *Minimum lot width:* 100 feet.
- (3) *Maximum height:* 30 feet (not to exceed two stories).
 - a. The regulations in this subsection (3) are deemed maximum height limitations and the total height of structures shall also be subject to section 40-173, pertaining to illustrative neighborhood design standards, which may mandate a lower height consistent with the appropriate design guidelines. Further, no new building shall be constructed, nor shall an addition or other modification to an existing building be constructed, which results in the

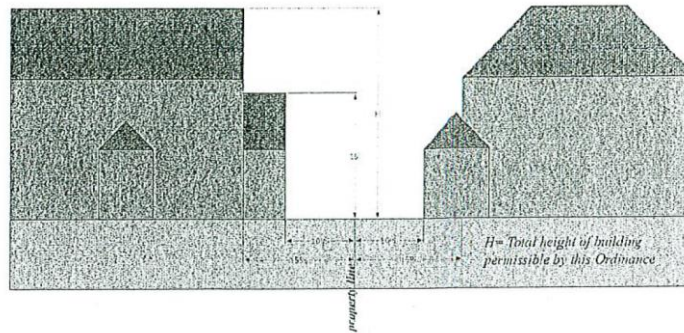
maximum height of such building being greater than the average height of neighboring buildings plus 25 percent of that "average height," subject to the maximum heights set forth in this subsection. For the purpose of this section, the term "average height of buildings" means:

1. With respect to a building not on a corner lot, the average height of the buildings on either side of the building being constructed or modified.
 2. With respect to a building on a corner lot, the average of the height of the two buildings on the same side of the street on which the front facade of the building being constructed or modified is located which are nearest to such building being constructed or modified. If the side of the street on which such front facade of building being constructed or modified does not have two other buildings, the average height of neighboring buildings shall be defined as the average of the height of the two buildings nearest to the building being constructed or modified, regardless of the street or side of street such buildings are located upon.
- b. Architectural embellishments, such as, but not limited to, decorative railings/fences, statuary, artwork, decorative balustrades, weather vanes, finials, etc., shall be prohibited above the maximum permitted height of the structure as defined by subsection (3) of this section unless such is approved by the planning commission as an integral part of the overall architecture of the facade.
- c. When the height limitations in subsection (3) of this section result in an unusual situation where the application of the standards set forth in subsection (3) of this section would create an architectural incongruity because of peculiar circumstances of the lot in question and the neighboring lots and structures thereon, the planning commission and city council may consider approval of a special land use to create architectural compatibility. In reviewing whether to grant a special land use approval for an increase in the total maximum height permissible, the planning commission and city council shall take into account the following:
1. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 2. Proximity of those portions of the building exceeding the height requirements to adjacent property lines and residential structures.
 3. The percentage of building or roofline above the permitted height.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. The overall proposed building height measured from the final approved grade of the lot compared to the overall height of adjacent residences measured in the same manner on the adjoining lots.
- d. Regardless of the requirements set forth above, all residences within the district shall be permitted to construct a residence up to a height of 22 feet.
- (4) *Maximum lot coverage:* 25 percent.
- (5) *Minimum total floor area* (all floors): 2,100 square feet.
- (6) *Minimum front yard:*
- a. On all lots in the colonial residence district the minimum setback shall be 25 feet.
 - b. The intent of this section is to create a uniform streetscape along all roadways within the city, to create an environment where individual views and privacy are maintained between residences,

and to minimize the impacts of building massing. Therefore, notwithstanding the requirements pertaining to minimum front yard set forth in subsection (6)a of this section, no building or accessory building shall be set back from the roadway further than the average of the closest two most immediate principal buildings. With respect to corner lots and double frontage lots, additional setback requirements shall be as set forth in subsections 40-256(b)—(d). No presently existing building or accessory building intruding into the above-described front yard setback shall be considered nonconforming, and all such building shall enjoy the rights conferred by this chapter as a legal structure.

(7) *Side yard setback:*

- a. That portion of the structure one story or less (no more than 18 feet) in height shall be set back a minimum of ten percent of the total lot width from the abutting property line.
- b. That portion of the structure over one story (over 18 feet) in height shall be set back a minimum of 15 percent of the total lot width from the abutting property line.
- c. A minimum of one side yard shall be equal to at least 15 percent of the total lot width, regardless of height.



- d. Any existing structure which does not meet this requirement at the time of adoption of this article, shall not be considered a nonconforming structure. However, any addition to such structure shall meet the requirements above.
- e. If the above-noted requirements cannot be met, the planning commission and city council may reduce the required setback through special land use approval. In reviewing whether to recommend or grant a special land use approval for a reduction in side yard setback, the planning commission and council shall take into account the following:
 1. Ability to reconfigure the building layout or addition to allow for appropriate construction, expansions, or alterations without the granting of special land use approval.
 2. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 3. Proximity of adjacent residences, their windows and other openings, outdoor spaces, and the setback from the mutual property line.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. Building materials, proposed landscaping materials, and other hardscapes proposed along the property line.

(8) *Minimum rear yards:*

One-story buildings: 25 feet

More than one story buildings: 30 feet.

- (9) *[Impervious surface area:]* The amount of impervious surface area within the front yard shall be a maximum of 35 percent, as measured from the side lot lines and the front facade of the residence to the front lot line.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-83—40-90. Reserved.

DIVISION 6. RESIDENCE LAKEFRONT DISTRICT

Sec. 40-91. Permitted uses.

In the residence lakefront district, no building or land shall be used, and no building shall be erected or altered, which is arranged, intended or designed to be used for a purpose other than one or more of the following purposes:

- (1) One-family dwellings.
- (2) Gardens.
- (3) Municipal buildings owned, occupied or controlled by the city.
- (4) Accessory uses customarily incident to any of the permitted uses as set forth in subsections (1)—(3) of this section, as regulated by section 40-231.
- (5) Other uses required to be permitted by law.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-92. Special land use.

Private nonprofit institutions of a philanthropic nature, except such institutions whose chief activity is a service customarily carried out as a business, may be permitted as a special land use in the residence lakefront district, upon approval of the city council, only after proper notice has been given as required by state law, and after review and recommendation has been received from the planning commission, subject to the standards and requirements of section 40-423.

(Ord. No. 252, § I, 10-19-2010)

State law reference(s)—Special land uses, MCL 125.584a.

Sec. 40-93. Area, height and placement requirements.

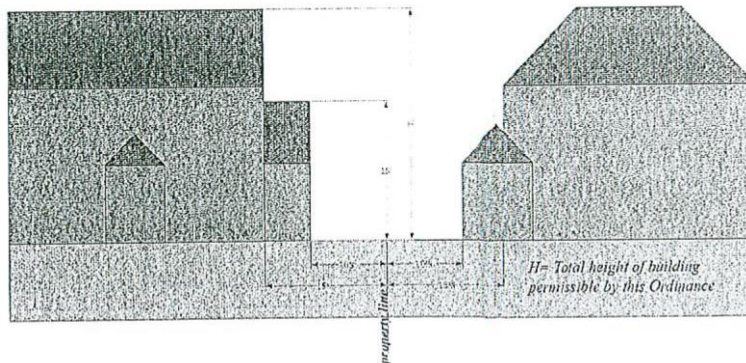
Area, height and placement requirements in the residence lakefront district shall be as follows:

- (1) *Minimum lot area:* 20,000 square feet.
- (2) *Minimum lot width:* 100 feet.
- (3) *Maximum height:*

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- a. Thirty feet (not to exceed two stories) on lots with widths of less than 120 feet.
- b. Thirty-five feet (not to exceed 2½ stories) on lots with widths of 120 feet or more, but less than 150 feet.
- c. On lots with widths of 150 feet or more, the planning commission may permit a maximum height of 40 feet, provided that there shall be at least eight additional feet above 150 feet in lot width at the front building line for each one foot of increase in height above 35 feet.
- d. When the height limitations in subsection (3) of this section result in an unusual situation where the application of the standards set forth in subsection (3) of this section would create an architectural incongruity because of peculiar circumstances of the lot in question and the neighboring lots and structures thereon, the planning commission and city council may consider approval of a special land use to create architectural compatibility. In reviewing whether to grant a special land use approval for an increase in the total maximum height permissible, the planning commission and city council shall take into account the following:
 1. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 2. Proximity of those portions of the building exceeding the height requirements to adjacent property lines and residential structures.
 3. The percentage of building or roofline above the permitted height.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. The overall proposed building height measured from the final approved grade of the lot compared to the overall height of adjacent residences measured in the same manner on the adjoining lots.



- (4) *Maximum lot coverage:* 25 percent.
- (5) *Minimum total floor area:* 2,100 square feet, excluding any second or third floor areas.
- (6) *Minimum front yard:* 145-foot minimum setback from the front property line.
- (7) *Minimum side yards:* Ten percent of the lot width on one side and 15 percent of the lot width on the other side; provided, however, that no side yard shall have a width less than six feet, nor shall the combination of two side yards be less than 16 feet.
 - a. If the above-noted requirements cannot be met, the planning commission and city council may reduce the required setback through special land use approval. In reviewing whether to

recommend or grant a special land use approval for a reduction in side yard setback, the planning commission and council shall take into account the following:

1. Ability to reconfigure the building layout or addition to allow for appropriate construction, expansions, or alterations without the granting of special land use approval.
 2. Whether the request is the least impactful to the subject property and those which surround it while accommodating appropriate expansion or alteration of the residence.
 3. Proximity of adjacent residences, their windows and other openings, outdoor spaces, and the setback from the mutual property line.
 4. Architectural character and building massing of the adjacent residence as well as the proposed residence.
 5. Building materials, proposed landscaping materials, and other hardscapes proposed along the property line.
- (8) *Minimum rear or lakefront yards:* The zoning use district map indicates the required lake shore setback line. The minimum lake front yard shall be measured so that no principal structure shall be closer to the shoreline than:
- a. Its present location;
 - b. The average of the closest of two out of three of the most immediate neighboring principal buildings; or
 - c. The lake shore setback line as shown on the zoning use district map.

No existing principal building intruding into the described yard setback shall be considered nonconforming, and all such buildings shall enjoy the rights conferred by this chapter as a legal structure. The minimum setbacks for rear yards not abutting the water shall be the same as in the residence district.

- (9) *[Impervious surface area.]* On all lots of 100 feet of width or greater, the amount of impervious surface permitted in the front yard area shall be limited to a maximum of 30 percent of the front yard area measured from one side of the lot to the other and from the front facade of the residence to the front lot line. On lots of less than 100 feet in width, the amount of impervious surface areas shall be a maximum of 35 percent of the front yard area as measured from the side lot lines and the front facade of the residence to the front lot line.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-94. Lots with restricted use.

Lots abutting the easterly side of Lake Shore Road, south of Vernier Road, shall never be used for any other purpose than as a sloping embankment to the shore of Lake St. Clair, as presently used.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-95—40-110. Reserved.

DIVISION 7. RESIDENCE PLANNED DISTRICT

Sec. 40-111. Purposes.

The residence planned district regulations set forth in this division are designed to accomplish the objectives of this chapter through a land development project review process based on the application of site planning criteria to achieve integration of the proposed development so as to be harmonious with the village's residential character. The residence planned district is a planned unit development district and reflects the purposes of the state enabling act and the following local purposes:

- (1) To encourage innovation in land use and variety in design, layout and type of structure.
- (2) To achieve economic and efficient use of land, natural resources, energy and the provision of public services and utilities.
- (3) To encourage the provision of useful open space, where appropriate.
- (4) To provide retirement housing particularly suited to the needs of residents of the village.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-112. Permitted uses.

In the residence planned district, no building or land shall be used, and no building shall be erected or altered, which is arranged, intended or designed to be used for a purpose other than one or more of the following purposes:

- (1) Existing one-family residences.
- (2) Attached or detached one-family retirement dwellings.
- (3) Gardens (small plantings).
- (4) Municipal buildings owned, occupied or controlled by the city.
- (5) Accessory uses customarily incidental to the permitted uses set forth in subsections (1)—(4) of this section.
- (6) Other uses required to be permitted by law.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-113. Qualification requirements.

In order to qualify for development, the commission and city council must first determine, based on documentation prepared by a registered architect, professional community planner, landscape architect, engineer or similar professional in planning and design, that the proposed use and development is compatible with the residential character of the city.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-114. Site design requirements.

All developments within the residence planned district shall conform to the following restrictions:

- (1) The regulations governing the maximum allowable height of buildings, the minimum lot area and lot width, the maximum lot coverage, and the minimum side and rear yards are hereby established as set forth in section 40-62.
- (2) A minimum of 15 percent of the total parcel within such district shall be devoted to suitable recreation and other approved activities. Roads included in the total parcel area shall be excluded from the recreation and activities area calculations.
- (3) The placement of housing units and other improvements shall be designed, to the extent practical, to preserve wooded areas contained on the site.
- (4) In order to provide an orderly transition where the district abuts another residential district, the abutting residential district shall be effectively buffered by providing one or more of the following forms of transition within the development, as determined to be appropriate by the commission:
 - a. Natural stand of trees.
 - b. Effective landscape buffering.
 - c. Constructed fences, walls and berms.
 - d. Compatible structures.
- (5) If one-family dwelling units are attached, such attachment shall be by means of an approved architectural wall detail or a common wall that assures maximum isolation of adjoining structures. The maximum number of units which may be attached together in each cluster in the manner set forth in this subsection shall be four. Variety in the design of individual units shall be provided by the use of design details which do not appear to be continuous or repetitious. A building pattern which is repetitious throughout a development shall not be used. Each dwelling must have a two-car attached garage used for private automobile storage only.
- (6) Yard requirements shall be provided as follows:
 - a. Minimum spacing between ends of buildings shall be determined by the number of living units that are arranged in any building group, as follows:

Number of Living Units Per Building	Minimum Distance Between Buildings (feet)
2 single detached	10
3 attached	20
4 attached	30

- b. Between the ends of two buildings having a different number of attached living units, the minimum distance, in feet, will be as follows:
 - Between a two-unit and three-unit building: 15 feet
 - Between a two-unit and four-unit building: 20 feet
 - Between a three-unit and four-unit building: 30 feet
 - c. All buildings and parking areas shall have a setback of at least 110 feet from the centerline of any major thoroughfare, and at least 65 feet from any local street as shown on the village master plan.
 - d. All parking areas shall be set back a minimum of 20 feet from an adjoining residence district or property.

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- e. Building setbacks from internal streets shall be as follows:
 - 1. *Private streets/general circulation.*
 - i. Living areas, 40-foot minimum clear area from paving;
 - ii. Nonliving areas, 20-foot minimum clear area from paving.
 - 2. *Private streets/limited circulation.* Living and nonliving areas, 20-foot minimum clear area from paving.
 - (7) At least two deciduous or evergreen trees per dwelling unit (at least a 2.5-inch caliper) shall be planted in the project area, in addition to existing vegetation. Location of such trees, as well as existing trees, shall be indicated on the site plan in accordance with an approved detailed landscape plan.
 - (8) An undulating landscaped berm, with a maximum height of four feet, or equivalent natural buffer, shall be provided along the entire property to the extent it abuts a major road as classified in the village master plan. Slopes of such berm shall be gentle enough so as not to erode when planted with grass, and berm locations shall be designed so that the view of oncoming traffic is not obscured at the intersection. The village engineer shall review the proposed berm to determine that adequate drainage is provided.
 - (9) Sidewalks may be required along all public streets or roads. A pedestrian circulation plan that meets commission requirements shall be required within the development.
 - (10) Fencing shall not be permitted on the interior of the development, except brick walls for privacy or decorative purposes may be approved by the commission.
 - (11) The applicant shall make provision, satisfactory to the village, to assure that the amenities and the areas shown on the plan for use by the occupants of the development will be, or have been, irrevocably committed for such purpose. The village may require that conveyances or other documents be placed in escrow to accomplish such purpose and that a performance guarantee, as prescribed in subsection (13) of this section, be filed with the village.
 - (12) The applicant shall deposit a cash deposit or certified check with the village equaling 120 percent of the estimated cost of common area improvements associated with the project, as verified by the village, for which approval is sought. The performance guarantees shall be deposited at the time of the issuance of the permit authorizing the activity or project. When all improvements have been completed, the village shall release the cash deposit.
 - (13) Subject to commission approval, in all parcels designated as residence planned districts, there shall be allowed a total unit count up to, but not exceeding, a density of up to twice the dwelling units per acre, consistent with conventional residential platted development of the abutting residential district. A design plan shall be submitted specifying the maximum number of units that the site could yield if platted.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-115. Submittal procedures.

The two distinct steps required to develop a parcel of land under the residence planned district are the qualification of the concept, and site plan approval (final review). Both steps shall require public hearings preceded by notice as required by this chapter.

- (1) Residence planned district development concept review shall include a preliminary application and concept plan in accordance with the following outline. The filing of a preliminary plan will provide an opportunity for the applicant and commission to become generally acquainted with the proposed

project and conduct discussions about the features of the proposed concept. An application for preliminary plan consideration shall comply with, and include, the following requirements and standards:

- a. A plan showing the entire project area in a preliminary form and at a clearly understandable scale, indicating proposed land use areas, their relationship to each other, circulation patterns, and existing site features and characteristics.
- b. The existing topography shall be depicted at two-foot contour intervals for the subject area and all nearby areas. If the land is generally flat, grade shots shall be provided at intervals necessary to indicate any grade differential.
- c. A map of the village, indicating the parcel and surrounding vicinity area and the site's relationship to existing roads, streets and use districts within and immediately adjacent to the city.
- d. Preliminary architectural plans for all buildings, including the basic building scale and style and the number of units per building, shall be clearly set forth.
- e. Preliminary architectural elevations for typical buildings, including the style and exterior facing materials.
- f. Preliminary landscape plan of the types and sizes of proposed vegetation.
- g. Density of residential use and total number of units by type shall be clearly set forth.
- h. Existing and proposed land use and development features as they impact neighboring properties.
- i. Existing utilities, including storm drain facilities, shall be located and noted.
- j. Adequacy of public and private services/infrastructures shall be described.
- k. Methods of buffering and screening from existing housing.

The commission shall recommend preliminary approval to the village council if the commission agrees that the proposal has sufficient merit to warrant further consideration and has potential to meet the requirements of this section and the applicable requirements of this chapter. If the council concurs, an application may be filed for final review in conformance with the requirements of the subsections (2)—(10) of this section. If the commission does not find the proposed plan or approach acceptable, it shall recommend denial of the request at such point and provide the reasons for denial in the commission minutes and submit their recommendation and supporting materials to the village council.

- (2) An application for residence planned district development final review may be made only if the village council has agreed by motion that the preliminary application and concept plan have potential to meet the requirements set forth in this section. Upon receipt of a complete application for final review, the commission shall schedule such review for the next regular meeting. The applicant's presentation at such meeting shall include drawings, exhibits, narratives and draft covenants and agreements identified for reference by letter or number. If the application for final review complies with the objectives of the applicable sections set forth in this division for the residence planned district, and the commission and village council further find the following standards to have been met, the application may be approved:

- a. All applicable provisions of this chapter and other applicable ordinances shall have been met. If any provision of this division is in direct conflict with the provisions or authority of any other article of this chapter, the provisions included within this division shall apply to land included within the residence planned district.

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- b. All minimum requirements pertaining to residential or other uses shall be subject to the general requirements applicable in the residence district, except as may be specifically varied by the commission and village council.
 - c. Adequate, well designed and properly planned areas shall be provided for all walkways, recreation, parking, access, screening and isolation, and other open areas to be used by the residents of the development.
 - d. Adequate sanitary sewage disposal, water supply, and road and other stormwater drain systems shall be provided. Water, sewer and storm drains shall be subject to applicable village standards and ordinances.
 - e. Efficient and desirable use of all areas in harmony with the physical character of the village and surrounding residential areas and uses.
 - f. Assurances that areas shown on the plan for use by the occupants shall be, or have been, irrevocably committed for such purpose. The village shall have the right to require conveyances or other documents to be placed in escrow.
 - g. Assurance of financial support for, and maintenance of, all improvements indicated on the plan for open space areas and common use areas. Assurances may require posting of bonds as determined by the commission and approved by the village council.
 - h. Upon recommendation of the village engineer, the commission may waive or modify requirements for utilities with respect to all, or part of, the particular plan when strict application would result in practical problems.
- (3) In addition to compliance with the applicable requirements for site plan review contained in section 40-422, the final review application shall include the following:
- a. A boundary survey of the exact acreage, performed by a registered land surveyor or civil engineer, at a scale of one inch equals 30 feet.
 - b. A physical features map of the area and its vicinity, including topography, drawn as contours, with an interval of at least two feet, or grade shots, where applicable. The map shall indicate all trees and unbuildable areas due to soil conditions, wetlands or similar conditions, at a scale of one inch equals 50 feet.
 - c. A legal description of the property.
 - d. An aerial photograph, not more than five years old, of the area, at a minimum scale of one inch equals 100 feet.
 - e. Existing and proposed streets and other developments within and surrounding the proposed area.
 - f. A plan for the entire area, indicating the specific use areas and dwelling unit types being requested (floor plans and building elevations with specific exterior materials and architectural features included); densities proposed; street, road, traffic and pedestrian circulation; public utilities; building locations, driveways, walkways, parking areas, landscaping and natural areas (woodlands); areas reserved for public service activities; recreation areas and other open spaces; and areas used for occupants.
 - g. A preliminary estimate of contemplated total stormwater flow and sanitary sewage volume. Each utility shall be shown as a one-line diagram, with flow direction indicated on the proposed street layout and shown on the topographic map as required in subsection (3)b. of this section.
 - h. A schedule indicating the proposed timing of the development, including phasing, if appropriate.

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- i. A written impact statement, detailing the intent of the developer and types of dwelling units contemplated. The impact statement shall also include support documentation, such as soil data; land use impacts; changes in traffic volume on adjacent streets; impacts of proposed development on wetlands, air and water quality (ground and surface); noise; and the scale of development and surrounding environment and all information appropriate to a phase one audit.
 - j. Statement of covenants, grants of easements and other restrictions to be imposed upon the uses of land and structures.
 - k. Any other data, plans or drawings considered by the commission or village council to be necessary for the consideration of the proposal.

All materials required to be submitted as part of the application shall be submitted in the required number of copies for distribution to the commission, village council and appropriate reviewing agents and advisors.

- (4) The commission shall review the application materials and reviewing agencies' comments. In the process of review, the commission shall consider the following:
 - a. Specific development requirements set forth in this chapter.
 - b. The location and design of service roads or drives and driveways providing vehicular ingress to, and egress from, each building, in relation to streets giving access to the site and pedestrian traffic.
 - c. The traffic circulation features within the site and the location of automobile parking areas, including:
 - 1. Safety and convenience of both vehicular and pedestrian traffic, both within the site and in relation to access streets.
 - 2. Satisfactory and harmonious relationships between the development on the site and the existing and prospective development of surrounding land and adjacent parcels and districts.
 - 3. Accessibility afforded to emergency vehicles.
 - d. The arrangement of use areas on the site and design of the buildings in relation to functional, efficient and compatible arrangements within the site, and also to adjacent uses and the following:
 - 1. Harmony with the character of the village and surrounding properties.
 - 2. Treatment of open space.
 - 3. Availability of sewer and water capacity and the capacity of other utilities.
 - 4. Adequate screening and/or buffering.
 - 5. Impact on environmental quality.
 - 6. Potential noise from development and traffic sources.
 - e. The proposal's compatibility and harmony with the character of the surrounding properties and that it will not substantially interfere with the safety, light, air and convenience of neighboring uses.
 - f. Any other matters that are within the jurisdiction of village departments or the commission or council.

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- (5) Only applications properly prepared and submitted with all required fees, deposits and/or bonds, paid in full, will be processed. Review and processing of the application shall be subject to the requirements and procedures contained within this chapter and as administered and finally approved by the commission and village council. Initial approval shall be valid for a period of two years, with one-year extensions possible with the approval of the commission and village council, upon proper application. If development of the site has lapsed for a period exceeding one year, the applicant shall be required to return to the village for reconsideration of the plan, following the procedure outlined in this division for original approval.
 - (6) Wherever a proposed plan in total meets the standards and expectations of the village, the commission and village council may consider minor deviations from regulations.
 - (7) In the course of instituting the plan, minor plan adjustments, including the minor shifting of buildings, service areas and other features requested by the applicant, may be authorized by the commission and processed as site plan supplements or clarifications. The village manager shall make the determination as to whether a change is minor or if an amendment is required. Amendments that significantly impact factors considered by the commission and village council in approving the area plan, such as changes to circulation systems or densities, or changes in buffering, exterior appearance and significant building rearrangements, shall require the applicant or the applicant's successors to return to the commission and village council for approval of an amended plan. The procedure outlined in this division for original approval shall be followed when submitting an amended plan.
 - (8) Once a plan is approved by the commission and village council, no zoning board of appeals' variances shall be permitted. Any requested changes in the plan shall conform to the revision procedures contained within this division.
 - (9) It is expressly understood that a residence planned district plan will not be allowed to proceed until the final plan or subsequent amended plan shall have received official approval of the commission and village council, where applicable.
 - (10) A final certificate of occupancy and any construction bonds or letter of credit shall not be released to the developer/owner until the as-built mylar has been reviewed and accepted by the village.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-116—40-140. Reserved.

DIVISION 8. PHILANTHROPIC DISTRICT

Sec. 40-121. Intent.

The intent of this division is to allow for specialized philanthropic type facilities which are nonresidential in nature and which will likely service not only the city and the immediate Grosse Pointe area but a larger, more regional area. Recognizing that these nonresidential uses may cause substantial impact to adjoining residences and the community as a whole, special attention must be given to the size and placement of buildings, structures and parking areas as well as the screening and buffering of these sites. It is further the intent of this article to limit the number of properties in which this type of activity may occur.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-122. Permitted uses.

The following uses have been deemed appropriate and do not require additional review or approval by the city:

- (1) Building and premises tours.
- (2) Public and private gatherings and events (no overnight).
- (3) Public and private meetings, seminars, retreats, and educational activities (no overnight).
- (4) Office and administrative facilities.
- (5) Maintenance, storage, and repair facilities (for grounds equipment).
- (6) Existing residential facilities.
- (7) Existing banquet facilities.
- (8) Existing retail or commercial activities such as gift shops, restaurant and beverage sales and other incidental sales.
- (9) Existing parking areas and facilities.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-123. Special land uses.

The following uses have been deemed appropriate only after special land use approval as regulated by section 40-423 of this article:

- (1) The construction of any new building.
- (2) The enlargement of any existing building onsite which increases usable floor area or offers the potential for additional uses or intensity of uses.
- (3) Additional lodging facilities or rooms for persons staying on the grounds.
- (4) Any retail commercial activities (excluding any existing retail uses).
- (5) Any new or expansion of existing hard surface parking areas.
- (6) Any other uses deemed similar or compatible with the above-noted permitted uses.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-124. Area, height and placement requirements.

Area, height and placement requirements in the philanthropic district shall be as follows:

- (1) *Minimum lot area:* Ten acres or 435,600 square feet.
- (2) *Minimum lot width:* 500 feet.
- (3) *Maximum height:* On the east side of Lakeshore, the maximum height shall not exceed 40 feet and/or three stories. On the west side of Lakeshore, the maximum height shall not exceed 30 feet and/or two stories.

The existing structures shall not be deemed nonconforming based on height.

(4) *Maximum lot coverage:* 25 percent.

(5) *Minimum front yard:* 145 feet.

The existing structures shall not be deemed nonconforming based on front yard location.

(6) *Minimum side yards:* 30 feet.

The existing structures shall not be deemed nonconforming based on side yard location. Further, depending on the type of use proposed, the city may require additional setbacks to lessen impacts generated by such uses.

(7) *Minimum rear yard:* 30 feet or as shown on the zoning use district map by the lakeshore setback line, whichever is greater. Further, depending on the type of use proposed, the city may require additional setbacks to lessen impacts generated by such uses.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-125. Screening requirements.

The planning commission shall review the necessity for landscape screening between the proposed building(s) and/or use(s) and any adjoining non-like use district or abutting public thoroughfare depending on the type of building/use proposed, the proximity to the non-like district or public thoroughfare as well as the presence of existing landscape and hardscape.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-126. Parking standards.

One parking space shall be provided for each six persons permitted within the maximum occupancy of the principal building, as determined by the fire marshal. For large scale or outdoor events, adequate parking shall also be provided either onsite or offsite. If provided offsite, the applicant shall provide a plan for transferring of patrons to and from the event and parking areas. This plan shall be reviewed by the department of public safety as necessary. The parking area for large scale and/or outdoor events may be allowed to be grass as deemed appropriate by the city.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-127. Reconstruction of existing buildings or structures.

Notwithstanding the requirements of section 40-362 of this article, the reconstruction or repair of buildings or structures existing at the time of passage of this article from which this section is derived or thereafter constructed with approval as required by this chapter shall be permissible upon a determination by the planning commission that the location, size, scale and architectural character of the reconstructed or repaired building or structure is comparable to that which previously existed.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-128. Waiver or modification of requirements.

In approving a special land use within the philanthropic district under section 40-423 of this Code, the city council may waive or modify any of the above area, height, coverage and placement requirements or parking standards, if it determines that such waiver or modification is consistent with the architectural character of the

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proposed construction and the overall use of the site upon which such proposed construction is located, and will not unduly and adversely impact adjoining properties.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-129—40-140. Reserved.

DIVISION 9. PARK/CLUB DISTRICT

Sec. 40-141. Intent.

The intent of this division is to allow for community-type facilities which are nonresidential in nature and which will likely service not only the Village and the immediate Grosse Pointe area but potentially a larger, more regional area. Recognizing that these nonresidential uses may cause substantial impact to adjoining residences and the community as a whole, special attention must be given to the size and placement of buildings, structures and parking areas as well as the screening and buffering of these sites.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-142. Permitted uses.

- (1) In the park/club district, no building or lot shall be erected or used except for the purpose of a public park, or recreational or private club, as at present.
- (2) Placement of cellular antennae on existing structures in accordance with the village's wireless communication ordinance.
- (3) Construction in the park/club district (including, without limitation, new construction or expansion or alteration of existing construction) shall be a "special land use," and shall require approval in accordance with the village's special land use provisions, as set forth in this division. Generally, and in accordance with the consideration required for special land uses generally, the following uses will be permitted in the park/club district:
 - (a) Development or expansion of marinas, boat slips and the like.
 - (b) Development of parking areas including surface parking, parking decks, or subgrade parking.
 - (c) Development or expansion of eating, banquet, or other gathering areas.
 - (d) Development of indoor or outdoor recreation areas.
 - (e) Other uses similar to those listed above.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-143. Setbacks and density.

Area, height and placement requirements in this district shall be as follows:

- (1) Minimum front yard: 145 feet.
- (2) Minimum side yards: 30 feet.
- (3) Minimum rear yard: 30 feet.

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- (4) Maximum building height: 35 feet. Existing structures in the district that exceed such height shall not be considered nonconforming uses under this division.
 - (5) Maximum building coverage: 25 percent.
 - (6) Maximum impervious surface: 85 percent.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-144. Reconstruction of existing buildings or structures.

Notwithstanding the requirements of section 40-143, the reconstruction or repair of existing buildings or structures shall be permissible upon a determination by the planning commission that the location, size, scale and architectural character of the reconstructed or repaired building or structure is comparable to that which previously existed.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-145. Screening requirements.

For park/club district properties which abut non-like zoning districts (i.e., residence district, residence lakefront district, and residence planned district) screening shall be provided consistent with the following:

- (1) Evergreens (a minimum of ten feet in height at the time of planting) shall be planted along the mutual property line at a rate of one tree for each ten feet of such property line. These trees shall be planted in a natural manner and shall be evenly planted along the entire property line. The planning commission may approve other alternatives upon a finding that the intent of the ordinance is maintained.
- (2) In addition, low-level shrubbery shall be planted throughout the screening area(s). This shrubbery shall be planted at a rate of one shrub for each five feet of such property line. These trees shall be planted in a natural manner and shall be evenly planted along the entire property line. The planning commission may approve other alternatives upon a finding that the intent of the ordinance is maintained.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-146. Parking standards.

One parking space shall be provided for each six persons permitted within the maximum occupancy of the principal building, as determined by the fire marshal.

(Ord. No. 252, § I, 10-19-2010)

Sec. 40-147. Waiver or modification of requirements.

In approving a special land use within the park/club district under section 40-423 of this Code, the council may waive or modify any of the above area, height, coverage and placement requirements or parking standards, if it determines that such waiver or modification is consistent with the architectural character of the proposed construction and the overall use of the site upon which such proposed construction is located, and will not unduly and adversely impact adjoining properties.

(Ord. No. 252, § I, 10-19-2010)

Secs. 40-148—40-170. Reserved.

ARTICLE III. RESIDENTIAL DEVELOPMENT STANDARDS

Sec. 40-171. Applicability.

- (a) The development standards contained in this article are derived from the architectural survey commissioned by the village, and shall be used by the applicant in preparing plans and by the commission in reviewing such plans, except as may be modified in accordance with the provision of section 40-203. In its review, the commission may approve, deny, conditionally approve or request such additions and modifications to the submission as deemed to be consistent with the development standards and the purposes of this article.
- (b) The development standards in this article set forth specific requirements. The commission shall apply such standards, but may demonstrate reasonable flexibility consistent with the spirit of this article since exceptional situations which require unique applications can be expected. When applying such standards, the commission shall carefully weigh the specific circumstances surrounding each application and strive for development solutions that best promote the spirit, intent and purposes of this article.
- (c) The development standards contained in this article shall be used as the village's minimum requirements for evaluating a proposal. However, such standards are not intended to restrict creativity, and an applicant may request a modification or exception from any development standard pursuant to section 40-203. The development standards set forth in this article are both written and illustrated. Every effort has been taken to assure that illustration and text are complementary; however, in the event of inconsistencies between the two, the text shall govern.

(Ord. No. 200, art. 9, § 900, 7-7-1997)

Sec. 40-172. Architectural design standards.

- (a) Buildings shall generally relate in scale and design features to the surrounding buildings, showing respect for the local context. As a general rule, buildings shall reflect a continuity of design approach obtained by:
 - (1) Maintaining the building scale or subtly graduating changes;
 - (2) Maintaining uniform front yard setbacks;
 - (3) Maintaining base courses;
 - (4) Continuous use of porches or other features on residential buildings, such as cornice lines on buildings of the same height;
 - (5) Extending horizontal lines of fenestration; and
 - (6) Echoing architectural styles and details, design themes, building materials and colors consistent with surrounding buildings.
- (b) Buildings on corner lots may have particular significance, since they have at least two facades visibly exposed to the street. If deemed appropriate by the commission, such buildings may be designed with architectural embellishments to emphasize their location.
- (c) Buildings shall avoid long, monotonous, uninterrupted walls or roof planes. Building wall offsets, including projections, recesses and, if applicable, changes in floor level, shall be used in order to add architectural interest and variety and to relieve the visual effect of a simple, long wall. Similarly, roofline offsets are

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encouraged in order to provide architectural interest and variety to the massing of a building and to relieve the effect of a single, long roof.

- (d) The architectural treatment of all sides of a building shall be designed to be consistent with regard to style, materials, colors and details. Blank walls are discouraged. The relative simplicity or complexity of architectural styles and details of surrounding buildings shall be a consideration in determining whether a proposed building or change in an existing building is consistent and harmonious with surrounding buildings.
- (e) Gable and hipped roofs shall provide overhanging eaves on all sides. Flat roofs are discouraged. Each roof type shall be appropriate to the building's architecture. Mansard roofs on a one-story building are not permitted. Architectural embellishments that add visual interest to roofs, such as dormers, belvederes, masonry chimneys and other similar elements, are encouraged.
- (f) Entrances to buildings shall be defined and articulated by architectural elements, such as lintels, pediments, columns, porches, overhangs, railings, balustrades, etc., where appropriate. Any such element utilized shall be architecturally compatible with the style, materials, colors and details of the doors and the building as a whole.
- (g) Outdoor appliances.
 - (1) Air conditioning unit(s) and generators shall be considered a permitted use when located in the rear yard. The location of air conditioning unit(s) and generators in the rear yard are the preferred location of the city. However, if no suitable rear yard location is available, the building department may permit the air conditioning unit(s) and/or generator(s) to be placed in the side yard, as rearward as practical. The building department may also permit installation on the roof of the residence or on the Lake Shore Road side of a Lake Shore Road property. Applicable requirements, as follows, shall be met for any installation.

If placed within the side yard, the following shall apply:

- a. The unit(s) shall be located within two feet of a residential structure. The building department may grant an exception based on proof of a physical hindrance such as existing utility lines or exterior equipment.
- b. The unit shall not be permitted to be placed directly across from a bedroom on the first floor of the neighboring residence, unless the neighbor approves, in writing. The applicant shall provide correspondence from the neighbor(s) whose residence abuts the side yard in question, indicating approval of the location that is across from the neighbor's first floor bedroom. If the neighbor is unwilling to provide such correspondence or is not otherwise available, the applicant shall submit a letter indicating efforts to obtain such correspondence and shall seek a special land use approval.
- c. The placement of a unit in other side yard locations may be approved by the building department without the need for neighbor approval.

If placed on the roof of the residence, the following shall apply:

- a. The unit(s) and the roof/structure shall meet all applicable building codes and zoning ordinance requirements.
- b. The unit(s) shall be screened from the view of the adjoining property, through the use of parapet walls or simulated rooflines which are architecturally contiguous and harmonious with the remainder of the residence.

If placed on the Lake Shore Road side of a Lake Shore Road property, the following shall apply:

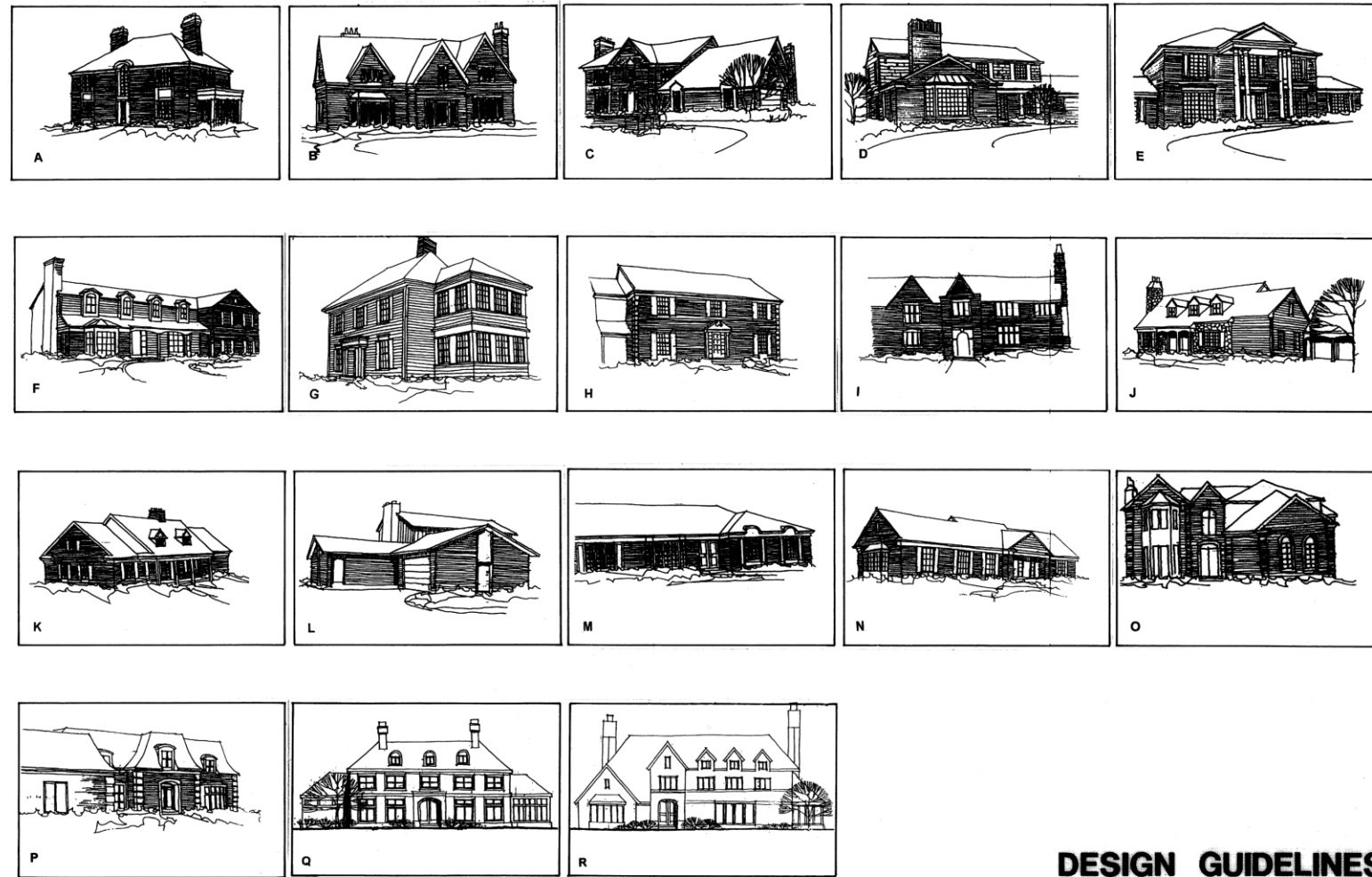
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- a. The unit(s) shall be located within two feet of a residential structure. The building department may grant an exception based on proof of a physical hindrance such as existing utility lines or exterior equipment.
 - b. The applicant shall provide correspondence from those neighbors which abut the property in question, indicating their position on the application. If a neighbor is unwilling to provide such correspondence or is not otherwise available, the applicant shall submit a letter indicating efforts to obtain such correspondence and shall seek a special land use approval.
- (2) Other than those rooftop generators screened from view in accordance with Section 40-172(g)(1) of Chapter 40, Article III of this Code, air conditioning unit(s) and generator(s) shall be opaquely screened from adjacent properties with landscaping or fencing as approved by the building department.
 - (3) All air conditioning unit(s) and generator(s) shall be enclosed with a sound attenuating cabinet as approved by the building department.
 - (4) All air conditioning unit(s) and generator(s) shall meet all applicable noise regulations of the city's Code of Ordinance.
 - (5) Satellite dishes and other telecommunication receiving devices greater than 18 inches in diameter shall be thoroughly screened from view from the public right-of-way and from adjacent properties by using walls, fencing, roof elements, appropriate screening devices or landscaping. Smaller satellite dishes shall be placed as unobtrusively as practical.
- (h) All materials, colors and architectural details used on the exterior of a building shall be compatible with the building's style and with each other. A building designed of an architectural style that normally includes certain integral materials, colors and/or details shall incorporate such materials, colors and/or details into its design. Where appropriate to the architectural style of a building, shutters shall be provided on all windows fronting a street or visible from the public right-of-way.
 - (i) Solid metal security gates or solid roll-down metal windows shall not be permitted. Link or grill-type security devices shall not be permitted. Models which provide a sense of transparency, in light colors, are encouraged.
 - (j) All yards and landscaping shall be maintained and improved to be in harmony with the neighborhood.
- (Ord. No. 200, art. 9, § 901, 7-7-1997; Ord. No. 225, 4-15-2003; Ord. No. 229, 8-19-2003; Ord. No. 242, § 2, 1-20-2015)

Sec. 40-173. Illustrative neighborhood design standards.

- (a) The illustrative designs in this section are established for each neighborhood and include the general design character, as well as specific architectural elements. The illustrative designs relate to the architectural design standards as specified in this article. These designs will be used in the review application. The use of materials, colors and massing shall be in harmony with the illustrative designs established for the area.
- (b) Illustrative sketches of the various compatible building massing and styles to be used in the design of the buildings and additions are presented in matrix form. (See illustration #1 attached to this section.) Images or drawings, or a combination thereof, are presented with the design guidelines and include letters of identification for each neighborhood in which they are permitted. (See illustration #2 attached to this section.)
 - (1) *Building massing and style.* The building mass is the shaped volume of a structure, including sides and roofs, and the size of the base or footprint, and shows the expected range of base size. Massing will also reflect the style of the structures.
 - a. *Roof types and materials, gables and dormers.* The variation of roof types shows the various pitches, shapes and forms. Cross gables and dormers can be appropriate to give character to the building.
 - b. *Facade treatments and facade materials.* The facade is the primary element that defines the character of a building. There are various facade elements which are shown in the illustrations attached to this section, including window and door openings and proportions. Most facades have a defined base or foundation, a middle or modulated wall, and a top formed by a pitched roof or articulated cornice. Such divisions create a more positive relationship to the human scale. All buildings shall be above the approved grade. Wall materials should be based upon the traditional use of materials in each of the areas. Materials which have aged without excessive deterioration will prove to be the best for the local climate. New materials may be introduced if they closely emulate the look and feel of traditional materials.
 - c. *Porches.* The porch category illustrates the style, mass, roof form, overhangs, columns, balustrades and stair types for porches.
 - (2) *Landscaping, fences, walls, berms and hedges.*
 - a. The treatment of the front yard shall be defined using landscaping. Such landscaping defines the transition from the public to the semipublic and private space. Size, height, materials and character should be compatible. There should be variety with harmony. There are many patterns that can be used as framework, as shown in the illustrations attached to this section. Walls, fences, hedges and landscaping are also regulated by chapter 12 of this Code.
 - b. Berms may be used as part of the landscaping or as a greenbelt or buffer. They shall be designed to be consistent with the architectural character of the buildings to be located on the site and shall consist of landscaped earth mounds possessing a maximum slope ratio of four feet horizontal to one foot vertical, except where retaining walls are used. Side slopes shall be designed and planted with sod or hydro seeded to prevent erosion. Trees and shrubs shall be used to enhance aesthetic appeal. In the instances where a berm is included as part of a greenbelt, a detailed drawing and cross section of the proposed berm and landscaping shall be provided as part of the landscape plan.
 - (3) *Streetscape, pavement materials and textures.* Pavement, including concrete, asphalt, brick paving blocks and similar materials, textures and colors, should be included for walks, drives and pedestrian areas. Concrete is the basic walk material, but alternatives should be pursued to replace or highlight

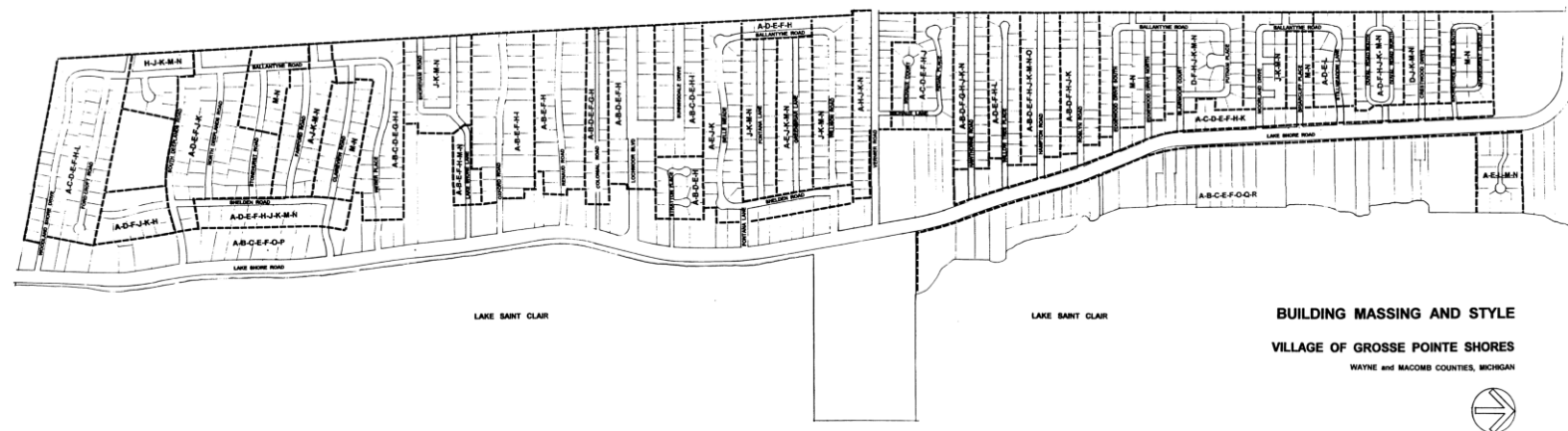
concrete. Concrete can be colored and scored to replicate traditional paving materials. Brick pavers may replace concrete or define the edges of a sidewalk. The more surface texture, the more positive the area appears. The patterns, colors and materials that will be accepted are those that are in harmony with each area.

- (4) *Colors.* A harmonious range of colors should be used. The use of too many colors in a neighborhood creates visual clutter. Most neighborhoods use a range of colors which may have changed with the various architectural portrayals, yet remain compatible. These colors should be matched, and compatible colors may be added. Compatible accent colors may be used for doors, shutters or other such features, provided that they blend harmoniously with the color selected for the principal structure. Color choices for new buildings or additions may also be derived from the setting. Acceptable colors will enhance the character of the area. A palette of these colors has been prepared, and base colors used must fall within the range and hue of colors set forth in the palette. A maximum of two base colors and four accent colors is recommended.

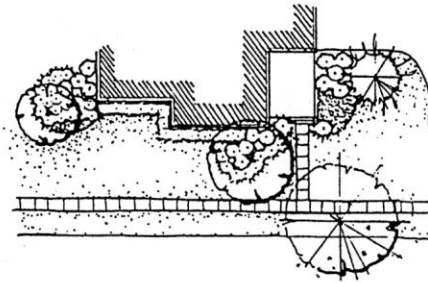
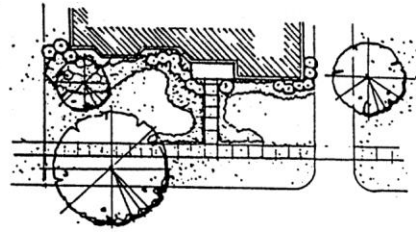


DESIGN GUIDELINES

Design Guidelines



Building Massing and Style



LANDSCAPING and STREETScape

Landscaping and Streetscape

Secs. 40-174—40-200. Reserved.

ARTICLE IV. RESIDENTIAL DESIGN REVIEW REQUIREMENTS

Sec. 40-201. Procedures.

- (a) Development review employs two different approaches, based on whether or not the proposed building or change is residential or nonresidential. Detached one-family dwellings and accessory building plans for construction, reconstruction, addition, remodeling, alteration, changes in color, or exterior facing of exteriors or appearance are processed and regulated under the provisions of article III of this chapter. Nonresidential buildings, attached one-family dwellings, accessory structures, and parking and storage areas for such uses are regulated by section 40-422.
- (b) Changes in color or the exterior appearance of a detached one-family dwelling or a structure accessory to such dwelling that do not require a building permit may proceed if such changes are in compliance with the development standards of article III of this chapter and may be undertaken without review. If an owner has a question of compliance, then the village manager shall be consulted. In such case, the village manager shall be guided by the provisions of this article in determining whether the proposal complies with the development standards or must be formally submitted to the commission for design review.
- (c) The design and improvement of the proposed site, dwelling unit or accessory structure change, including surrounding landscaping, shall be in harmony with the purpose and intent of article III of this chapter and this chapter. In addition, the change shall generally enhance the neighborhood and not have an adverse impact on its physical, visual or spatial characteristics, or produce a result not in harmony with the neighborhood.

(Ord. No. 200, art. 10, § 1000, 7-7-1997)

Sec. 40-202. Residential changes and development.

- (a) *Plans.* The following residential plans shall be reviewed and acted upon by the commission:
 - (1) Plans for appearance changes or accessory buildings which are referred to the commission by the village manager.
 - (2) Plans for new construction, reconstruction, additions, remodeling or alteration of any principal structure, or any accessory structure greater than 120 square feet which requires a building permit.
 - (3) Plans for new construction or substantial changes of fences, walls, hedges, berms and landscaping in the required front yard.
 - (4) Changes not in compliance with, or deviations from, the development standards in sections 40-172 and 40-173.
- (b) *Procedures.* To facilitate review and approval, the following procedures shall be followed:
 - (1) A preapplication conference with the village manager to review the change or development as it is being proposed.
 - (2) Submission of an application for approval, with the plot plan, building plan, architectural elevations and such other information as the village manager or commission deem appropriate to assist the commission in making a determination on the application.
 - (3) Review by the commission.

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- (4) Revisions or additional submissions, when applicable.
 - (5) Action by the commission, with approval, approval with modifications or denial. If the application is denied, the reasons for such denial shall be provided, in writing, as part of the minutes, with a copy of such reasons for denial provided to the property owner.
- (c) *Application for approval.*
- (1) Sufficient copies of an application for approval shall be submitted by the property owner to the village. The property owner shall also submit a filing fee to the village in an amount specified on the fee schedule adopted by resolution of the village council. No plan shall be considered as properly filed until such time as the filing fee is submitted to the village.
 - (2) The following information, maps and graphics are to be provided:
 - a. *Form.* The application, in the form supplied by the village, shall be completed by the property owner or his agent.
 - b. *Site drawing, building plan and drawing.* Each site drawing, building plan and drawing shall be prepared by a professional planner, professional engineer, surveyor, landscape architect or architect, who shall place his seal and signature on all applicable plans, maps and drawings. Site or plot plans shall be drawn on sheets having a minimum sheet size of 18 inches by 22 inches, and a maximum sheet size of 34 inches by 44 inches, and shall be at a scale of ten feet or 20 feet to the inch. The applicant should utilize the scale and plan format which presents the most readable plans.
 - c. *Supporting information.* Supporting information shall be submitted, as appropriate, to permit the commission to evaluate the application.

(Ord. No. 200, art. 10, § 1001, 7-7-1997)

Sec. 40-203. Modification of standards.

In carrying out the design review process specified in this article and article III of this chapter, the commission may permit minor deviations from the requirements, based on the unique features of a particular site, dwelling unit or accessory structure, provided that, in any event, the resulting site, dwelling unit or accessory structure is in harmony with the applicable neighborhood and the deviations from such requirements are otherwise consistent with the purposes of this article. In permitting such deviations, the commission may impose such additional and more stringent conditions as will, in its judgment, secure the objectives and purposes of this chapter.

(Ord. No. 200, art. 10, § 1002, 7-7-1997)

Secs. 40-204—40-230. Reserved.

ARTICLE V. SUPPLEMENTAL REGULATIONS

Sec. 40-231. Accessory buildings.

- (a) No accessory building may be used as a dwelling, except as provided in each respective residence district.
- (b) Where an accessory building is structurally attached to a principal building, it shall conform to all regulations of this chapter applicable to the principal building. Attached garages are encouraged.

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- (c) Each single-family residence must have a two-car or three-car garage. Additional garage vehicle space (i.e. additional garage door openings) can be approved by the planning commission upon the filing of an appropriate request for special land use approval, provided further that the garage doors for any additional "vehicle spaces" beyond three must face the side or rear yard so that they do not open directly on a roadway and they cannot infringe on any setback area. Particular attention and consideration shall be given to the relationship between the garage entry location and the adjacent neighbors; the abutting roadway; and other public viewable areas.
 - (d) (1) Detached garages within the residence district, which do not abut Lake Shore Drive, shall be a maximum of one story, or 15 feet at the peak or ridge of the roof. Such garages shall not occupy more than 25 percent of the required rear yard space.
 - (2) Accessory buildings located in the residence district which abut Lake Shore Road may be utilized as garages or for the use of domestic employees, and their height may be the lesser of the height of the principal building or 30 feet at the peak of the roof if the principal structure is two stories. Such buildings shall not occupy more than 25 percent of the required rear yard space.
 - (3) Within the residence lakefront district, accessory buildings, and portions thereof, to be utilized as garages or for the use of domestic employees as set forth in subsection (d)(2) of this section shall not exceed two stories or 30 feet in height at the peak or ridge of the roof, and shall not occupy more than 25 percent of the required rear yard space.
 - (e) No part of any accessory building of the type limited in height to 15 feet at the peak or ridge of the roof or less shall be located within the required side yard setback or within ten feet of the rear property line. Those accessory buildings over 15 feet in height shall not be located in the required side or required rear yard setback. No accessory building(s) (excluding detached garages) shall be located closer to any side property line than the principal structure.
 - (f) All accessory buildings, other than garages and domestic quarters as set forth in subsection (d) of this section, shall be no larger than ten feet by 12 feet, with a maximum height of ten feet at the peak or ridge of the roof. All such buildings must:
 - (1) Conform with all applicable codes;
 - (2) Be built only on a concrete slab with ratwall or other approved platform; and
 - (3) Contain only durable building materials approved by the village.
 - (g) A detached accessory building shall be located only in a rear yard, and shall be a minimum of ten feet from the residence, unless permitted by the building department to be closer. No yard shall be permitted to contain more than one detached accessory building, exclusive of a detached garage and/or a play structure.
 - (h) When an accessory building is located on a corner lot where the side lot line is substantially a continuation of the front lot line of an adjacent lot, such building shall not project beyond the front yard line extension of the adjacent lot.
 - (i) All accessory buildings shall be adequately landscaped, designed and painted, or use facing material, so as to be in harmony with the neighborhood and to conform in character with the principal building on the parcel. All elevations must be harmonious.
 - (j) Except as provided in section 40-254, no accessory building of any kind shall be built on a parcel which does not have a principal building. No accessory building shall be constructed prior to the enclosure of the main building.
 - (k) Except as provided in section 40-254, an accessory building shall be incidental to the principal permitted use and shall not involve any business, profession, trade or occupation.

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- (l) Construction of a garage which is at any point more than 12 inches below the grade level of the property shall only be permitted if special land use approval has been granted by the village. In determining whether special land use approval should be granted, particular consideration shall be given to the location of the garage relative to surrounding residences and adjacent sidewalks and thoroughfares, the driveway slope required to provide access to the garage, and the screening and safety protection available and to be provided.
 - (m) For purposes of this section, a "playhouse" is a structure containing a roof and at least two walls commonly used by children for play activities. Playhouses may be permitted subject to the following:
 - (1) Shall only be located within the rear yard.
 - (2) Shall meet the same setbacks as an accessory building.
 - (3) Shall have a maximum height of ten feet.
 - (4) Shall not exceed 120 square feet in area.
 - (5) May not be used for storage purposes.
 - (n) For purposes of this section, a "play structure" is an unenclosed structure containing swings, slides, etc. used by children for play activities. Play structures are permitted subject to the following:
 - (1) Shall only be located within the rear yard.
 - (2) Shall meet the same setbacks as an accessory building.
 - (3) Shall have a maximum height of 12 feet.
 - (4) Shall not exceed 120 square feet in area.
 - (o) No accessory building shall be constructed or modified unless and until a building permit or a zoning compliance certificate has been procured from the village.

(Ord. No. 200, art. 11, § 1100, 7-7-1997; Ord. No. 232, § II, 2-17-2004; Ord. No. 239, § VI, 8-15-2006)

Sec. 40-232. Approval of plats.

No proposed plat of a new or redesigned subdivision shall be approved, except as otherwise authorized by chapter 16 of this Code, unless all lots comprising such plat equal or exceed the minimum size and width requirements set forth in the various districts of this chapter and are in harmony with the existing development of such districts and meet the minimum requirements of this chapter, chapter 16 of this Code, the village's engineering code and the land division act.

(Ord. No. 200, art. 11, § 1101, 7-7-1997)

Sec. 40-233. Awnings and canopies.

- (a) Awnings and canopies shall not be permitted over driveways or parking spaces or be used to create sheltered space for storage or parking. Awnings or canopies shall be erected in a safe manner in accordance with all applicable village codes, ordinances or standards and be in harmony with the color standards of this chapter.
- (b) Window or door awnings or canopies may extend up to three feet into the required front and side yard setback. All awnings and canopies shall be maintained in a good condition. Torn or damaged awnings or canopies shall be promptly removed or repaired by the owner. The face of the building behind the canopy shall be uniform in appearance with the remainder of the building.

(Ord. No. 200, art. 11, § 1102, 7-7-1997)

Sec. 40-234. Building grades.

When a new building is constructed on a vacant lot between two existing buildings or adjacent to an existing building, the existing established grade shall be used in determining the grade around the new building, and the yard around the new building shall be graded in such a manner as to meet existing grades and not to permit runoff of surface water to flow onto adjacent property. If necessary, drain systems shall be installed to provide water runoff from new buildings into existing drain systems at the new building owner's expense, provided, such drainage does not infringe on neighboring properties, except as permitted by law. Final grades shall be approved by the building department. Where final grades are two feet or more above the grade of the fronting sidewalk, or road where no sidewalk exists, or when the building department deems it necessary, a certificate of grading and location of building shall be duly completed and certified by a registered engineer or land surveyor before final grades are approved.

(Ord. No. 200, art. 11, § 1103, 7-7-1997)

Cross reference(s)—Buildings and building regulations, ch. 6.

Sec. 40-235. Buildings to be moved.

Any building or structure which has been wholly or partially erected on any premises, located either within or outside of the village, shall not be moved to, and placed upon, any other premises in the village until a permit for such move and a certificate of zoning compliance have been obtained from the village building department. Any such building or structure shall fully conform to all of the provisions of this chapter in the same manner as a new building or structure.

(Ord. No. 200, art. 11, § 1104, 7-7-1997)

Cross reference(s)—Buildings and building regulations, ch. 6; streets, sidewalks and other public places, ch. 30.

Sec. 40-236. Condominium land divisions.

It is recognized that state statutes provide for the implementation of developments consisting of one-family detached residential dwelling units and sites, through procedures other than the procedures authorized by the land division act. The intent of the requirements of this section is to ensure that all such land divisions, including site condominium projects, are developed in compliance with accepted planning and engineering standards applicable to similar forms of development as reflected in the ordinances and requirements of the village pertaining to one-family residential development, to the same extent that such land divisions would be required to comply if such land divisions were being authorized under the land division act. One-family detached residential condominiums, including site condominiums, may be allowed as a permitted use in the residence district, residence lakefront district and residence planned district, subject to site plan review by the commission and the requirements and provisions set forth in this section.

- (1) *Submission requirements.* All condominium subdivision plans shall be submitted for review per the standards of section 40-422 and as required by section 66 of the condominium act (MCL 559.166), and such plans shall include the following additional information:
 - a. A boundary survey of the condominium subdivision site.
 - b. A plan delineating all natural and manmade features on the site, including, but not limited to, drains, ponds, lakes, streams, floodplains, wetlands and woodland areas.

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- c. The location, size, shape, area and width of all condominium units, common areas and general or limited common elements, and the location of all proposed streets.
 - d. A copy of the master deed and all restrictive covenants to be applied to the project. Such deeds shall include an acceptable means of converting the project to a platted subdivision under the land division act.
- (2) *Review procedures.* Pursuant to authority conferred by section 141 of the condominium act (MCL 559.241), all condominium subdivision plans shall require approval by the commission and village council before units may be sold or site improvement initiated. In determining whether to approve a condominium subdivision plan, the commission shall consult with the village attorney, planner and engineer regarding the adequacy of the submission as it relates to this chapter, the engineering ordinance and the requirements of the condominium act. The review process shall consist of the following two steps:
- a. *Preliminary plan review.* In the preliminary review phase, the commission and village council shall review the overall plan for the site, including basic road and unit configurations and the consistency of the plans with all applicable provisions of this chapter. Plans submitted for preliminary review shall include information specified in this section, except subsection (1)d of this section, involving the master deed.
 - b. *Final plan review.* Upon receipt of preliminary plan approval, the applicant shall prepare the appropriate engineering plans and apply for final review by the commission and approval of the village council. Final plans shall include information as required by the submission requirements of subsection (1) of this section. Such plans and information shall be reviewed by the village attorney, engineer and planner. Further, such plans shall be submitted for review and comment to all applicable local, county and state agencies. Final action shall not be taken until such time as all applicable review agencies have had an opportunity to comment on the plans.
- (3) *District requirements.* Condominium subdivisions shall conform to the applicable yard, setback and minimum floor area requirements of the district within which the project is located. The density of development of the project shall be no greater, and the spacing of improvements no less, than would be permitted if the property were platted as a subdivision under the land division act.
- (4) *Design standards.*
- a. Condominium subdivisions shall conform to all of the applicable design and development standards of the village as set forth in this chapter and the ordinances of the village pertaining to one-family residential development. All streets and roads shall be dedicated to the public. Street and road connections and/or stubs shall be required, where necessary, to provide continuity to the public road system.
 - b. In referencing this chapter to chapter 16, article I of this Code and other applicable ordinances of the village, the term "plat" shall be substituted for the term "condominium subdivision plan"; the term "tentative preliminary plat approval" shall be substituted for the term "preliminary plan review"; the term "final plat approval" shall be substituted for the term "final plan review"; and the term "proprietor" shall be deemed to refer to the applicant pursuant to this article. Any applications, fees, procedures for review or hearing, as set forth in the village ordinances, shall be fully complied with, except as provided in this section.
- (5) *Utility easements.* The condominium subdivision plan shall include all necessary easements granted to appropriate authorities for the purpose of constructing, operating, inspecting, maintaining, repairing, altering, replacing and/or removing pipelines, mains, conduits and other installations of a similar character for the purpose of providing public utilities, including, but not limited to, the conveyance of

sewage, water and stormwater runoff across, through and under the property subject to the easement, and may also be continued as parts of general, common or limited elements of the condominium plan.

- (6) *Final acceptance.* The village shall also require all the appropriate inspections for condominium subdivisions that are required in the village ordinances for residential structures. After construction of the condominium subdivision, an as-built reproducible mylar of the completed site improvements, excluding dwelling units, is to be submitted to the village for review by the village engineer. A final certificate of occupancy and any construction bonds or letter of credit shall not be released to the developer/owner until the as-built mylar has been reviewed and accepted by the village.

(Ord. No. 200, art. 11, § 1105, 7-7-1997)

State law reference(s)—Condominium act, MCL 559.101 et seq.

Sec. 40-237. Corner clearance.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of three feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between such right-of-way lines at a distance along each line of 25 feet from their point of intersection.

(Ord. No. 200, art. 11, § 1106, 7-7-1997)

Sec. 40-238. Dwellings per lot or parcel.

No more than one residential dwelling shall be permitted per lot or parcel, except as provided in sections 40-231 and 40-246, or as permitted in the residential planned district.

(Ord. No. 200, art. 11, § 1107, 7-7-1997)

Sec. 40-239. Compliance with engineering code required.

All improvements required in this chapter shall comply with the design and construction standards of the village's engineering code.

(Ord. No. 200, art. 11, § 1108, 7-7-1997)

Sec. 40-240. Exterior requirements and alteration limitations.

All building elevations shall have an exterior appearance in harmony with the buildings in the neighborhood and be of suitable character and building materials, all of which shall be approved by the commission. A brick facade shall not be covered with another material that has not been approved by the village. All changes or improvements must comply with the color palette and/or materials approved by the village. Plans for the painting/repainting, or any other changes in the exterior or appearance of any building or structure, including awnings, shall comply with the design requirements as outlined in articles III and IV of this chapter.

(Ord. No. 200, art. 11, § 1109, 7-7-1997)

Sec. 40-241. Fences, walls, hedges and protective barriers.

The erection, construction or alteration of any fence, wall, hedge or other type of protective barrier of any nature, type or description shall be reviewed by the building department for compliance with the requirements of the applicable district and chapter 12 of this Code.

(Ord. No. 200, art. 11, § 1110, 7-7-1997)

Sec. 40-242. Lighting.

Exterior light fixtures shall be architecturally compatible with the style, materials, colors and details of the building and shall be located and positioned so as to be unobtrusive to the neighbors. Mounting brackets and associated hardware shall be inconspicuous. The type of light source used on the exterior of buildings, pedestrian walkways and other areas of a site, and the light quality produced, shall be the same or compatible. In general, facade lighting should be concealed through shielding or recessed behind architectural features. The use of neon, fluorescent or mercury vapor lighting is prohibited.

- (1) All outdoor lighting used to light a specific site shall be shielded downward or below horizontal to reduce glare and shall be so arranged and designed to reflect light away from all adjacent residences and public rights-of-way.
- (2) Carriage style lights on the interior portion of a parcel may be utilized to light a driveway providing the light source is not greater than an average of 0.5 to 2.0 footcandles at grade (generally 60 watts or less) and providing lights shall have internal shields to direct light downward and away from adjacent properties and roadways as necessary. The height of such lights shall not exceed eight feet east of Lakeshore Road, and shall not exceed six feet in height in all other areas of the village. Provisions permitting lighting on decorative walls at entranceways are set forth in section 12-5(1).
- (3) Ground lighting (up-lighting) used for the purpose of illuminating landscaping and architectural details shall be shielded from public view by either landscaping or architectural features and shall be directed solely at the object to be lit and shall not direct light towards adjacent property.
- (4) No floodlights shall be erected or used in any district, unless they are directed to the dwelling, landscaping or interior lot improvements and shielded from the neighbors and public so as to be unobtrusive.
- (5) Security lighting may be utilized in situations where it is positioned so as to be shielded from neighboring properties and the general public to the greatest extent possible, and such lighting shall not shine directly on adjacent property, nor shall it emit any audible noise.

(Ord. No. 200, art. 11, § 1111, 7-7-1997; Ord. No. 225, § I, 4-15-2003)

Sec. 40-243. Garage sales, rummage sales, estate sales, etc.

- (a) No person or neighborhood group shall conduct a garage sale, rummage sale, estate sale or similar activity within the city, unless authorized by a permit obtained from the city manager. The cost of such permit shall be established by resolution of the city council. Such permit shall be posted at the location of the sale so as to be visible to the general public.
- (b) The garage sale or similar activity shall not be conducted for a period of more than three consecutive days. No person shall be allowed more than one such permit within any 12-month period. In no instance shall more than one garage sale or similar activity be held in any one location within any 12-month period. All such sales or similar activities shall be conducted within the garage or immediate area as described in the

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permit. All such sales shall be conducted only between the hours of 9:00 a.m.—6:00 p.m., and no flags or audio devices are to be used to advertise or conduct the sale. No goods or property may be imported from other locations, other than the local immediate neighborhood, to be sold at such a sale. The conduct of neighborhood garage sales may be modified only by the city manager, so as to effectuate the purpose and intent of this section.

- (c) Overnight, outside storage of goods or merchandise offered at such garage sale or similar activity is prohibited.

(Ord. No. 200, art. 11, § 1112, 7-7-1997; Ord. No. 212, § II, 1-16-2001; Ord. No. 270, § 3, 5-25-2021)

Sec. 40-244. Home occupations.

- (a) A home occupation may be permitted, provided that it:

- (1) Does not bring added traffic or parking to the street or an abutting street;
- (2) Does not produce a need for additional parking;
- (3) Does not employ persons other than the residents of the household; and
- (4) Shall not involve the delivery of goods and services by commercial vehicles.

- (b) A permitted home occupation shall not:

- (1) Be performed in any accessory building or in the yard;
- (2) Be permitted to display a sign;
- (3) Require exterior alterations; and
- (4) Produce such nuisances as noise, vibration, glare, fume, odor, dust or electrical interference with neighbors' radios, televisions or other electronic receiving devices.

(Ord. No. 200, art. 11, § 1113, 7-7-1997)

State law reference(s)—Home occupation in single-family residence to give instruction in a craft or fine art, MCL 125.583c.

Sec. 40-245. Location of improvements, structures and buildings in public easements.

No improvement, structure or building, other than a fence, walk, driveway or parking area, may be erected in a public easement. Any such permitted uses are subject to the terms and conditions of the easement.

(Ord. No. 200, art. 11, § 1114, 7-7-1997)

Cross reference(s)—Buildings and building regulations, ch. 6.

Sec. 40-246. Lot limitations.

Only one principal building shall be placed on a lot or parcel of record, except in the residential planned district. Parcels of record described and designated as "out lots" may also be arranged or subdivided so as to provide for one or more principal buildings when the land area allocated to each building is in harmony with the other lots in the area and meets the minimum area required for the district, and the building and land complies with all of the other requirements of the district in which it is located, provided, no building shall be erected on land subdivided in violation of the land division act.

(Ord. No. 200, art. 11, § 1115, 7-7-1997)

Sec. 40-247. Measurement of minimum floor area requirements.

Minimum total floor area requirements as established by the various provisions of this chapter for residential dwellings shall be measured from the exterior surface of enclosing walls and the centerline of common partition walls for each dwelling unit. Minimum floor area shall not include cellars or basements, attached garages or attics, unheated breezeways, porches or decks. Second and third floor area to be counted as minimum floor area shall have a ceiling height of at least eight feet and shall have access from the floor below by an interior, permanent stairway.

(Ord. No. 200, art. 11, § 1116, 7-7-1997)

Sec. 40-248. Mobile homes outside of mobile home parks.

A mobile home shall require a building permit issued by the village prior to constructing or locating the mobile home within the village, and shall comply with all of the standards of the district in which it is located.

(Ord. No. 200, art. 11, § 1117, 7-7-1997)

State law reference(s)—Discrimination against manufactured housing in favor of site-built housing prohibited, MCL 125.2307.

Sec. 40-249. Off-street parking space requirements.

- (a) Off-street parking facilities for the storage or parking of self-propelled motor vehicles shall be required in all districts. A minimum of 200 square feet of lot or floor area, which has ingress and egress from a street, shall be deemed parking space for one vehicle. Such space shall not occupy any part of any required front or side yard space. On corner lots, parking spaces may not be included as part of required yards lying adjacent to either street. Such parking spaces and access driveways shall be paved with an all-weather, uniform surface. Such parking spaces shall be for the sole use of the occupants of the building.
- (b) Off-street parking facilities shall be on the same lot as the building such facilities are intended to serve.
- (c) A minimum of two off-street parking spaces shall be provided for each dwelling unit. Such spaces may be provided in a garage.

(Ord. No. 200, art. 11, § 1118, 7-7-1997)

Sec. 40-250. Porches, terraces, at-grade patios, handicapped access structures and decks.

- (a) At-grade patios may be constructed to project no further than ten feet into a required rear yard, and shall not be located in a required side yard or face upon a street.
- (b) Unenclosed and uncovered access porches (i.e., porches not roofed over) or paved terraces may project into a required rear yard for a distance not exceeding ten feet, but such porches or terraces shall not project into any required front or side yard. Patio and porches covered, or partially covered, by permanent construction, other than permitted awnings, shall not project into any required yard space.
- (c) The location of structures essential for handicapped access, as may be required by law, may be approved at the discretion of the village manager.
- (d) Decks may be allowed, provided that all the following conditions are met:

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- (1) The deck does not encroach into any easement.
 - (2) The deck does not project more than ten feet into the required rear yard setback.
 - (3) The deck shall not be located in any front yard. Decks on a corner lot shall have landscaping, walls or a privacy fence to shield the deck area from any street.
 - (4) The deck does not project into the required side yard setback.
 - (5) The deck is located not less than ten feet from any detached accessory building.
 - (6) The deck and all other appurtenant facilities conform with all applicable codes and ordinances.

(Ord. No. 200, art. 11, § 1119, 7-7-1997)

Sec. 40-251. Portable toilets.

No portable toilet shall be permitted in connection with any use of any site, except as required by OSHA and/or approved as a temporary use by the village manager to properly accommodate the temporary use, and then only if appropriately screened.

(Ord. No. 200, art. 11, § 1120, 7-7-1997)

Sec. 40-252. Private roads.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Private road means a road which serves more than one separately held parcel or more than one dwelling unit.

- (b) *Construction and installation.* Except as otherwise provided in this chapter, the construction and installation of a private road and development on such road may be permitted by the village council only as part of a residence planned district or park/club district project which is approved by the village. Such private road shall be subject to compliance with the private road requirements of the engineering ordinance.

(Ord. No. 200, art. 11, § 1121, 7-7-1997)

Sec. 40-253. Prohibited occupancy.

- (a) In no case shall a recreational vehicle, portable building, etc., be used as a dwelling.
- (b) Mobile homes shall not be used as dwellings, except when located in a district permitting such use, as set forth in this chapter.

(Ord. No. 200, art. 11, § 1122, 7-7-1997)

Sec. 40-254. Public utility electronic equipment enclosures.

- (a) There shall not be more than one public utility electronic equipment enclosure structure for each lot, which shall be freestanding, with a maximum floor area of 264 square feet devoted to such use.
- (b) The structure shall be located in the rear yard, in accordance with the standards applicable to accessory structures, where a principal building or use already exists on the property. Where such facility is the only principal use upon the site, the facility shall meet the setback requirements applicable to principal structures.

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- (c) On sites already developed with a one-family residence, such a facility shall be permitted only if the lot exceeds one acre.
 - (d) The maximum height of the structure shall be ten feet.
 - (e) Outdoor storage shall be prohibited.
 - (f) No antenna or other exterior transmitting and receiving device shall be permitted, except where such device is required to be allowed by applicable state or federal law.
 - (g) All driveways or maneuvering areas servicing the facility shall be hard-surfaced, and installed and maintained by the public utility in accordance with all applicable village standards.
 - (h) The parking of vehicles pertaining to such use shall be limited to the use of such vehicles in the performance of ongoing service work or repairs to the facility for the period of time necessary to complete such service or repairs.
 - (i) The structure shall comply with section 40-231, and shall be maintained against deterioration and/or damage from the elements or from any other cause by prompt and appropriate repairs, painting and other protective measures.
 - (j) The building or structure shall be landscaped and buffered with appropriate materials so as to shield it from view from a street or adjacent residential structure.

(Ord. No. 200, art. 11, § 1123, 7-7-1997)

Sec. 40-255. Recreational vehicles and tents.

- (a) Recreational vehicles or tents shall not be occupied or considered a legal use in any district.
- (b) No recreational vehicle shall be stored on a site unless it is enclosed within a garage.
- (c) The village manager may issue a permit for the parking or storage of a recreational vehicle in a driveway for up to 48 hours, upon application showing good cause and payment of such permit fee as may be set by resolution of the village council. The permit shall be displayed in the lower lefthand corner of the front windshield of the recreational vehicle.

(Ord. No. 200, art. 11, § 1124, 7-7-1997)

Sec. 40-256. Setback requirements.

- (a) The measurement for determining front, rear and side setback requirements shall be made from the exterior wall of the principal or attached accessory building or structure to the nearest applicable site line.
- (b) With respect to corner lots, the sides of the property abutting public streets shall each be considered "front yards."
- (c) Each front yard of a corner lot, as defined in the preceding subparagraph, shall comply with the front yard requirements (including, without limitation, those imposed by subsection 40-62(6)(d)) applicable to the street on which it faces.
- (d) A front yard on a double frontage lot shall be maintained on each street in accordance with the minimum front setback requirements established by the district in which the lot is located.
- (e) Every principal building shall face and have frontage on a public street. The minimum lot width shall be measured at the required front yard setback line.

(Ord. No. 200, art. 11, § 1125, 7-7-1997; Ord. No. 239, § VII, 8-15-2006)

Sec. 40-257. Utility approval.

Except as provided elsewhere in this chapter, the erection, construction, alteration, maintenance, addition, reconstruction or replacement by public utilities of underground, surface or overhead distribution of gas, electricity, wire communications, steam or water transmission or distributing systems, collection, supply or disposal systems, including poles, mains, drains, sewers, pipes, conduits, wires, cables, and other similar equipment and accessories in connection therewith, shall require village council approval pursuant to Article VII, Section 29 of the 1963 Michigan Constitution, after review and recommendation by the commission, based on the standards outlined in section 40-423 and Public Act No. 368 of 1925 (MCL 247.171 et seq.). This section shall not apply to wireless communication towers and antennas, the approved process for which is provided in section 40-295.

(Ord. No. 200, art. 11, § 1126, 7-7-1997)

Cross reference(s)—Utilities, ch. 36.

Sec. 40-258. Yard encroachments.

- (a) Every part of any required yard shall be open and unobstructed by any structure or projection from a structure from the ground to the sky, except as otherwise provided in this chapter. Chimneys and pilasters may project not more than 18 inches into a required yard.
- (b) Architectural features, such as, but not limited to, window sills, cornices, eaves, cantilevered bay windows, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard, and may extend or project not more than three feet into a required front or rear yard.

(Ord. No. 200, art. 11, § 1127, 7-7-1997)

Sec. 40-259. Yard uses.

- (a) The portion of a site in front of any dwelling or building shall be used only for natural landscaping, driveways and accessory parking spaces, as provided in this chapter. Such yards shall limit parking to driveways. Walkways and the balance of such yard shall be landscaped with natural materials. Constructed features, such as walls, statuary, fountains, etc., shall be prohibited in the front yard, unless such features are part of a landscape plan approved by the commission. (See also section 40-292.)
- (b) No space which for the purpose of a building or structure has been counted or calculated as part of a side yard, rear yard, front yard, court or other open space required by this chapter may, by reason of change in ownership or otherwise, be counted or calculated to satisfy or comply with a yard, court or other open space requirement of, or for, any other building or structure.
- (c) Yards or other open spaces required by this chapter for each and every building existing at the time of the passage of the ordinance from which this chapter is derived, or for any building erected after the passage date of the ordinance from which this chapter is derived, shall not be encroached upon or considered as yard or other open space requirements for any other building or structure.

(Ord. No. 200, art. 11, § 1128, 7-7-1997)

Sec. 40-260. Driveways and other impervious surfaces.

The construction or expansion of any driveway, vehicle turn around, parking space, sidewalk, patio, or other similar hard impervious surface is not permitted within three feet of a side property line or within ten feet of a rear property line, unless otherwise specifically permitted within this chapter.

(Ord. No. 239, § VIII, 8-15-2006)

Sec. 40-261. Reserved.

Sec. 40-262. Athletic courts and the like which are accessory to a residence.

Construction of an athletic court (i.e. basketball court, tennis court, etc.) or similar type use or structure which is accessory to a residence shall only be permitted after special land use approval has been granted by the village. Particular attention shall be given to the location of the court relative to surrounding residences and adjacent thoroughfares, the times at which the court or activity will be in use, the lighting of any such court or activity, the screening of such court or activity to limit the visual and audio impacts of such court or activity, as well as any other pertinent factors on an individual basis.

(Ord. No. 239, § IX, 8-15-2006)

Sec. 40-263. Dumpsters, PODS and similar storage containers.

- (a) *Dumpsters.* Dumpsters or similar commercial containers for the storage of construction debris or other waste are permitted in any district in the city only under the following conditions:
1. In connection with construction for which a building permit is required and obtained. In such case, the building permit shall specify the amount of the time that the dumpster or other container shall be permitted to remain at the property.
 2. At other times, for a period not to exceed ten days, upon issuance of a permit by the city following payment of a permit fee as established by council.

The city may extend the time during which the storage of a dumpster or similar container is permitted for a reasonable period upon a showing that such extension is necessary and appropriate and not an undue nuisance or unduly intrusive to owners or occupiers of neighboring property.

The dumpster or other container shall be located only on the driveway of the property, and shall not be located upon any street or within any required yard or setback unless specifically approved by the city. All debris or other waste materials shall be fully contained within the dumpster or other container. The dumpster or other container shall be emptied or otherwise removed from the site as needed to prevent overflow, and otherwise maintained so as to minimize unsightly appearances to neighboring properties.

- (b) *PODs.* A portable on demand storage device (PODS) or other similar storage container may only be stored on property in any district in the city for a period not to exceed ten days, upon issuance of a permit by the city and payment of a permit fee as established by council. The city may extend the time during which the storage of a PODS or similar storage container is permitted for a reasonable period upon a showing that such extension is necessary and appropriate and not an undue nuisance or unduly intrusive to owners or occupiers of neighboring property. A PODS or similar storage container shall be located on the driveway of the property, and shall not be located upon any street or within any required yard or setback unless specifically approved by the city. The PODS or similar storage container shall be kept closed except when

being loaded or unloaded, and otherwise maintained so as to minimize unsightly appearances to neighboring properties.

(Ord. No. 255, § I, 4-19-2011)

Sec. 40-264. Solar energy systems.

The purpose of this section is to set forth requirements for solar energy systems, to protect properties from incompatible uses, to conserve and enhance property values and public safety, and to minimize visual impacts of solar energy systems, while promoting the use of alternative energy sources where appropriate.

- (1) *Definitions.* [The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:]

Accessory solar energy system (ASES): A solar collection system used to capture solar energy, convert it to electrical energy and supply electrical power primarily for onsite residential use. An accessory solar energy system consists of one or more roof-mounted solar arrays or modules, or solar-related equipment and is intended to primarily reduce onsite consumption of utility power.

Flush-mounted solar array: Photovoltaic tiles or shingles that are installed flush to the surface of a roof and which cannot be angled or raised.

Net metering: A billing arrangement with the electrical utility that allows the ASES to deliver back to the utility electrical grid excess electricity produced by the ASES.

Non-flush-mounted solar array: Photovoltaic tiles that are mounted or project above the roof surface to which they are affixed.

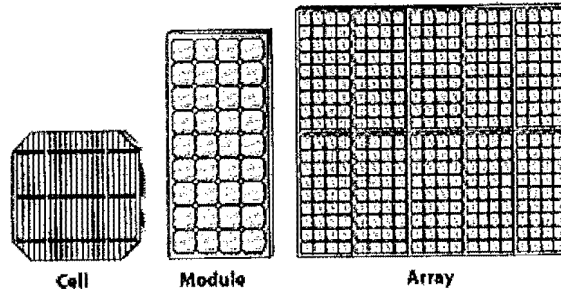
Roof-mounted accessory solar energy systems: An accessory solar energy system mounted on the top of the roof of a residential structure or attached accessory building.

Solar energy: Radiant energy (direct, diffuse and/or reflective) received from the sun.

Solar panel: That part or portion of an accessory solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating and/or for electricity.

Solar-related equipment: Items including a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and possibly foundations or other structures used for or intended to be used for collection of solar energy.

1. *Solar array:* A grouping of multiple solar modules with purpose of harvesting solar energy.
2. *Solar cell:* The smallest basic solar electric device which generates electricity when exposed to light.
3. *Solar module:* A grouping of multiple solar cells with the purpose of harvesting solar energy.



(2) *Accessory solar energy systems (ASES).*

(a) *General regulations applicable to all accessory solar energy systems (ASES).*

1. Roof-mounted ASES shall be permitted in all zoning districts, subject to planning commission and city council review and special land use approval.
2. Freestanding, ground-mounted or side-mounted ASES are prohibited.
3. The owner of an ASES, if a net metering public utility customer, shall provide confirmation that the public utility company to which the ASES will be connected has been informed of the customer's intent to install a grid connected system and approved of such connection. Off-grid systems shall be exempt from this requirement.
4. The display of advertising on the ASES is prohibited except for reasonable identification of the manufacturer of the system.
5. Prior to the issuance of a building permit, applicants must acknowledge in writing that the issuing of said permit for an accessory solar energy system shall not and does not create in the property owner, or create in the property itself:
 - a. The right to remain free of shadows and/or obstructions to solar energy caused by development of adjoining or other property or the growth of any trees or vegetation on such adjoining or other property; or
 - b. Any responsibility of the city for solar access.
6. The ASES must be properly maintained and kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. In the event of a violation of any of the foregoing provisions or any other city regulation, the building official shall give written notice specifying the violation to the owner of the ASES to conform or to remove the ASES.
7. As a part of its review, the planning commission may require a feasibility study and/or solar assessment to be submitted in determining whether accessory solar energy systems should be permitted in a particular location.
8. In addition to all other required reviews and permits, the proposed accessory solar energy system shall be reviewed by the department of public safety for compliance with requirements related to fire safety and prevention. The department shall keep on file all pertinent technical information regarding the electrical system deemed necessary by the department.

(b) *Design and installation requirements for roof-mounted accessory solar energy systems.*

1. Flush-mounted solar arrays are preferred and shall be required whenever economically feasible.

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2. A roof-mounted ASES may be located on a principal or accessory building.
 3. ASES mounted on roofs of any building shall be subject to the maximum height regulations specified for principal and accessory buildings within each of the underlying zoning districts. Non-flush-mounted panels shall not project more than six inches above the plane of the roof.
 4. Non-flush-mounted solar panels shall be located only on rear or side-facing roofs as viewed from any adjacent street. Street-facing ASES shall be limited to flush-mounted solar arrays, or solar roof tiles or shingles only.
 5. For ASES that are not flush-mounted solar arrays, the equipment shall be installed to obscure and conceal its view, as a part of the roof design matching the roof shape, proportion and pitch, with capping and framing the color of the roof, with all exterior electrical lines and support brackets painted in a color scheme that matches the roofing materials. The ASES and the roofing material shall comply with the provisions of sections 40-172 and 40-173 of the city zoning ordinance, and in particular section 40-172(h).
 6. All ASES shall include an automatic shut-off function, or breaker switch, approved by the department of public safety for the purpose of isolating the ASES in case of fire.

(Ord. No. 257, 5-15-2012)

Secs. 40-265—40-290. Reserved.

ARTICLE VI. GENERAL EXCEPTIONS

Sec. 40-291. Generally.

The regulations of this chapter shall be subject to the interpretations and exceptions set forth in this article.

(Ord. No. 200, art. 12(intro. ¶), 7-7-1997)

Sec. 40-292. Access through yards.

For the purpose of this chapter, access drives may cross a required front yard or be placed in side yards so as to provide access to rear yards and/or accessory or attached structures. Such drives shall not be considered as structural violations in front and side yards. Further, any walk, driveway or other defined pavement serving a similar function shall, for the purpose of this chapter, not be considered to be a structure and shall be permitted in any required yard, as necessary.

(Ord. No. 200, art. 12, § 1200, 7-7-1997)

Sec. 40-293. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the village. It is the intent of this section to exempt only such essential services that primarily serve properties within the village from the application of this chapter.

(Ord. No. 200, art. 12, § 1201, 7-7-1997)

(Supp. No. 7)

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Sec. 40-294. Height limitations and exceptions.

The height limitations of this chapter may be modified by the board of appeals in their application to church spires, flagpoles, belfries, domes, water towers, power transmission lines and towers, radio and television towers, masts and aerials, satellite dishes and other similar and necessary mechanical appurtenances pertaining, and accessory, to the permitted uses of the districts in which they are located.

(Ord. No. 200, art. 12, § 1202, 7-7-1997)

Sec. 40-295. Wireless communication towers and antennas.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alternative tower structure means manmade trees, clock towers, buildings, bell steeples, flagpoles, light poles and similar alternative design mounting structures that will help to camouflage or conceal the presence of antennas or towers and avoid the proliferation thereof.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Applicant means a wireless communication provider who has applied for a wireless communication tower and/or antenna permit pursuant to this section.

Attached wireless communications facilities means wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, etc. A wireless communication support structure proposed to be newly established shall not be included within this definition.

Backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices and/or long distance providers, or the public switched telephone network.

Co-location means the location by two or more wireless communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

Preexisting tower or antenna means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the ordinance from which this section is derived, including permitted towers or antennas that have not yet been constructed as long as such approval is current and not expired.

Public rights-of-way means all public rights-of-way within the village, which are owned by the village or county, either as an easement or in fee simple, including, but not limited to, the public rights-of-way used for streets, highways, sidewalks and alleys.

Telecommunications act means Public Act No. 179 of 1991, as amended by Public Act No. 216 of 1995 (MCL 484.2101 et seq.).

Wireless communication facilities means and includes all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. Such term may include, but shall not be limited to, radio towers, television towers, digital towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment building and private and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities, short wave receiving facilities, radio and television broadcast reception facilities, federally licensed amateur (ham) radio facilities, satellite dishes and governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Wireless communication support structures means structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

(b) *Purpose, intent and goals.*

- (1) It is the general purpose and intent of the village to carry out the will of the United States Congress by authorizing communication facilities needed to operate wireless communication systems as may be required by law. However, it is the further purpose and intent of the village to provide for such authorization only in a manner which will retain the integrity of neighborhoods and the character, property values and aesthetic quality of the community at large. In fashioning and administering the provisions of this section, an attempt has been made to balance such potentially competing interests.
- (2) Pursuant to the general purpose set forth in subsection (b)(1) of this section, the goals of this section are to:
 - a. Protect residential areas and land uses from the potential adverse impact of towers and antennas;
 - b. Permit the location of towers in nonresidential areas only;
 - c. Minimize the total number of towers or antennas throughout the community;
 - d. Strongly encourage the joint use of existing tower or antenna sites, prominent buildings or structures as a primary location rather than construction of additional single- or multiple-use towers or antennas;
 - e. Require users of towers and antennas to locate such towers and antennas in areas where the adverse impact on the community is minimal;
 - f. Encourage users of towers and antennas to configure such towers and antennas (stealth technology) in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;
 - g. Enhance the ability of the providers of telecommunications services to quickly, effectively and efficiently provide services to the community;
 - h. Consider the public health, safety and welfare, as well as the safety aspect of wireless communication towers and antennas; and
 - i. Avoid potential damage to adjacent properties from tower or antenna failure through engineering and careful siting of tower structures.
- (3) In furtherance of the goals set forth in subsection (b)(2) of this section, the village shall give due consideration to the village's master plan, this chapter, the zoning map, existing land uses and environmentally sensitive areas in considering sites for the location of towers and antennas.

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- (4) Recognizing the number of providers authorized to establish and operate wireless communication services and coverage, it is also the purpose and intent of this section to:
- a. Limit inappropriate physical and aesthetic overcrowding of land use activities and avoid adverse impact upon existing population, transportation systems and other public services and facility needs.
 - b. Provide for the disclosure of adequate information about plans for wireless communication facilities in order to permit the village to effectively plan for the location of such facilities.
 - c. Minimize the adverse impacts of technological obsolescence of any such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner as set forth in this section.
 - d. Minimize the negative visual impact of wireless communication facilities on neighborhoods, community landmarks, historical sites and buildings, natural beauty areas and public rights-of-way. This contemplates the:
 1. Establishment of as few structures as reasonably feasible;
 2. Utilization of co-location, wherever feasible;
 3. Use of structures which are designed for compatibility, including the use of alternate tower structures and the avoidance of lattice structures that are unsightly; and
 4. Consideration of alternative means of providing service, such as a cable microcell network, using multiple low-powered transmitters/receivers attached to existing wireline systems, fiber optic or similar systems which do not require towers.
- (5) The village has also determined that the presence of towers and/or pole structures, particularly if located within residential areas, would decrease the attractiveness and destroy the character and integrity of the community. This in turn may have an adverse impact upon property values. Therefore, it is necessary to minimize the adverse impact from the presence of tower and/or pole structures which have a negative architectural and aesthetic appeal to most persons. It is recognized that the absence of regulation would result in a material impediment to the maintenance and promotion of property values, and further, that this economic component is an important element to preserving public health, safety and welfare.
- (c) *Reservation of rights to require franchise.* Article 7, Section 29 of the 1963 Michigan Constitution requires that all public utilities obtain a franchise to conduct a local business within the village. The applicability of such requirement to telecommunications providers may be challenged under Section 102(dd) of Public Act No. 216 of 1995 (MCL 484.2102(dd)), which purports to define a telecommunications service as not constituting a public utility service. In addition, recent federal telecommunications legislation may affect the franchising of telecommunications providers, including users of wireless communication towers and/or antennas. Due to these and other pending legal and regulatory uncertainties, and to avoid the expense and delay of litigation that may be unnecessary, the village is not, at this time, requiring a franchise for the siting of a wireless communication tower and/or antenna within the village. The village reserves the right, in accordance with applicable federal, state and local law, to require such a franchise in the future to the extent such a siting may be deemed to constitute the transacting of local business within the village. The issuance of a permit to locate a tower and/or antenna under this section shall not constitute a waiver of, or otherwise adversely affect, this reservation of rights.
- (d) *Applicability.*
- (1) *Preexisting towers and antennas.* Preexisting towers and antennas shall not be required to meet the requirements of this section.

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- (2) *New towers and antennas.* All new towers or antennas in the village shall be subject to the regulations of this section, except as provided in subsection (d)(3) of this section.
- (3) *Amateur radio station operators/receive only antennas/municipal towers and antennas.* This section shall not govern any tower or the installation of any antenna that is under 20 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas, nor shall it govern any municipal tower or antenna utilized by the village in connection with performing its municipal functions.
- (e) *Permit application.*
- (1) *Submission and review procedure.* All applications for a new, renewed or amended permit to install, construct, expand, extend, maintain, repair or operate a wireless communication tower and/or antenna shall be submitted for review and consideration in accordance with the following:
- a. A formal written application prepared by a registered architect and designed by a registered engineer shall be submitted to the village building department, along with a filing fee as established by the village council, which amount is deemed to be the amount which is necessary in order to adequately and thoroughly investigate and review the application for compliance with this section and in order that the village may have the application reviewed by technical consultants, where necessary, in order to assure that all current technological considerations have been properly taken into account.
 - b. Once the application has been received and the filing fee paid, the building department shall refer the application to the village manager for a preliminary review in order to determine whether or not the application is complete in terms of providing all necessary information required under this section in order for the commission to begin its determination as to whether or not a permit should be recommended. The village manager shall have the discretion to require any additional information he feels appropriate and necessary for referring the matter to the commission for their review and consideration.
 - c. Upon submission of the application to the commission by the village manager, the commission shall review the application at a regular or special meeting of the commission, and if the commission determines that the application is complete, then the commission shall schedule a public hearing pursuant to the special approval land use procedures of this chapter, at which time, all aspects of the application shall be reviewed and comments from the public will be taken on the record. Thereafter, the commission shall prepare its recommendation with respect to approval, conditional approval or denial of the application. The commission's recommendation shall be based upon substantial reasons and shall be in writing, and shall thereafter be forthwith referred to the village council for action.
 - d. The village council shall review the commission's recommendation and make a determination as to whether or not to approve or deny the recommendation or take other appropriate action.
 - e. If the application for wireless communication facilities is approved, the village council shall, at that time, make a determination as to the appropriate amount of a cash, surety bond or irrevocable letter of credit, to be kept on file with the village, which will ensure that adequate funds will be available to tear down and remove any facilities which become obsolete or are otherwise no longer used or serviceable as set forth in this section. It shall be a continuing requirement of any permission given to operate wireless communication facilities in the village that the applicant keep in force any such cash deposit, irrevocable letter of credit or irrevocable surety bond, as required by the village.
- (2) *Required information.*

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- a. A site plan, as referred to in section 40-422, shall be prepared and submitted, showing the location, size, screening and design of all buildings and structures, including fences and outdoor equipment, all of which shall be designed to conform to applicable building codes and this chapter.
 - b. The site plan shall also include a detailed landscaping plan, showing where the support structure is to be placed at a location which is not otherwise developed or where a developed area will be disturbed. The purpose of landscaping is to provide screening and aesthetic enhancement for the structure base, accessory buildings and enclosure.
 - c. The application shall include a certification signed by a state licensed professional engineer with regard to the manner in which the proposed structure would fall under the most catastrophic conditions, which certification will be utilized, along with other criteria, such as applicable regulations for the district in question, in determining the appropriate setback to be required for the structure and other facilities.
 - d. The application shall include a description of security, to be posted with the village at the time of receiving a permit for the facility, to ensure removal of the facility when it has been abandoned or is no longer needed, as provided in subsection (h) of this section. In this regard, at the election of the village, the security shall be in the form of cash, surety bond, letter of credit or an agreement in a form approved by the attorney for the village and recordable at the office of the register of deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required, with the further provision that the permittee shall be responsible for the payment of any costs and attorney's fees incurred by the village in securing removal of the facility.
 - e. The application shall include a map, showing existing and known proposed wireless communication facilities within the village, and further showing existing and known proposed wireless communication facilities within areas surrounding the borders of the village in the location and area, which are relevant in terms of potential co-location or in demonstrating the need for the proposed facility. If, and to the extent the information in question is on file with the village, the applicant shall only be required to update as needed. Any such information which is trade secret and/or other confidential commercial information which, if released, would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy (MCL 15.243(1)(g)). This subsection shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring such request to the attention of the village.
 - f. The name, address and telephone number of the person to contact for engineering, maintenance and other notice purposes. Such information shall be continuously updated during all times the facility is on the premises.
 - g. The application fee, in the amount specified by village resolution.
 - h. The owner or duly authorized representative of all ownership interest in the land on which the wireless communication facility is proposed to be located shall sign the application and certify that appropriate legally recordable property rights have been obtained.
- (f) *Authorization as special land use.* Subject to all of the standards and conditions set forth in this section, wireless communication facilities may be allowed as a special land use in the park/club district under the following circumstances. In addition, though municipally owned land is exempt from the terms and conditions of this chapter, the village intends to apply the same terms and conditions, as well as any other terms and conditions that may be appropriate, when and if wireless communication providers request the

opportunity to negotiate a lease for the siting of wireless communication facilities, including towers, poles, antennas and other equipment, on municipally owned land.

(1) *Circumstances allowing special land use treatment.*

- a. In the following circumstances, a proposal to establish a new wireless communication facility where appropriate agreements or licenses have been first obtained from the property owners shall be considered as a special land use:
 - i. If, at the time of the submittal, the applicant can demonstrate that there is no reasonable means of satisfying the service needs of the system through adaptation of, or addition to, facilities inside or outside the municipal boundaries of the village;
 - ii. If there is no feasible alternative or other means of satisfying the service needs, such as a microcell cable link or utilization of other lines, cables, facilities or systems located, or to be located, within the municipal boundaries of the village that would obviate the necessity of installing a tower or other antenna support structure; and
 - iii. If any such wireless communication facility shall be of a design, such as, but not limited to, a steeple, bell tower or other form which is compatible with the existing character of the proposed site, neighborhood and general area.
- b. If the conditions set forth in subsection (f)(1)a of this section are satisfied, then a wireless communication facility may be permitted in the village as a special land use, upon recommendation of the commission, following public hearing and approval by the zoning board of appeals, subject to the criteria and standards set forth elsewhere in this section, and also subject to the following:
 - i. Wireless communication facilities shall comply with all applicable federal and state standards relative to the environmental and safety effects of radio frequency emissions, as confirmed by submission of a certification of compliance by the applicant's registered engineer.
 - ii. Applicants shall submit a detailed written justification for the necessity of a wireless communication facility, as well as a justification for the proposed height of the structure, and an evaluation of alternative designs which might result in lower heights.
 - iii. The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant and other entities who co-locate on the structure. The accessory building contemplated to enclose such items as switching equipment shall be limited to the maximum height for accessory structures within the district and shall not be larger than necessary to accommodate the equipment. Such building should be constructed so as to allow for expansion if, and as, necessary for future co-location. (See subsection (g) of this section).
 - iv. The setback of a new or materially modified support structure from any residential district shall be at least the height of the highest point of any structure on the premises. The setback of the support structure from any existing or proposed rights-of-way or other publicly traveled roads shall not be less than the height of the structure. Additional reasonable setbacks may be required depending upon the particular circumstances of the proposed site.

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- v. There shall be unobstructed access to the support structure for operation, maintenance, repair and inspection purposes, which may be provided through or over an easement. Such access shall have a width and location determined by such factors as the:
 - (A) Location of adjacent thoroughfares and traffic and circulation within the site;
 - (B) Utilities needed to service the tower and any attendant facilities;
 - (C) Location of buildings and parking facilities;
 - (D) Proximity to residential districts and minimizing disturbance to the natural landscape; and
 - (E) Type of equipment which will be needed to access the site.
 - vi. The division of property for the purpose of locating a wireless communication facility is prohibited unless all zoning requirements and conditions are met. No existing utilities shall be disrupted or interfered with except temporarily as may be required during construction and only then if a written agreement as been procured from the village and the utility company.
 - vii. Where an attached wireless communication facility is proposed on the roof of a building, if the equipment enclosure is proposed as a roof appurtenance or penthouse on the building, it shall be designed, constructed and maintained to be architecturally compatible with the principal building. The equipment enclosure may be located within the principal building or may be an accessory building or structure.
 - viii. For all co-locations served by an accessory building, there should be a single, architecturally uniform accessory building for all providers.
 - ix. The commission shall, in its discretion, with respect to the design and appearance of the support structure and all accessory buildings, require construction which creates harmony with the surrounding area, minimizes distraction, reduces visibility, maximizes aesthetic appearance and ensures capability with its surroundings. It shall be the responsibility of the applicant to maintain all wireless communication facilities in a neat, safe and orderly condition, in accordance with all terms and conditions of the permit, applicable ordinances of the village and any applicable state or federal regulations.
 - x. The support system, designed by a structural design engineer registered in the state, shall be constructed in accordance with all applicable building codes, and shall include the submission of a soils report from a geotechnical engineer, licensed in the state. The soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use.
 - xi. A maintenance plan and any applicable maintenance agreement shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure long-term, continuous maintenance to a reasonably prudent standard.
 - xii. Any requirements of the Federal Aviation Administration, Federal Communication Commission and state aeronautics commission shall be complied with. Towers and/or antennas shall not be artificially lighted, unless specifically required by the FAA or other applicable authority. If lighting is

required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding views.

- xiii. At the time of processing, applications shall include the signature of the licensed operator of a wireless communication service. Tentative approval of a permit shall be valid for 90 days. If, during a 90-day tentative approval period, final approval is granted to authorize a wireless communication facility within one mile of the property on which a facility has been tentatively approved, such tentative approval shall expire, unless the applicant granted tentative approval demonstrates that it would not be feasible for it to co-locate on the facility that has been newly granted final approval.
- xiv. The antenna and other attachments on a wireless communication facility shall be designed and constructed to include the minimum attachments required to operate the facility as intended at the site, both in terms of number and size of such attachments, and shall be designed and constructed to maximize aesthetic quality.
- xv. Towers and antennas shall meet the following requirements: Towers, subject to any applicable standards of the FAA, shall be painted a neutral color so as to reduce visual obtrusiveness. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, fencing and landscaping that will blend such buildings and structures into the natural setting and surrounding buildings. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- xvi. All towers must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the permittee's expense.
- xvii. To ensure the structural integrity of towers, a tower shall be maintained by the users in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the village concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then, upon notice being provided to the users of the tower, the users shall have 30 days to bring such tower into compliance. Failure to do so shall constitute grounds for the removal of the tower or antenna at the users' expense.
- xviii. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the village, irrespective of municipal and county jurisdictional boundaries.

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- xix. Towers and antennas shall be regulated and permitted pursuant to this section, and shall not be regulated or permitted as essential services, public utilities or private utilities.
 - xx. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication tower and/or antenna in the village have been obtained, and shall file a copy of all required franchises with the commission.
 - xxi. For purposes of this section, any special use request, variance request or appeal of an administratively approved special use shall require public notice to all abutting property owners and all property owners of properties that are located within 1,000 feet of the property on which the proposed structure or antenna is to be located.
 - xxii. No signs shall be allowed on an antenna or tower, except safety or warning signs approved by the village.
 - xxiii. The applicant shall provide the commission with sufficient documentation to demonstrate that it has acquired all necessary rights from the property owner to erect the tower and/or antenna contemplated, subject only to obtaining a permit from the village.
 - xxiv. Any antenna which is not attached to a tower (i.e., it is attached to an existing structure other than a tower) shall not exceed more than 30 feet above the highest point of the structure, and must comply with all applicable building code requirements.
 - xxv. No tower shall be erected unless and until a licensed professional engineer certifies that the tower constructionally accommodates the number of shared users proposed by the applicant. Tower height limitations shall be as follows:
 - (A) A single user, up to 90 feet in height.
 - (B) Two users, up to 120 feet in height.
 - (C) Three or more users, up to 150 feet in height.
 - xxvi. No new tower shall be permitted unless the applicant demonstrates that no existing tower, structure or alternative technology is available which would otherwise accommodate the applicant's proposed antenna or need. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicants proposed antenna or need may consist of the following:
 - (A) No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 - (B) Existing towers or structures are not of a sufficient height to meet the applicant's engineering requirements and cannot be reasonably modified to accomplish such requirements.
 - (C) Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 - (D) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the

antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

- (E) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure, or to adapt an existing tower or structure for sharing, are unreasonable. Costs exceeding new tower development are presumed to be unreasonable. The tower facility shall be fenced with an aesthetically pleasing security-type fence, where deemed appropriate by the village.
- (F) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (G) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable, microcell network using multiple low powered transmitters/receivers attached to a wireline system, etc., is unsuitable. Costs of alternative technology which exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

xxvii. Towers shall be enclosed by security fencing when required by the village, which shall be not less than six feet, nor more than eight feet in height, and the tower shall also be equipped with an appropriate anticlimbing device.

xxviii. The following requirements shall govern the landscaping surrounding a tower; provided, however, that the commission may alter such requirements in such cases that would better serve the goals of this section:

- (A) The tower facility shall be landscaped with a buffer of plant materials that effectively screens the view of the tower base from adjacent properties. The standard buffer shall consist of a landscaped strip, at least ten feet wide, outside the perimeter of the compound.
- (B) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible.

xxix. All new and modified wireless communication facilities shall be designed and constructed so as to accommodate co-location.

xxx. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.

(g) *Co-location.*

- (1) *Statement of policy.* In order to minimize the proliferation of towers and the adverse visual impact associated with such proliferation and clustering, co-location of antennas on existing towers or attached wireless communication facilities shall take precedence over the construction of new towers, provided, such co-location is accomplished in a manner consistent with the following:
 - a. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower.
 - b. If additional height is required for co-location, then the tower shall be relocated to accommodate all setback requirements required by the increased height.

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- c. The height of the structure necessary for co-location will not be increased beyond a point deemed to be permissible by the village, taking into consideration the intent and purpose of this section and the several standards contained in subsection (d) of this section.
 - d. Owners of existing towers shall not be permitted to charge excessive fees for co-location.
- (2) *Failure or refusal to permit.* If a provider fails or refuses to permit co-location on a facility owned or otherwise controlled by such provider, where co-location is feasible, the result will be that a new and unnecessary additional structure will be compelled, in direct violation of, and in direct contradiction to, the basic policy, intent and purpose of the village. In such case, such facility shall be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect. The provisions of this subsection are designed to carry out and encourage conformity with the policy of the village.
- (h) *Removal of facilities.*
- (1) Every approval of a wireless communication facility shall be subject to revocation and removal upon the occurrence of one or more of the following:
 - a. When the facility has not been used for 90 days or more. For purposes of this subsection, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
 - b. Six months after new technology is available at reasonable cost as, determined by the village council, which permits the operation of the communication system without the requirement of the support structure, or with a support structure which is lower and/or more compatible with the area.
 - c. When the facility is not maintained in accordance with the standards set forth in this section and written notice of the deficiencies is delivered to the user and the user fails to correct the deficiencies within 60 days after such notice.
 - d. Any material breach of any of the conditions of the permit.
 - (2) The situations in which removal of a facility is required, as set forth in subsection (h)(1) of this section, may be applied and limited to portions of a facility.
 - (3) Upon the occurrence of one or more of the events requiring removal or lowering of the tower, as specified in subsection (h)(1) of this section, the persons who had used the facility shall immediately apply for, and obtain, any required demolition, reconstruction or removal permits, and immediately proceed with, and complete, the demolition, alteration or removal, restoring the premises to an acceptable condition, as reasonably determined by the building department.
 - (4) If the required removal of a facility, or portion thereof, has not been lawfully completed within 30 days of the applicable deadline, and after at least ten days' written notice, the village may remove or procure the removal of the facility, or required portions thereof, with the actual cost and reasonable administrative charge for such removal to be drawn, collected and/or enforced from or under the security posted at the time application was made for establishing the facility.
 - (5) The entity using the facility shall immediately notify the village building department, in writing, if, and as soon as, use of a facility ceases.
- (i) *Term of final approval; commencement of construction.* Final approval to construct a wireless communication facility shall be effective for a period of six months, and if commencement of construction has not begun by such date the permit shall expire without further notice and the applicant shall have no further rights under the permit. Once construction of a facility has begun, it shall be completed within three

months unless the time period is extended by the village manager for good cause shown. Permits may be granted for up to ten years. After such period of time, a renewal of the permit must be obtained for continued operation. No permit is assignable without the written consent of the village.

(Ord. No. 203, 8-18-1998)

Cross reference(s)—Telecommunications, ch. 32.

Secs. 40-296—40-330. Reserved.

ARTICLE VII. ENVIRONMENTAL REGULATIONS³

Sec. 40-331. Signs.

(a) *Intent.*

- (1) It is the intent of this section to ensure the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment; to improve pedestrian and traffic safety; to minimize the adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions.
- (2) In the application of this section, it is the intent to protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
 - a. Do not create a nuisance to persons using the public right-of-way.
 - b. Do not constitute a nuisance to occupancy of nearby property by their brightness, size, height, or movement.
 - c. Are not detrimental to land or property values.
- (3) A sign may be established or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this section and as otherwise provided in the city Code of Ordinances.

(b) *Exempt signs.* The following signs are exempt from regulation in this section.

- (1) Flags;
- (2) Legal notices, identification information, or directional signs erected or permitted by governmental bodies or agencies;
- (3) Building or unit addresses.

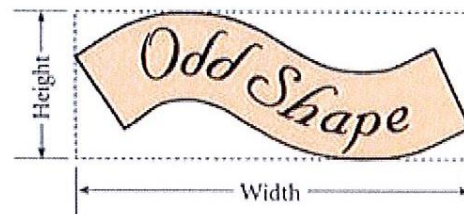
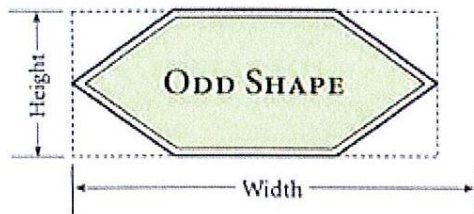
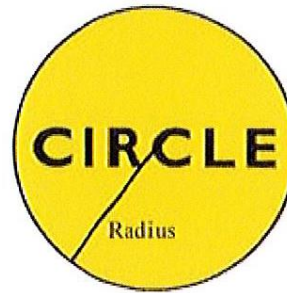
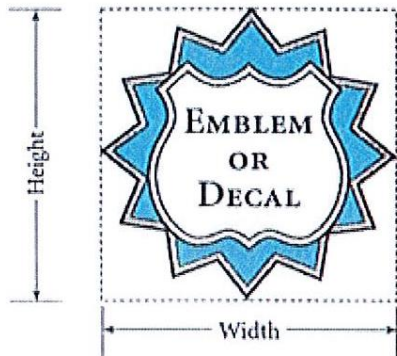
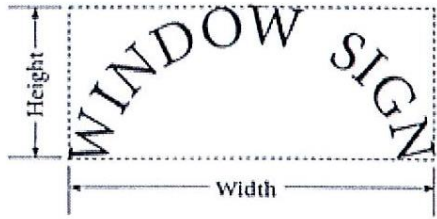
(c) *Permitted signs.* Because of the residential nature of the city, the following signs are permitted subject to the requirements of this section.

- (1) Directional sign;
- (2) Ground sign;
- (3) Temporary sign.

³Cross reference(s)—Environment, ch. 10.

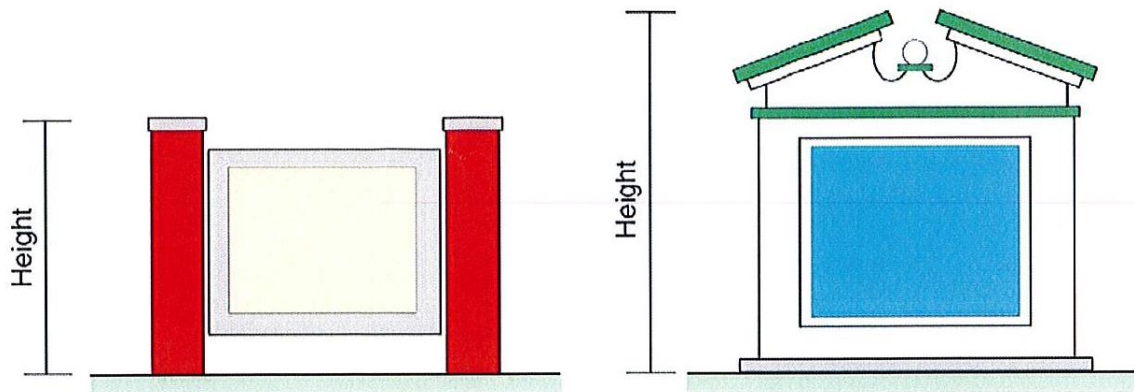
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- (d) *Signs not permitted.* Signs that are not exempt or permitted as provided in subsections (b) and (c) above are not permitted. Signs that are not permitted include, but are not limited to, the following:
- (1) Abandoned sign;
 - (2) Bench sign;
 - (3) Banner sign, except that a banner sign may be erected in the Philanthropic District or the Park/Club District, pursuant to a permit issued by the city;
 - (4) Any sign unlawfully installed, erected or maintained;
 - (5) Flashing, animated or moving sign;
 - (6) Electronic or digital changeable copy sign;
 - (7) Illuminated sign, except as may be specifically permitted by the city;
 - (8) Inflatable sign;
 - (9) Nonconforming sign;
 - (10) Freestanding sign;
 - (11) Roof sign;
 - (12) Vehicle sign;
 - (13) Wall (building-mounted) sign;
 - (14) Any device erected or maintained which simulates or imitates in size, color, lettering, or design any traffic sign or signal or other word, phrase, symbol, or character in such a manner as to interfere with, mislead or confuse vehicular traffic;
 - (15) Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit;
 - (16) Any sign that, as determined by the building official or his or her designee, is deemed unsafe, constitutes a hazard, is structurally unsound or not in good repair.
- (e) *General conditions.*
- (1) *Location:*
 - a. Only signs established or permitted by city, county, state or federal government may be located in or project into the public road right-of-way or public property, unless specifically provided otherwise herein.
 - b. Signs shall be placed so as not to obstruct the clear vision or movement of pedestrians, cyclists, or motorists.
 - c. All signs shall be on-premises signs.
 - d. Signs must comply with all other ordinances, including, but not limited to, section 40-237 (corner clearance), subsection 40-244(b)(2) (home occupations).
 - e. Any sign located within a public right-of-way or easement area may be removed by the city without notice to the property owner, in the event of a public safety emergency or infrastructure emergency or other event requiring immediate action of an emergency nature on the part of the city.
 - (2) *Illumination:*

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- a. No sign shall be illuminated by other than electrical means.
 - b. All signs whether internally or externally illuminated shall not interfere with the vision of pedestrians, cyclists, or motorists.
 - c. The light from illuminated signs shall not directly shine into adjacent or abutting properties.
 - d. Illuminated signs adjacent to residentially zoned property shall be designed and maintained such that illumination levels do not exceed 0.1 foot-candles along the adjacent property line.
 - e. No sign shall have blinking, flashing, or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color.
 - f. When signs are externally illuminated, the light source shall be shielded and not visible from a public street or adjacent property.
 - g. The illumination provisions above shall not apply to sign lighting systems owned or controlled by any public agency for the purpose of directing traffic.
 - h. Neon lighting or similar lighting technologies are prohibited.
- (3) *Measurement:*
- a. *Sign area.* The surface area of a sign shall be measured and defined by the area which encloses the extreme limits of individual letters, words, symbols or message of the sign together with any frame. Where two sign faces with identical sign areas are placed back to back, the sign area shall equal the area of one face. See illustration.



Computation of Sign Area

- b. *Sign height.* The height of a sign shall be computed as the distance from the average level of the ground or pavement directly below the sign to the highest point of the sign structure, including any supportive or decorative elements.



Sign Height

(4) *Sign setback.*

- a. Setbacks shall be measured from the closest street right-of-way or applicable property line to the nearest edge of the sign. A sign erected in the residence lakefront district, philanthropic district or park/club district may be located within the public right-of-way or easement area upon city approval. Location may include mounting to a fence or wall not to exceed two feet above such structure.
- b. Any sign located within a public right-of-way or easement area may be removed by the city without notice to the property owner, in the event of a public safety emergency or infrastructure emergency or other event requiring immediate action of an emergency nature on the part of the city.

(f) *Requirements of signs.*

(1) *Directional sign.*

- a. Directional signs are permitted in all zoning districts.
- b. Directional signs shall not exceed two square feet per side, shall have a maximum of two sides, and shall contain no advertising except the business name or logo.
- c. Directional signs shall not exceed a height of four feet. One directional sign may be located at each driveway entrance to the property on which the sign is located.

(2) *Ground sign.*

a. *Location.*

- i. In all zoning districts, and except as otherwise provided in this subsection (2)a., ground signs shall be set back a minimum of five feet from the road right-of-way, and no closer than five feet from the edge of the principal entrance driveway and all property lines.
- ii. A ground sign erected in the philanthropic district or the park/club district may be located within the public right-of-way, upon city approval. Any such sign located in the public right of way or easement area within either of these districts may be removed by the city without notice to the property owner, in the event of a public safety or infrastructure emergency or other event requiring action of an emergency nature on the part of the city.

- b. *Number of sides.* Ground signs shall have a maximum of two sides.

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- c. *Number of signs.*
 - i. For all permitted and special land uses, one per lot of record.
 - ii. For subdivision, site condominium, and multifamily developments, one ground sign at the primary entrance. One additional ground sign at a maximum 50 percent of the allowable area may be permitted at a secondary entrance if it is not located on the same street as the primary entrance.
 - d. *Height and area maximum.* The maximum height shall be four feet and the maximum area per side is seven square feet.
- (3) *Temporary signs.*
- a. *Location.*
 - i. Temporary signs are permitted in all zoning districts.
 - ii. Temporary signs shall be set back a minimum of five feet from the road right-of-way, and no closer than five feet from the edge of the principal entrance driveway and all property lines. A sign erected in the residence lakefront district, the philanthropic district, or the park/club district may be located within the public right-of-way or easement area upon city approval. Location may include mounting to a fence or wall not to exceed two feet above such structure. Any such sign located in the public right-of-way or easement area within any of these districts may be removed by the city without notice to the property owner, in the event of a public safety or infrastructure emergency or other event requiring immediate action of an emergency nature, on the part of the city.
 - b. *Number of signs.* For all permitted and special land uses, five per lot of record.
 - c. *Height and area maximum.* The maximum height shall be four feet and the maximum area per side shall be seven square feet. A sign in the philanthropic district or the park/club district may exceed maximum height and area limitations, pursuant to a permit issued by the city.
 - d. *Material.* Cardboard or thin plastic only.
 - e. *Time limit.* Temporary signs must be removed when the sign is no longer in good repair. A temporary sign is no longer in good repair if it has broken parts, missing letters or has deteriorated such that the structural supports or frame or the side panels are visibly bent, broken, dented or torn such that it constitutes an unsightly, hazardous or harmful condition.
- (g) *Removal of signs.*
- (1) *Abandoned signs.* Abandoned or obsolete signs shall be removed by the owner, agent or person having use of the land, building or structure. Upon vacating an establishment, facility or land, the owner shall be responsible for removal of all abandoned or obsolete signs.
 - (2) *In violation of the ordinance or unsafe signs.* The city manager, the building official, or their designee, shall order the removal of any sign erected or maintained in violation of this section. Notice in writing shall be given to the owner of such sign or of the building, structure, or premises on which such sign is located, to remove the sign or bring it into compliance with the ordinance. Failure to remove the sign or to comply with such notice shall be a civil infraction. The city shall also remove any sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public. Any cost of removal incurred by the city shall be assessed to the owner of the property on which such sign is located.

(Ord. No. 200, art. 13, § 1300, 7-7-1997; Ord. No. 259, § 1, 3-19-2013; Ord. No. 270, § 4, 5-25-2021)

Sec. 40-332. Preservation of wooded and shrubbed areas.

- (a) The intent of this section is to preserve the wooded and shrubbed areas of the village to the extent such preservation is reasonable and compatible with the following purposes:
- (1) Filtering pollution from the atmosphere.
 - (2) Decreasing noise.
 - (3) Providing a habitat for wildlife.
 - (4) Visual character.
- (b) Recognizing the benefits of vegetation and woodlands cited in subsection (a) of this section, it is important to preserve such natural features, maintain the community's environmental quality and enhance the visual character of the constructed environment. Development shall be consistent with such intent and the following provisions:
- (1) The builder or owner of property to be developed, redeveloped or where there are substantial alterations to the front yard shall provide the commission with a detailed description of the natural features and characteristics located on the site. Alterations of the site, such as tree removal, shrub and ground cover removal, regrading or filling, are prohibited prior to submission of an inventory and preservation plan to the commission. Any such site alteration shall be considered a violation of this chapter and may require substantial replacement as a condition of approval.
 - (2) The plan submission shall meet the requirements of article II, division 4 of this chapter, and further contain the following:
 - a. A current, or not older than five years, one inch equals 100 feet, aerial photograph and USGS quadrant map of the area to provide a vegetation map source;
 - b. A preliminary field survey of the typical size and type of trees and other vegetation. All significant trees (six-inch caliper or greater) should be noted by type, size and location. All thriving existing trees which are not located within an area which is adjacent to, and ten feet larger than, the footprint of the proposed principal building and its attached accessory buildings, or within the area where the driveway or other improvements are to be located, shall be preserved by the builder or person developing the site. The builder or person developing the site shall erect and maintain suitable barriers, such as snow fencing or cyclone fencing, to protect the trees to be preserved from damage caused by construction activities. Such person may remove any trees that are dead or dying, as determined by the village manager. This subsection shall not, however, prevent the homeowner actually occupying the lot from removing any trees from the lot;
 - c. A preservation plan with specifications describing removal of any trees, individually or as groupings, that are six-inch caliper or greater, as well as shrubbed areas. The plan shall also describe the method to be employed for protection of trees and shrubbed areas designated to remain during construction. The plan and specifications shall include grade changes or other work adjacent to the remaining trees and shrubbed areas which might produce an adverse effect, such as, but not limited to, surface drainage, aeration and piling of excavated soil;
 - d. Request for special consideration in developing wooded areas; however, any grant of special consideration shall be based upon specific conditions applicable to the site. If special consideration is not granted, the applicant will be required to maintain the percentage of wooded area as required in this subsection (2). A grant of special consideration may require the planting of replacement trees and/or other vegetation, as determined by the commission.
 - (3) The following species of trees shall be permitted:

Honey locust
Idaho locust
Little leaf linden
London plane
Modesta ash
Moraine locust
Norway maple
Pin oak
Scarlet hawthorne
Sugar maple
Other species approved by the village manager.

- (4) All trees planted pursuant to this section shall be of first quality, meeting the standards of the American Association of Nurserymen. Yards and landscaping shall be maintained in a healthy state. Dead or diseased trees, shrubs or other landscaping shall be promptly removed and replaced with healthy stock.

(Ord. No. 200, art. 13, § 1301, 7-7-1997)

Secs. 40-333—40-360. Reserved.

ARTICLE VIII. NONCONFORMING LOTS, USES AND BUILDINGS⁴

Sec. 40-361. Alterations and enlargements.

Any lawful nonconforming use or structure existing at the time of passage of the ordinance from which this chapter is derived, as well as any lawful nonconforming use or structure existing at the time of passage of the ordinance from which this chapter is derived, may be continued, provided that, in either case, the use, building or premises involved shall neither be structurally altered or enlarged unless such altered or enlarged part, and the use thereof, shall conform to the provisions of this chapter. No nonconforming use, if discontinued for more than one year or changed to a permitted use, shall be resumed or changed back to a nonconforming use, and no nonconforming use shall be changed to another nonconforming use.

(Ord. No. 200, art. 14, § 1400, 7-7-1997)

Sec. 40-362. Restorations.

Nothing in this chapter shall prevent the restoration of a building destroyed less than 50 percent of its value, exclusive of the foundation, by fire, explosion, act of God or act of the public enemy, subsequent to the passage of the ordinance from which this chapter is derived, nor shall such destruction prevent the continuance of the use of such building, or part thereof, as such use existed at the time of such impairment of such building, or part thereof.

⁴Cross reference(s)—Buildings and building regulations, ch. 6.

(Ord. No. 200, art. 14, § 1401, 7-7-1997)

Sec. 40-363. Construction begun prior to effective date of the ordinance from which this chapter is derived.

Any building or structure for which a building permit has been issued, and the construction of the whole or a part of which has been started, or for which a contract has been entered into pursuant to a building permit issued prior to the effective date of the ordinance from which this chapter is derived, may be completed in accordance with the plans and application on which the building permit was granted.

(Ord. No. 200, art. 14, § 1402, 7-7-1997)

Sec. 40-364. Repair, reinforcement and reconstruction.

- (a) Nothing in this chapter shall prevent the repair, reinforcement or reconstruction of a nonconforming use, building or structure, or part thereof, existing at the effective date of the ordinance from which this chapter is derived, rendered necessary by wear and tear, deterioration or depreciation, provided, the cost of such work shall not exceed 30 percent of the assessed valuation of such building or structure at the time such work is done.
- (b) Nothing in this chapter shall prevent the strengthening of any building or wall declared unsafe by the building department.

(Ord. No. 200, art. 14, § 1403, 7-7-1997)

Secs. 40-365—40-390. Reserved.

ARTICLE IX. ZONING BOARD OF APPEALS⁵

Sec. 40-391. Membership and proceedings.

Pursuant to the Zoning Enabling Act, the village council shall act as the zoning board of appeals. In addition to the general duties and powers conferred upon it by law, the board may interpret this chapter and, subject to the conditions set forth in this article, vary or modify the application of the regulations established in this chapter relating to the construction, structural changes or alteration of buildings or structures so that the spirit of this chapter shall be observed, public safety secured and substantial justice done. A member of the board shall disqualify himself or herself from a vote in which the member has a conflict of interest. A member of the board who is also a member of the planning commission and who votes on a variance request at a planning commission hearing shall not vote on the same request before the board.

(Ord. No. 200, art. 15, § 1500, 7-7-1997; Ord. No. 239, § X, 8-15-2006)

⁵State law reference(s)—Board of appeals, MCL 125.585 et seq.

Sec. 40-392. Appeal process.

- (a) Appeals shall be commenced by a person filing a notice of appeal, accompanied by such appeal fee as may be specified by the village council. A notice of appeal may be filed by a person aggrieved, or an officer, department, board or bureau of state government or the Village of Grosse Pointe Shores.
- (b) The notice of appeal shall also be accompanied by a fully completed application, using a form to be specified by the zoning board of appeals, along with plot plans meeting the rules of procedure adopted by the board. The notice of appeal shall specify the specific grounds upon which the appeal is based, and shall be signed by the applicant. It shall also specify the requirements from which a variance is sought and the nature and extent of such variance.
- (c) Upon receipt of an appeal, the village manager or designee will review it to insure it is complete and the fee is paid. If the application is not complete, it shall be returned to the applicant with a letter that specifies the additional material required. If the application is complete, the village manager or designee shall refer the appeal to the planning commission for a public hearing, review and recommendation.
- (d) The board shall hold a hearing on the appeal, after providing notice as required in this chapter and by state law. Any person may appear at the hearing in person, by agent or by attorney.

(Ord. No. 200, art. 15, § 1501, 7-7-1997; Ord. No. 239, § X, 8-15-2006)

Sec. 40-393. Powers.

- (a) *Interpretation.* The board shall interpret the text of this chapter and the official zoning use map, and all matters relating thereto, whenever a question arises as to the meaning and intent of any provision or part of this chapter.
- (b) *Appeals from administrative decisions.* The board shall hear and decide appeals where it is alleged by the appellant that there is an error in any order, interpretation, requirement, permit decision or refusal made by the zoning official in enforcing any provision of this chapter.
- (c) *Dimensional (nonuse) variance.* The board may permit variation or modification of yard, lot area, percentage of lot coverage, height, dimension, design standard, parking spaces, walls and buffers, landscaping and floor area requirements of this chapter, and may permit nonconforming structures to be structurally changed, altered or enlarged, as may be necessary to secure an appropriate improvement of a parcel of land which is of such a size, shape or dimension, or which has such peculiar or exceptional geographical or topographical conditions, that it cannot be appropriately improved without such variation or modification. The board may also permit variation or modification of the requirements for the location of satellite dish antennae under Ordinance Code Section 6-75; the location of swimming pools and related structures under Ordinance Code subsections 6-174(b) and (c); the location of generators under Ordinance Code Section 6-244; or the construction requirements or location of fences, walls or hedges under Ordinance Code Sections 12-4 or 12-5. No such variance shall be authorized, however, unless the applicant demonstrates in the official record of the public hearing that **practical difficulty** exists by showing all of the following:
 - (1) The strict enforcement of the requirement(s) of this chapter would unreasonably deprive the owner of rights enjoyed by all other property owners owning property within the same district, or will render conformity with the requirement(s) unnecessarily burdensome;
 - (2) The requested variance will not cause an adverse impact on surrounding property, property values, or the use and enjoyment of property in the neighborhood, and will not materially impair the intent and purpose of this chapter or of the public interest;

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- (3) The conditions and circumstances are unique to the subject property and are not similarly applicable to other properties in the same district, i.e., the conditions or situation of the specific piece of property, or the intended use of the property for which the variance is sought, cannot be so general or recurrent in nature as to create a general rule for such condition or situation;
 - (4) The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property;
 - (5) The requested variance will not confer special privileges that are denied other properties similarly situated and in the same district;
 - (6) The requested variance is the minimum variance necessary to do substantial justice to the applicant as well as to other property owners in the district; and
 - (7) The requested variance will not be contrary to the spirit or intent of this chapter.
- (d) *Use variance.* A use variance is a modification of the literal provisions of this chapter to permit a use of land that is otherwise not allowed in the district. A use variance may only be authorized by the board when the applicant demonstrates in the official record of the public hearing that strict enforcement of this chapter would cause **undue hardship** for the property owner by showing all of the following:
- (1) The requested variance is due to exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not generally apply to other properties or uses in the same district or zone and are not due to the applicant's personal or economic hardship;
 - (2) The requested variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity;
 - (3) The granting of such variance will not unreasonably increase the congestion in public streets or the danger of fire, endanger the public safety, unreasonably diminish or impair established property values within the surrounding area, or impair an adequate supply of light and air to adjacent property;
 - (4) Allowing the requested variance will result in substantial justice being done, considering the public benefits intended to be secured by this chapter, the individual hardships that will be suffered by a failure of the board to grant a variance, and the rights of others whose property would be affected by the allowance of the variance;
 - (5) The requested variance is the minimum variance that will make the reasonable use of the land, building or structure possible; and
 - (6) The granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(Ord. No. 200, art. 15, § 1502, 7-7-1997; Ord. No. 239, § X, 8-15-2006; Ord. No. 247, § I, 9-16-2008)

Sec. 40-394. Decisions of the board.

- (a) Every decision of the board shall be based upon findings of fact, and each and every such finding shall be supported in the record of the proceedings of the board.
- (b) A two-thirds majority vote of the members of the board is required to approve a use variance.
- (c) In authorizing a variance or taking any other action within its jurisdiction, the board may attach such conditions as may be deemed necessary in the furtherance of the purposes of this chapter, provided, any conditions are in compliance with the three standards listed in subsections 40-423(3)(a)—(c).

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- (d) The decision of the board is final. A person aggrieved by a final decision of the board may appeal to the circuit court for the county in which the property is located, pursuant to Section 605 of the Zoning Enabling Act.

(Ord. No. 239, § X, 8-15-2006)

Secs. 40-395—40-420. Reserved.

ARTICLE X. ADMINISTRATION AND ENFORCEMENT

Sec. 40-421. Planning commission.

- (a) The planning commission, as established under Public Act No. 285 of 1931 (MCL 123.31 et seq.), shall perform all of the duties of such commission in accordance with the law in such case made and provided, relating to amendments of this chapter, and such other duties as are established in this chapter.
- (b) In cases where the commission is required to recommend or approve certain uses or premises under the provisions of this chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by the commission for the proper consideration of the matter.
- (c) The commission shall investigate the circumstances of each such case and may notify such parties who may be affected thereby of the time and place of any hearing which may be held relative to such case as required under the commission's rules of procedure.
- (d) The commission may impose such conditions or limitations in granting approval as may, in its judgment, be necessary to fulfill the spirit and purpose of this chapter.
- (e) Where review is required by the commission under the terms of this chapter, a fee may be required to cover the cost of such review, including planners, engineers and other such professional services, in accordance with a schedule of fees as determined by the village council.
- (f) Any approval given by the commission, under which premises are not used or work is not started within 12 months, or when such use or work has been abandoned for a period of six months, shall lapse and cease to be in effect.

(Ord. No. 200, art. 16, § 1600, 7-7-1997)

Sec. 40-422. Site plan review requirements.

- (a) Site plan review is required for the erection or structural alteration of all principal and accessory nonresidential buildings, or whenever a parking or storage area is to be used or constructed in conjunction with such uses. Site plan review under this section is not required for one-family dwellings and buildings accessory to one-family dwellings, provided, the residence or building conforms to the existing zoning and articles III, IV and V of this chapter.
- (b) All developments requiring site plan approval by the commission shall comply with the requirements and procedures for site plan review adopted by the commission prior to issuance of a building permit. Approval will be based upon conformity with the articles of this chapter, the following requirements and such other conditions as may be imposed to carry out the intent of this chapter, and shall be contingent upon a finding that:

(Supp. No. 7)

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- (1) The site plan shows that a proper relationship exists between local streets and any proposed service roads, driveways and parking areas to encourage pedestrian and vehicular traffic safety.
 - (2) All of the development features, including the principal building and any accessory buildings or uses, open trash or refuse containers, and any service road, driveway and parking area, are located and related so as to minimize the possibility of any adverse effects upon adjacent property, such as, but not limited to, channeling excessive traffic onto local residential streets, lack of adequate screening or buffering of parking or service areas, or building groupings and circulation routes located so as to interfere with police or fire equipment access. Public streets adjacent or through the proposed development shall be required upon a finding that it is essential to promoting and protecting public health, safety and general welfare through continuation of the public street system.
 - (3) The site plans and architectural elevations of the buildings, principal and accessory, shall be in harmony with the general character of the neighborhood, and the color of brick or other approved facing material shall be compatible with the surrounding area, as shown in the development standards and design review requirements set forth in articles III and IV of this chapter.

(Ord. No. 200, art. 16, § 1601, 7-7-1997)

State law reference(s)—Site plan, MCL 125.584d.

Sec. 40-423. Special land uses.

No special land use shall be permitted, except in conformance with the following:

- (1) *Generally.* For all special land uses, a site plan shall be submitted to the commission and shall conform to the requirements for site plan review as set forth in section 40-422. If the plans meet the required design and layout standards, indicate no adverse effects which, in the opinion of the commission, cause injury to the residents, users, adjoining property or the village as a whole, the commission shall recommend approval of the use to the village council, which may stipulate such conditions as it deems appropriate. The village council shall have sole power to approve or disapprove all special land uses. An approved special land use plan shall regulate the development on the property unless modified in the same manner as the plans were originally approved.
- (2) *Investigation; hearing.* The commission shall investigate the circumstances of each special land use request, and give notice of the time and place of any hearing, meeting or review which may be held relative to such request as required by state law and the commission's rules or procedures.
- (3) *Conditions and limitations.* The commission may recommend to the village council such conditions or limitations to be considered in granting approval, as may be permitted by state law and this chapter, which it deems necessary to fulfill the spirit and purpose of this section. The conditions may include requirements necessary to ensure that public services and facilities affected by each proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity; to protect the natural environment and conserve natural resources and energy; to ensure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:
 - a. Be designed to protect natural resources, health, safety and welfare, as well as the social and economic well-being of persons who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
 - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

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- c. Be necessary to meet the intent and purpose of the regulations of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to ensure compliance with such standards. The conditions imposed with respect to the approval of each land use and/or activity shall be recorded in the record of the approval action and shall remain unchanged, except upon the mutual consent of the approving authority and the landowner. The village council shall maintain a record of changes granted in conditions.
- (4) *Term of approval.* If any approval is given by the village council and work is not begun or the premises are not used under the terms of the approval within one year from the date of approval by the village council, or if such use or work has been abandoned for a period of six months, the approval shall lapse and cease to be in effect.
- (5) *Standards for approval.* In consideration of all applications for special land use, the commission and village council shall review each case individually as to its applicability and must fund affirmatively on each of the following standards of the proposed special land use if it is to be approved:
- a. The proposed special land use shall be in such location and of a size and architectural character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood or vicinity and applicable regulation of the district in which it is to be located.
 - b. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location for access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian-vehicular interfacing within the residence district.
 - c. The location, size, intensity, site layout and periods of operation of any such proposed use shall be designed so as to eliminate any possible nuisance emanating from such use which might be harmful or noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, light or other cause.
 - d. The proposed use shall be such that the proposed location and height of buildings or structures, and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
 - e. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing user habits, convenience of access by prospective patrons, continuity of development and need for particular services and facilities in specific areas of the village.
 - f. The proposed use shall be designated, located, planned and operated so that the public health, safety and welfare will be protected.
 - g. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing or other permitted land uses in the neighborhood.
- (6) *Governing approval and denial.* Approval or denial of special land uses shall be governed by the following:
- a. *Approval.* After review and recommendation by the commission, if the village council determines that the particular special land uses should be allowed, it shall endorse its approval on the written application and clearly set forth, in writing, on such application the particular uses and/or activities which shall be allowed. Thereafter, the building inspector may issue a building permit in

conformity with the particular approved special approval uses and activities. In all cases where particular special approval uses have been granted as provided in this subsection, application for a building permit in pursuance thereof must be made within the time limits prescribed in this section or such approval shall automatically be revoked; provided, however, the village council may grant an extension thereof for good cause shown under such terms and conditions and for such period of time, not exceeding six months, as it shall determine to be necessary and appropriate.

- b. *Denial.* After review and recommendation of the commission, if the village council shall determine that the particular special land uses requested do not meet the standards of this chapter, or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the village, it shall deny the application by a written endorsement on such application which sets forth the reasons for such denial.
 - c. *Statement of findings and conclusions.* The decision on a special land use shall be incorporated in a statement of findings and conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.
- (7) *Approval of continuance.* In order to continue a special land use as provided in this section, any subsequent owner or user of the premises shall require a review and recommendation of the commission and approval of the village council.
 - (8) *Fees.* A fee in the amount to be determined by the village council shall be paid by the applicant for a special land use or transfer of such use. The fee to be paid shall be agreed to, in writing, between the special land user and the village council prior to granting approval.

(Ord. No. 200, art. 16, § 1602, 7-7-1997; Ord. No. 239, § XI, 8-15-2006)

State law reference(s)—Special land uses, MCL 125.584a, 125.584c.

Sec. 40-424. Approval of temporary uses.

The village manager may approve temporary uses, subject to the following requirements:

- (1) The period of operation of the proposed use shall be for a limited time and shall not exceed the time period included in the application, reasonably considering the nature of the use.
- (2) An application shall be filed on a form specified by the village, accompanied by a plot plan, drawn to scale, showing the proposed layout of the site, along with a fee established by village council resolution.
- (3) Written verification of ownership of the subject site shall be provided. Written permission of the property owner shall also be furnished to the village.
- (4) The proposed use shall be compatible, and shall not conflict, with principal activities conducted upon the site or any adjacent site. No activity shall be conducted within the public right-of-way. The use must be related to a permanent conforming use at a fixed location.
- (5) There shall be adequate parking provided (hard surface if deemed appropriate) on the site, consistent with the scope of the proposed use. Parking provided for any permanent use shall not be used for a temporary use unless the remaining parking is sufficient to accommodate the parking requirements for both permanent and temporary uses.
- (6) The proposed site shall be laid out so as to ensure safe vehicular and pedestrian circulation.
- (7) The hours of operation shall be limited to specified hours which are consistent with the nature of the use and compatible with other activities on the site and adjacent parcels.

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- (8) All sanitary service, electrical lines and other operations shall comply with all applicable village codes, ordinances and regulations and any other applicable statutes, rules or regulations of any governmental body having jurisdiction over the activity. Any permits required shall be obtained by the applicant. The proposed use shall comply with any other applicable written standards established and promulgated by the village.
 - (9) Any temporary structures shall be erected in a safe manner in accordance with any applicable village codes, ordinances or standards. A cash deposit or irrevocable letter of credit shall be filed in an amount and by a company satisfactory to the village manager to ensure the prompt removal of any temporary use.
 - (10) The property shall be maintained in a neat and orderly condition, and cleaned immediately after the close of each day.
 - (11) Final cleanup shall be the responsibility of the applicant, and shall be assured by the posting of a cash deposit or irrevocable letter of credit in an amount determined by the village manager to ensure performance of the cleanup within 45 hours of termination of the temporary use.
 - (12) Garage sales are an accessory use to a one-family residential use, and shall not require temporary use approval by the village manager (see section 40-243).
 - (13) Signage for any temporary use shall be:
 - a. Permitted only as part of the temporary use;
 - b. Limited to seven square feet; and
 - c. Set back not less than ten feet from the right-of-way.
 - (14) If the proposed temporary use, or any part thereof, does not meet all of the conditions determined to be applicable by the village manager, the use shall not receive administrative approval and may be reviewed and considered for approval only by the zoning board of appeals.

(Ord. No. 200, art. 16, § 1603, 7-7-1997)

Sec. 40-425. Certificate of compliance and occupancy.

It shall be unlawful to build, use or permit the use of any building or premises, or part thereof, erected, created or altered, or to change or enlarge the use of any building or premises, or part thereof, until a certificate of compliance with the provisions of this chapter, properly endorsed as to the occupancy as provided in section 40-427, shall have been issued by the building department. In all cases where a building permit is required, application for a certificate of compliance shall be made coincident with the application for such building permit, and in all other cases, shall be made not less than ten days prior to the time when a new or enlarged use of a building or premises, or part thereof, is intended to begin. Such application shall be accompanied by a plan, in duplicate, drawn to scale, showing:

- (1) The exact dimensions of the premises to which the certificate is to apply;
- (2) The lines of all lots or parcels contained in the premises; the width and alignment of all abutting streets, alleys, easements of access and public open spaces;
- (3) The size, position and height of all buildings erected or to be erected or altered on such premises; and
- (4) Such other information as may be deemed necessary for the proper enforcement of this chapter.

(Ord. No. 200, art. 16, § 1604, 7-7-1997)

Sec. 40-426. Accessory buildings included in certificate of compliance.

Accessory buildings, when erected at the same time as the principal building on a lot and shown on the application therefor, shall not require a separate certificate of compliance. A record of all such applications shall be kept on file by the building department. Whenever the buildings and premises, and uses thereof, as set forth on the application, are in conformity with the provisions of this chapter, it shall be the duty of the building department to issue a certificate of compliance within ten days after receipt of such application, and when such certificate is refused, to state such refusal, in writing, with cause, and no building permit shall be issued prior to the issuance of such certificate.

(Ord. No. 200, art. 16, § 1605, 7-7-1997)

Sec. 40-427. Final inspections.

Within five days after notification that the building or premises, or part thereof, is ready for occupancy, the building department shall make a final inspection thereof and, if found to be in conformity with the provisions of this chapter and other village requirements, shall endorse such fact on the certificate of compliance in a statement properly signed and dated, and such statement shall have the force of a certificate of occupancy.

(Ord. No. 200, art. 16, § 1606, 7-7-1997)

Sec. 40-428. Temporary certificates of occupancy.

The building department may issue a temporary certificate of occupancy for a portion of a building prior to the completion of the entire building, but such temporary certificate shall not remain in force for a period in excess of six months.

(Ord. No. 200, art. 16, § 1607, 7-7-1997)

Sec. 40-429. Authority for enforcement; violations; penalties.

- (a) The provisions of this chapter shall be enforced by the building department.
- (b) A person who violates one or more of the provisions of this chapter shall be responsible for a municipal civil infraction and, upon a finding of responsibility, shall be subject to a civil fine according to a schedule to be adopted by the village council from time to time, together with the costs of such action as regulated by village ordinance. Each day that a violation is permitted to exist shall constitute a separate offense, subject to a separate civil fine.
- (c) Nothing in this section shall preclude the village from seeking injunctive relief or prosecuting the maintenance of a nuisance per se as provided in section 40-430.

(Ord. No. 200, art. 18, § 1800, 7-7-1997)

Sec. 40-430. Violations as nuisance; enforcement; relief.

Any building or structure which is erected, altered or converted, or any use of a premises which, when begun, violated the terms of this chapter or the ordinance repealed upon enactment of the ordinance from which this chapter is derived (whichever ordinance was then effective), is declared to be a nuisance. Upon request of the village, any court having jurisdiction may order such nuisance abated, and the owner or other person in charge of

such building, structure or premises adjudged guilty of maintaining a nuisance, and may order such other relief as equity and good conscience may require.

(Ord. No. 200, art. 18, § 1801, 7-7-1997)

State law reference(s)—Violation nuisance per se, MCL 125.587.